TEXAS PROPERTY TAX LAWS

2019 EDITION

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Matthew Bender & Company, Inc.
Editorial Offices
701 E. Water Street
Charlottesville, VA 22902
800-446-3410
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Foreword

Dear Fellow Texan:

An updated handbook of selected laws is now available. Included in this handbook are sections of the Texas Constitution and civil statutes on property taxation and administration.

In our continued effort to make the information from our office more accessible, we provide the handbook on our website at comptroller.texas.gov/taxes/property-tax/96-298-19.pdf. You may order a hard copy by completing a form at comptroller.texas.gov/forms/50-803.pdf.

You may contact us at ptad.cpa@cpa.texas.gov or 800-252-9121 or write to us at Texas Comptroller of Public Accounts, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711-3528.

I hope this compilation is useful as a ready reference to the state's property tax laws.

Sincerely,

Glenn Hegar

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TEXAS PROPERTY TAX LAWS

CONSTITUTION OF THE STATE OF TEXAS 1876

ARTICLE III

Legislative Department

Sec. 1. Senate and House of Representatives.

The Legislative power of this State shall be vested in a Senate and House of Representatives, which together shall be styled "The Legislature of the State of Texas."

Sec. 2. Membership of Senate and House of Representatives.

The Senate shall consist of thirty-one members. The House of Representatives shall consist of 150 members.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 3. Election and Term of Office of Senators.

The Senators shall be chosen by the qualified voters for the term of four years; but a new Senate shall be chosen after every apportionment, and the Senators elected after each apportionment shall be divided by lot into two classes. The seats of the Senators of the first class shall be vacated at the expiration of the first two years, and those of the second class at the expiration of four years, so that one half of the Senators shall be chosen biennially thereafter. Senators shall take office following their election, on the day set by law for the convening of the Regular Session of the Legislature, and shall serve thereafter for the full term of years to which elected.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 4. Election and Term of Members of House of Representatives.

The Members of the House of Representatives shall be chosen by the qualified voters for the term of two years. Representatives shall take office following their election, on the day set by law for the convening of the Regular Session of the Legislature, and shall serve thereafter for the full term of years to which elected.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 5. Meetings; Order of Business.

(a) The Legislature shall meet every two years at such time as may be provided by law and at other times when convened by the Governor.

(b) When convened in regular Session, the first thirty days thereof shall be devoted to the introduction of bills and resolutions, acting upon emergency appropriations, passing upon the confirmation of the recess appointees of the Governor and such emergency matters as may be submitted by the Governor in special messages to the Legislature. During the succeeding thirty days of the regular session of the Legislature the various committees of each House shall hold hearings to consider all bills and resolutions and other matters then pending; and such emergency matters as may be submitted by the Governor. During the remainder of the session the Legislature shall act upon such bills and resolutions as may be then pending and upon such emergency matters as may be submitted by the Governor in special messages to the Legislature.

(c) Notwithstanding Subsection (b), either House may determine its order of business by an affirmative vote of four-fifths of its membership.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 6. Qualifications of Senators.

No person shall be a Senator, unless he be a citizen of the United States, and, at the time of his election a qualified voter of this State, and shall have been a resident of this State five years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-six years.

Amendment proposed by Acts 1999, 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 7. Qualifications of Representatives.

No person shall be a Representative, unless he be a citizen of the United States, and, at the time of his election, a qualified voter of this State, and shall have been a resident of this State two years next preceding his election, the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-one years.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 8. Each House Judge of Qualifications and Election of its Members; Election Contests.

Each House shall be the judge of the qualifications and election of its own members; but contested elections shall be determined in such manner as shall be provided by law.

Sec. 9. President Pro Tempore of Senate; Lieutenant Governor Vacancy; Speaker of House of Representatives; Other Officers.

(a) The Senate shall, at the beginning and close of each session, and at such other times as may be necessary, elect one of its members President pro tempore, who shall perform the duties of the Lieutenant Governor in any case of absence or temporary disability of that officer. If the office of Lieutenant Governor becomes vacant, the President pro tempore of the Senate shall convene the Committee of the Whole Senate within 30 days after the vacancy occurs. The Committee of the Whole shall elect one of its members to perform the duties of the Lieutenant Governor in addition to the member's duties as Senator until the next general election. If the Senator so elected ceases to be a Senator before the election of a new Lieutenant Governor, another Senator shall be elected in the same manner to perform the duties of the Lieutenant Governor until the next general election. Until the Committee of the Whole elects one of its members

for this purpose, the President pro tempore shall perform the duties of the Lieutenant Governor as provided by this subsection.

(b) The House of Representatives shall, when it first assembles, organize temporarily, and thereupon proceed to the election of a Speaker from its own members.

(c) Each House shall choose its other officers.

Amendment proposed by 1999 76th Leg., H.J.R. No. 44, approved by electorate (Prop. 1) at the November 2, 1999 election.

Sec. 10. Quorum; Adjournment from Day to Day; Compelling Attendance.

Two-thirds of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each House may provide.

Sec. 11. Rules of Procedure; Punishment or Expulsion of Member.

Each House may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offense.

Sec. 12. Journals of Proceedings; Record Votes.

(a) Each house of the legislature shall keep a journal of its proceedings, and publish the same.

(b) A vote taken by either house must be by record vote with the vote of each member entered in the journal of that house if the vote is on final passage of a bill, a resolution proposing or ratifying a constitutional amendment, or another resolution other than a resolution of a purely ceremonial or honorary nature. Either house by rule may provide for exceptions to this requirement for a bill that applies only to one district or political subdivision of this state. For purposes of this subsection, a vote on final passage includes a vote on third reading in a house, or on second reading if the house suspends the requirement for three readings, on whether to concur in the other house's amendments, and on whether to adopt a conference committee report.

(c) The yeas and nays of the members of either house on any other question shall, at the desire of any three members present, be entered on the journals.

(d) Each house shall make each record vote required under Subsection (b) of this section, including the vote of each individual member as recorded in the journal of that house, available to the public for a reasonable period of not less than two years through the Internet or a successor electronic communications system accessible by the public. For a record vote on a bill or on a resolution proposing or ratifying a constitutional amendment, the record vote must be accessible to the public by reference to the designated number of the bill or resolution and by reference to its subject.

Amendment proposed by Acts 2007, 80th Leg., H.J.R. No. 19, approved by the electorate (Prop. 11) at the November 6, 2007 election.

Sec. 13. Vacancy in Legislature.

(a) When vacancies occur in either House, the Governor, or the person exercising the power of the Governor, shall issue writs of election to fill such vacancies; and should the Governor fail to issue a writ of election to fill any such vacancy within twenty days after it occurs, the returning officer of the district in which such vacancy may have happened, shall be authorized to order an election for that purpose.

(b) The legislature may provide by general law for the filling of a vacancy in the legislature without an election if only one person qualifies and declares a candidacy in an election to fill the vacancy.

Amendment proposed by 2001 77th Leg., H.J.R. No. , approved by the electorate at the November 6, 2001 election.

Sec. 14. Privilege from Arrest During Legislative Session.

Senators and Representatives shall, except in cases of treason, felony, or breach of the peace, be privileged from arrest during the session of the Legislature, and in going to and returning from the same.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 15. Disrespectful or Disorderly Conduct; Obstruction of Proceedings.

Each House may punish, by imprisonment, during its sessions, any person not a member, for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings; provided, such imprisonment shall not, at any one time, exceed forty-eight hours.

Sec. 16. Open Sessions.

The sessions of each House shall be open, except the Senate when in Executive session.

Sec. 17. Adjournments.

Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that where the Legislature may be sitting.

Sec. 18. Ineligibility for Other Offices; Voting for Other Members; Interest in State or County Contracts.

No Senator or Representative shall, during the term for which he was elected, be eligible to (1) any civil office of profit under this State which shall have been created, or the emoluments of which may have been increased, during such term, or (2) any office or place, the appointment to which may be made, in whole or in part, by either branch of the Legislature; provided, however, the fact that the term of office of Senators and Representatives does not end precisely on the last day of December but extends a few days into January of the succeeding year shall be considered as de minimis, and the ineligibility herein created shall terminate on the last day in December of the last full calendar year of the term for which he was elected. No member of either House shall vote for any other member for any office whatever, which may be filled by a vote of the Legislature, except in such cases as are in this Constitution provided, nor shall any member of the Legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he was elected.

Sec. 19. Ineligibility of Persons Holding Other Offices.

No judge of any court, Secretary of State, Attorney General, clerk of any court of record, or any person holding a lucrative office under the United States, or this State, or any foreign government shall during the term for which he is elected or appointed, be eligible to the Legislature.

Sec. 20. Eligibility of Collectors of Taxes or Persons Entrusted with Public Money.

No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the Legislature, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, or for all public moneys with which he may have been entrusted.

Sec. 21. Words Spoken in Debate.

No member shall be questioned in any other place for words spoken in debate in either House.

Sec. 22. Disclosure of Personal or Private Interest in Measure or Bill; Not to Vote.

A member who has a personal or private interest in any measure or bill, proposed, or pending before the Legislature, shall disclose the fact to the House, of which he is a member, and shall not vote thereon.

Sec. 23. Vacancy Following Removal from District or County from which Elected.

If any Senator or Representative remove his residence from the district or county for which he was elected, his office shall thereby become vacant, and the vacancy shall be filled as provided in section 13 of this article.

Sec. 24. Compensation and Expenses of Members of Legislature; Duration of Regular Sessions.

(a) Members of the Legislature shall receive from the Public Treasury a salary of Six Hundred Dollars ($600) per month, unless a greater amount is recommended by the Texas Ethics Commission and approved by the voters of this State in which case the salary is that amount. Each member shall also receive a per diem set by the Texas Ethics Commission for each day during each Regular and Special Session of the Legislature.

(b) No Regular Session shall be of longer duration than one hundred and forty (140) days.

(c) In addition to the per diem the Members of each House shall be entitled to mileage at the same rate as prescribed by law for employees of the State of Texas.

Sec. 24a. Texas Ethics Commission; Legislative Salaries and Per Diem.

(a) The Texas Ethics Commission is a state agency consisting of the following eight members:

(1) two members of different political parties appointed by the governor from a list of at least 10 names submitted by the members of the house of representatives from each political party required by law to hold a primary;

(2) two members of different political parties appointed by the governor from a list of at least 10 names submitted by the members of the senate from each political party required by law to hold a primary;

(3) two members of different political parties appointed by the speaker of the house of representatives from a list of at least 10 names submitted by the members of the house from each political party required by law to hold a primary; and

(4) two members of different political parties appointed by the lieutenant governor from a list of at least 10 names submitted by the members of the senate from each political party required by law to hold a primary.

(b) The governor may reject all names on any list submitted under Subsection (a)(1) or (2) of this section and require a new list to be submitted. The members of the commission shall elect annually the chairman of the commission.

(c) With the exception of the initial appointees, commission members serve for four-year terms. Each appointing official will make one initial appointment for a two-year term and one initial appointment for a four-year term. A vacancy on the commission shall be filled for the unexpired portion of the term in the same manner as the original appointment. A member who has served for one term and any part of a second term is not eligible for reappointment.

(d) The commission has the powers and duties provided by law.

(e) The commission may recommend the salary of the members of the legislature and may recommend that the salary of the speaker of the house of representatives and the lieutenant governor be set at an amount higher than that of other members. The commission shall set the per diem of members of the legislature and the lieutenant governor, and the per diem shall reflect reasonable estimates of costs and may be raised or lowered biennially as necessary to pay those costs, but the per diem may not exceed during a calendar year the amount allowed as of January 1 of that year for federal income tax purposes as a deduction for living expenses incurred in a legislative day by a state legislator in connection with the legislator's business as a legislator, disregarding any exception in federal law for legislators residing near the Capitol.

(f) At each general election for state and county officers following a proposed change in salary, the voters shall approve or disapprove the salary recommended by the commission if the commission recommends a change in salary. If the voters disapprove the salary, the salary continues at the amount paid immediately before disapproval until another amount is recommended by the commission and approved by the voters. If the voters approve the salary, the approved salary takes effect January 1 of the next odd-numbered year.

Sec. 25. Senatorial Districts.

The State shall be divided into Senatorial Districts of contiguous territory, and each district shall be entitled to elect one Senator.

Amendment proposed by 2001 77th Leg., H.J.R. No. 75, approved by the electorate at the November 6, 2001 election.

Sec. 26. Apportionment of Members of House of Representatives.

The members of the House of Representatives shall be apportioned among the several counties, according to the number of population in each, as nearly as may be, on a ratio obtained by dividing the population of the State, as ascertained by the most recent United States census, by the number of members of which the House is composed; provided, that whenever a single county has sufficient population to be entitled to a Representative, such county shall be formed into a separate Representative District, and when two or more counties are required to make up the ratio of representation, such counties shall be contiguous to each other; and when any one county has more than sufficient population to be entitled to one or more Representatives, such Representative or Representatives shall be apportioned to such county, and for any surplus of population it may be joined in a Representative District with any other contiguous county or counties.

Sec. 26a. Counties with More Than Seven Representatives [Repealed].

Repeal approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 27. Elections for Legislators.

Elections for Senators and Representatives shall be general throughout the State, and shall be regulated by law.

Sec. 28. Time for Apportionment; Apportionment By Legislative Redistricting Board.

The Legislature shall, at its first regular session after the publication of each United States decennial census, apportion the state into senatorial and representative districts, agreeable to the provisions of Sections 25 and 26 of this Article. In the event the Legislature shall at any such first regular session following the publication of a United States decennial census, fail to make such apportionment, same shall be done by the Legislative Redistricting Board of Texas, which is hereby created, and shall be composed of five (5) members, as follows: The Lieutenant Governor, the Speaker of the House of Representatives, the Attorney General, the Comptroller of Public Accounts and the Commissioner of the General Land Office, a majority of whom shall constitute a quorum. Said Board shall assemble in the City of Austin within ninety (90) days after the final adjournment of such regular session. The Board shall, within sixty (60) days after assembling, apportion the state into senatorial and representative districts, or into senatorial or representative districts, as the failure of action of such Legislature may make necessary. Such apportionment shall be in writing and signed by three (3) or more of the members of the Board duly acknowledged as the act and deed of such Board, and, when so executed and filed with the Secretary of State, shall have force and effect of law. Such apportionment shall become effective at the next succeeding statewide general election. The Supreme Court of Texas shall have jurisdiction to

compel such Board to perform its duties in accordance with the provisions of this section by writ of mandamus or other extraordinary writs conformable to the usages of law. The Legislature shall provide necessary funds for clerical and technical aid and for other expenses incidental to the work of the Board, and the Lieutenant Governor and the Speaker of the House of Representatives shall be entitled to receive per diem and travel expense during the Board's session in the same manner and amount as they would receive while attending a special session of the Legislature.

Amendment proposed by 2001 77th Leg., H.J.R. No. 75, approved by the electorate at the November 6, 2001 election.

Sec. 29. Enacting Clause of Laws.

The enacting clause of all laws shall be: "Be it enacted by the Legislature of the State of Texas."

Sec. 30. Laws Passed by Bill; Amendments Changing Purpose Prohibited.

No law shall be passed, except by bill, and no bill shall be so amended in its passage through either House, as to change its original purpose.

Sec. 31. Origination in Either House; Amendment.

Bills may originate in either House, and, when passed by such House, may be amended, altered or rejected by the other.

Sec. 32. Reading on Three Several Days.

No bill shall have the force of a law, until it has been read on three several days in each House, and free discussion allowed thereon; but four-fifths of the House, in which the bill may be pending, may suspend this rule, the yeas and nays being taken on the question of suspension, and entered upon the journals.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 33. Origination of Revenue Bills in House of Representatives.

All bills for raising revenue shall originate in the House of Representatives.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 34. Defeated Bills and Resolutions.

After a bill has been considered and defeated by either House of the Legislature, no bill containing the same substance, shall be passed into a law during the same session. After a resolution has been acted on and defeated, no resolution containing the same substance, shall be considered at the same session.

Sec. 35. Subjects and Titles of Bills.

(a) No bill, (except general appropriation bills, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated) shall contain more than one subject.

(b) The rules of procedure of each house shall require that the subject of each bill be expressed in its title in a manner that gives the legislature and the public reasonable notice of that subject. The legislature is solely responsible for determining compliance with the rule.

(c) A law, including a law enacted before the effective date of this subsection, may not be held void on the basis of an insufficient title.

Sec. 36. Revival or Amendment by Reference Prohibited; Re-enactment and Publication at Length.

No law shall be revived or amended by reference to its title; but in such case the act revived, or the section or sections amended, shall be re-enacted and published at length.

Sec. 37. Reference to Committee and Report.

No bill shall be considered, unless it has been first referred to a committee and reported thereon, and no bill shall be passed which has not been presented and referred to and reported from a committee at least three days before the final adjournment of the Legislature.

Sec. 38. Signing Bills and Joint Resolutions; Entry on Journals.

The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read before signing; and the fact of signing shall be entered on the journals.

Sec. 39. Time of Taking Effect of Laws.

No law passed by the Legislature, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless the Legislature shall, by a vote of two-thirds of all the members elected to each House, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journals.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 40. Special Sessions; Subjects of Legislation; Duration.

When the Legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, or presented to them by the Governor; and no such session shall be of longer duration than thirty days.

Sec. 41. Elections by Senate and House of Representatives.

In all elections by the Senate and House of Representatives, jointly or separately, the vote shall be given viva voce, except in the election of their officers.

Sec. 42. [Repealed].

Repeal proposed by Acts 1969, 61st Leg., H.J.R. 3, approved by the electorate (Prop. 1) at the August 5, 1969 election.

Sec. 43. Revision of Laws.

(a) The Legislature shall provide for revising, digesting and publishing the laws, civil and criminal; provided, that in the adoption of and giving effect to any such digest or revision, the Legislature shall not be limited by sections 35 and 36 of this Article.

(b) In this section, "revision" includes a revision of the statutes on a particular subject and any enactment having the purpose, declared in the enactment, of codifying without substantive change statutes that individually relate to different subjects.

Sec. 44. Compensation of Public Officials and Contractors; Extra Compensation; Unauthorized Claims; Unauthorized Employment.

The Legislature shall provide by law for the compensation of all officers, servants, agents and public contractors, not provided for in this Constitution, but shall not grant extra compensation to any officer, agent, servant, or public contractors, after such public service shall have been performed or contract entered into, for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the Treasury of the State, to any individual, on a claim, real or pretended, when the same shall not have been provided for by pre-existing law; nor employ any one in the name of the State, unless authorized by pre-existing law.

Sec. 45. Power of Courts to Change Venue.

The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law; and the Legislature shall pass laws for that purpose.

Sec. 46. Uniformity in Collection of Fees.

(a) In this section, "fee" means a fee in a criminal or civil matter all or a portion of which is required to be collected by local officers, clerks, or other local personnel and remitted to the comptroller of public accounts for deposit in the manner provided for in the law imposing the fee.

(b) This section applies only if the legislature enacts by law a program to consolidate and standardize the collection, deposit, reporting, and remitting of fees.

(c) A fee imposed by the legislature after the enactment of the program described by Subsection (b) of this section is valid only if the requirements relating to its collection, deposit, reporting, and remitting conform to the program.

(d) A fee to which this section applies may take effect on a date before the next January 1 after the regular session at which the bill adopting the fee was enacted only if the bill is passed by a record vote of two-thirds of all the members elected to each house of the legislature on final consideration in each house.

Amendment proposed by 2001 77th Leg., S.J.R. No. 49, approved by the electorate at the November 6, 2001 election.

Sec. 47. Prohibition on Lotteries and Gift Enterprises; Exceptions for Charitable Bingo, Charitable Raffles, and State Lotteries.

(a) The Legislature shall pass laws prohibiting lotteries and gift enterprises in this State other than those authorized by Subsections (b), (d), (d-1), and (e) of this section.

(b) The Legislature by law may authorize and regulate bingo games conducted by a church, synagogue, religious society, volunteer fire department, nonprofit veterans organization, fraternal organization, or nonprofit organization supporting medical research or treatment programs. A law enacted under this subsection must permit the qualified voters of any county, justice precinct, or incorporated city or town to determine from time to time by a majority vote of the qualified voters voting on the question at an election whether bingo games may be held in the county, justice precinct, or city or town. The law must also require that:

(1) all proceeds from the games are spent in Texas for charitable purposes of the organizations;

(2) the games are limited to one location as defined by law on property owned or leased by the church, synagogue, religious society, volunteer fire department, nonprofit veterans organization, fraternal organization, or nonprofit organization supporting medical research or treatment programs; and

(3) the games are conducted, promoted, and administered by members of the church, synagogue, religious society, volunteer fire department, nonprofit veterans organization, fraternal organization, or nonprofit organization supporting medical research or treatment programs.

(c) The law enacted by the Legislature authorizing bingo games must include:

(1) a requirement that the entities conducting the games report quarterly to the Comptroller of Public Accounts about the amount of proceeds that the entities collect from the games and the purposes for which the proceeds are spent; and

(2) criminal or civil penalties to enforce the reporting requirement.

(d) The Legislature by general law may permit charitable raffles conducted by a qualified religious society, qualified volunteer fire department, qualified volunteer emergency medical service, or qualified nonprofit organizations under the terms and conditions imposed by general law.

The law must also require that:

(1) all proceeds from the sale of tickets for the raffle must be spent for the charitable purposes of the organizations; and

(2) the charitable raffle is conducted, promoted, and administered exclusively by members of the qualified religious society, qualified volunteer fire department, qualified volunteer emergency medical service, or qualified nonprofit organization.

(d-1) The legislature by general law may permit a professional sports team charitable foundation to conduct charitable raffles under the terms and conditions imposed by general law. The law may authorize the charitable foundation to pay with the raffle proceeds reasonable advertising, promotional, and administrative expenses. A law enacted under this subsection applies only to an entity defined as a professional sports team charitable foundation under that law and may only allow charitable raffles to be conducted at games hosted at the home venue of the professional sports team associated with a professional sports team charitable foundation. In this subsection, "professional sports team" means:

(1) a team organized in this state that is a member of Major League Baseball, the National Basketball Association, the National Hockey League, the National Football League, Major League Soccer, the American Hockey League, the East Coast Hockey League, the American Association of Independent Professional Baseball, the Atlantic League of Professional Baseball, Minor League Baseball, the National Basketball Association Development League, the National Women's Soccer League, the Major Arena Soccer League, the United Soccer League, or the Women's National Basketball Association;

(2) a person hosting a motorsports racing team event sanctioned by the National Association for Stock Car Auto Racing (NASCAR), INDYCar, or another nationally recognized motorsports racing association at a venue in this state with a permanent seating capacity of not less than 75,000;

(3) an organization hosting a Professional Golf Association event; or

(4) Any other professional sports team defined by law.

(d-2) Subsection (a) of this section does not prohibit the legislature from authorizing credit unions and other financial institutions to conduct, under the terms and conditions imposed by general law, promotional activities to promote savings in which prizes are awarded to one or more of the credit union's or financial institution's depositors selected by lot.

(e) The Legislature by general law may authorize the State to operate lotteries and may authorize the State to enter into a contract with one or more legal entities that will operate lotteries on behalf of the State.

HISTORY: Amendment proposed by Acts 2015, 84th Leg., H.J.R. No. 73, § 1, approved by the electorate (Prop. 4) at the November 3, 2015 election; amendment proposed by Acts 2017, 85th Leg., H.J.R. 37 (Prop. 7) and H.J.R. 100 (Prop. 5), approved by the electorate at the November 7, 2017 election.

Sec. 48. [Repealed].

Repeal proposed by Acts 1969, 61st Leg., H.J.R. 3, § 1, approved by the electorate (Prop. 1) at the August 5, 1969 election.

Sec. 48a. [Repealed].

Repeal proposed by Acts 1975, 64th Leg., S.J.R. 3, approved by the electorate (Prop. 1) at the April 22, 1975 election.

Sec. 48b. [Repealed].

Repeal proposed by Acts 1975, 64th Leg., S.J.R. 3, approved by the electorate (Prop. 1) at the April 22, 1975 election.

Sec. 48c. (Blank).

Sec. 48-d. Rural Fire Prevention Districts [Repealed].

Repealed by Acts 2003, 78th Leg., S.J.R. 45, approved at the September 13, 2003 election.

Sec. 48-e. Emergency Services Districts.

Laws may be enacted to provide for the establishment and creation of special districts to provide emergency services and to authorize the commissioners courts of participating counties to levy a tax on the ad valorem property situated in said districts not to exceed Ten Cents (10[¢]) on the One Hundred Dollars ($100.00) valuation for the support thereof; provided that no tax shall be levied in support of said districts until approved by a vote of the qualified voters residing therein. Such a district may provide emergency medical services, emergency ambulance services, rural fire prevention and control services, or other emergency services authorized by the Legislature.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 48-f. Jail Districts.

The legislature, by law, may provide for the creation, operation, and financing of jail districts and may authorize each district to issue bonds and other obligations and to levy an ad valorem tax on property located in the district to pay principal of and interest on the bonds and to pay for operation of the district. An ad valorem tax may not be levied and bonds secured by a property tax may not be issued until approved by the qualified voters of the district voting at an election called and held for that purpose.

Amendment proposed by 1997 75th Leg., H.J.R. 104, approved by electorate at the November 4, 1997 Election; amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 49. State Debts.

(a) No debt shall be created by or on behalf of the State, except:

(1) to supply casual deficiencies of revenue, not to exceed in the aggregate at any one time two hundred thousand dollars;

(2) to repel invasion, suppress insurrection, or defend the State in war;

(3) as otherwise authorized by this constitution; or

(4) as authorized by Subsections (b) through (f) of this section.

(b) The legislature, by joint resolution approved by at least two-thirds of the members of each house, may from time to time call an election and submit to the eligible voters of this State one or more propositions that, if approved by a majority of those voting on the question, authorize the legislature to create State debt for the purposes and subject to the limitations stated in the applicable proposition. Each election and proposition must conform to the requirements of Subsections (c) and (d) of this section.

(c) The legislature may call an election during any regular session of the legislature or during any special session of the legislature in which the subject of the election is designated in the governor's proclamation for that special session. The election may be held on any date, and notice of the election shall be given for the period and in the manner required for amending this constitution. The election shall be held in each county in the manner provided by law for other statewide elections.

(d) A proposition must clearly describe the amount and purpose for which debt is to be created and must describe the source of payment for the debt. Except as provided by law under Subsection (f) of this section, the amount of debt stated in the proposition may not be exceeded and may not be renewed after the debt has been created unless the right to exceed or renew is stated in the proposition.

(e) The legislature may enact all laws necessary or appropriate to implement the authority granted by a proposition that is approved as provided by Subsection (b) of this section. A law enacted in anticipation of the election is valid if, by its terms, it is subject to the approval of the related proposition.

(f) State debt that is created or issued as provided by Subsection (b) of this section may be refunded in the manner and amount and subject to the conditions provided by law.

(g) State debt that is created or issued as provided by Subsections (b) through (f) of this section and that is approved by the attorney general in accordance with applicable law is incontestable for any reason.

Sec. 49a. Financial Statements and Revenue Estimate by Comptroller of Public Accounts; Limitation of Appropriations and Certification of Bills Containing Appropriations.

(a) It shall be the duty of the Comptroller of Public Accounts in advance of each Regular Session of the Legislature to prepare and submit to the Governor and to the Legislature upon its convening a statement under oath showing fully

the financial condition of the State Treasury at the close of the last fiscal period and an estimate of the probable receipts and disbursements for the then current fiscal year. There shall also be contained in said statement an itemized estimate of the anticipated revenue based on the laws then in effect that will be received by and for the State from all sources showing the fund accounts to be credited during the succeeding biennium and said statement shall contain such other information as may be required by law. Supplemental statements shall be submitted at any Special Session of the Legislature and at such other times as may be necessary to show probable changes.

(b) Except in the case of emergency and imperative public necessity and with a four-fifths vote of the total membership of each House, no appropriation in excess of the cash and anticipated revenue of the funds from which such appropriation is to be made shall be valid. No bill containing an appropriation shall be considered as passed or be sent to the Governor for consideration until and unless the Comptroller of Public Accounts endorses his certificate thereon showing that the amount appropriated is within the amount estimated to be available in the affected funds. When the Comptroller finds an appropriation bill exceeds the estimated revenue he shall endorse such finding thereon and return to the House in which same originated. Such information shall be immediately made known to both the House of Representatives and the Senate and the necessary steps shall be taken to bring such appropriation to within the revenue, either by providing additional revenue or reducing the appropriation.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 49-b. Veterans' Land Board; Bond Issues; Veterans' Land and Housing Funds.

(a) The Veterans' Land Board shall be composed of the Commissioner of the General Land Office and two (2) citizens of the State of Texas, one (1) of whom shall be well versed in veterans' affairs and one (1) of whom shall be well versed in finances. One (1) such citizen member shall, with the advice and consent of the Senate, be appointed biennially by the Governor to serve for a term of four (4) years. In the event of the resignation or death of any such citizen member, the Governor shall appoint a replacement to serve for the unexpired portion of the term to which the deceased or resigning member had been appointed. The compensation for said citizen members shall be as is now or may hereafter be fixed by the Legislature; and each shall make bond in such amount as is now or may hereafter be prescribed by the Legislature.

(b) The Commissioner of the General Land Office shall act as Chairman of said Board and shall be the administrator of the Veterans' Land Program under such terms and restrictions as are now or may hereafter be provided by law. In the absence or illness of said Commissioner, the Chief Clerk of the General Land Office shall be the Acting Chairman of said Board with the same duties and powers that said Commissioner would have if present.

(c) The Veterans' Land Board may provide for, issue and sell bonds or obligations of the State of Texas as authorized by constitutional amendment or by a debt proposition under Section 49 of this article for the purpose of creating the Veterans' Land Fund, the Veterans' Housing Assistance Fund, and the Veterans' Housing Assistance Fund II.

(d) Said Veterans' Land Fund, to the extent of the moneys attributable to any bonds hereafter issued and sold by said Board may be used by said Board, as is now or may hereafter be provided by law, for the purpose of paying the expenses of surveying, monumenting, road construction, legal fees, recordation fees, advertising and other like costs necessary or incidental to the purchase and sale, or resale, of any lands purchased with any of the moneys attributable to such additional bonds, such expenses to be added to the price of such lands when sold, or resold, by said Board; for the purpose of paying the expenses of issuing, selling, and delivering any such additional bonds; and for the purpose of meeting the expenses of paying the interest or principal due or to become due on any such additional bonds.

(e) For purposes of this section, "veteran" means a person who satisfies the definition of "veteran" as set forth by the laws of the State of Texas.

(f) The Veterans' Housing Assistance Fund shall be administered by the Veterans' Land Board and shall be used for the purpose of making home mortgage loans to veterans for housing within the State of Texas in such quantities, on such terms, at such rates of interest, and under such rules and regulations as may be authorized by law. The expenses of the board in connection with the issuance of the bonds for the benefit of the Veterans' Housing Assistance Fund and the making of the loans may be paid from money in the fund. The principal of and interest on the general obligation bonds authorized by this section for the benefit of the Veterans' Housing Assistance Fund shall be paid out of the money of the fund, but the money of the fund which is not immediately committed to the payment of principal and interest on such bonds, the making of home mortgage loans as herein provided, or the payment of expenses as herein provided may be invested as authorized by law until the money is needed for such purposes.

(g) The Veterans' Land Fund shall be used by the Veterans' Land Board to purchase lands situated in the state owned by the United States government, an agency of the United States government, this state, a political subdivision or agency of this state, or a person, firm, or corporation.

(h) Lands purchased and comprising a part of the Veterans' Land Fund are declared to be held for a governmental purpose, but the individual purchasers of those lands shall be subject to taxation to the same extent and in the same manner as are purchasers of lands dedicated to the Permanent School Fund. The lands shall be sold to veterans in quantities, on terms, at prices, and at fixed, variable, floating, or other rates of interest, determined by the Board and in accordance with rules of the Board. Notwithstanding any provisions of this section to the contrary, lands in the Veterans' Land Fund that are offered for sale to veterans and that are not sold may be sold or resold to the purchasers in quantities, on terms, at prices, and at rates of interest determined by the Board and in accordance with rules of the Board.

(i) The expenses of the Board in connection with the issuance of the bonds for the benefit of the Veterans' Land Fund and the purchase and sale of the lands may be paid from money in the Veterans' Land Fund.

(j) The Veterans' Land Fund shall consist of:

(1) lands heretofore or hereafter purchased by the Board;

(2) money attributable to bonds heretofore or hereafter issued and sold by the Board for the fund, including proceeds from the issuance and sale of the bonds;

(3) money received from the sale or resale of lands or rights in lands purchased from those proceeds;

(4) money received from the sale or resale of lands or rights in lands purchased with other money attributable to the bonds;

(5) proceeds derived from the sale or other disposition of the Board's interest in contracts for the sale or resale of lands or rights in lands;

(6) interest and penalties received from the sale or resale of lands or rights in lands;

(7) bonuses, income, rents, royalties, and other pecuniary benefits received by the Board from lands;

(8) money received by way of indemnity or forfeiture for the failure of a bidder for the purchase of bonds to comply with the bid and accept and pay for the bonds or for the failure of a bidder for the purchase of lands comprising a part of the Veterans' Land Fund to comply with the bid and accept and pay for the lands;

(9) payments received by the Board under a bond enhancement agreement with respect to the bonds; and

(10) interest received from investments of money in the fund.

(k) The principal of and interest on the general obligation bonds for the benefit of the Veterans' Land Fund, including payments by the Board under a bond enhancement agreement with respect to principal of or interest on the bonds, shall be paid out of the money of the Veterans' Land Fund, but the money in the fund that is not immediately committed to the payment of principal and interest on the bonds, the purchase of lands, or the payment of expenses may be invested as authorized by law until the money is needed for those purposes.

(*l*) The Veterans' Housing Assistance Fund II is a separate and distinct fund from the Veterans' Housing Assistance Fund. Money in the Veterans' Housing Assistance Fund II shall be administered by the Veterans' Land Board and shall be used to make home mortgage loans to veterans for housing within this state in quantities, on terms, and at fixed, variable, floating, or other rates of interest, determined by the Board and in accordance with rules of the Board. The expenses of the Board in connection with the issuance of the bonds for the benefit of the Veterans' Housing Assistance Fund II and the making of the loans may be paid from money in the Veterans' Housing Assistance Fund II.

(m) The Veterans' Housing Assistance Fund II shall consist of:

(1) the Board's interest in home mortgage loans the Board makes to veterans from money in the fund under the Veterans' Housing Assistance Program established by law;

(2) proceeds derived from the sale or other disposition of the Board's interest in home mortgage loans;

(3) money attributable to bonds issued and sold by the Board to provide money for the fund, including the proceeds from the issuance and sale of bonds;

(4) income, rents, and other pecuniary benefits received by the Board as a result of making loans;

(5) money received by way of indemnity or forfeiture for the failure of a bidder for the purchase of bonds to comply with the bid and accept and pay for the bonds;

(6) payments received by the Board under a bond enhancement agreement with respect to the bonds; and

(7) interest received from investments of money.

(n) The principal of and interest on the general obligation bonds for the benefit of the Veterans' Housing Assistance Fund II, including payments by the Board under a bond enhancement agreement with respect to principal of or interest on the bonds, shall be paid out of the money of the Veterans' Housing Assistance Fund II, but the money in the fund that is not immediately committed to the payment of principal and interest on the bonds, the making of home mortgage loans, or the payment of expenses may be invested as authorized by law until the money is needed for those purposes.

(o) The Veterans' Housing Assistance Fund shall consist of:

(1) the Board's interest in home mortgage loans the Board makes to veterans from money in the fund under the Veterans' Housing Assistance Program established by law;

(2) proceeds derived from the sale or other disposition of the Board's interest in home mortgage loans;

(3) money attributable to bonds issued and sold by the Board to provide money for the fund, including proceeds from the issuance and sale of bonds;

(4) income, rents, and other pecuniary benefits received by the Board as a result of making loans;

(5) money received by way of indemnity or forfeiture for the failure of a bidder for the purchase of bonds to comply with the bid and accept and pay for the bonds;

(6) payments received by the Board under a bond enhancement agreement with respect to the bonds; and

(7) interest received from investments of money.

(p) The principal of and interest on the general obligation bonds for the benefit of the Veterans' Housing Assistance Fund, including payments by the Board under a bond enhancement agreement with respect to principal of or interest on the bonds, shall be paid out of money in the Veterans' Housing Assistance Fund.

(q) If there is not enough money in the Veterans' Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II, as the case may be, available to pay the principal of and interest on the general obligation bonds benefiting those funds, including money to make payments by the Board under a bond enhancement agreement

with respect to principal of or interest on the bonds, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, an amount that is sufficient to pay the principal of and interest on the general obligation bonds that mature or become due during that fiscal year or to make bond enhancement payments with respect to those bonds.

(r) Receipts of all kinds of the Veterans' Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II that the Board determines are not required for the payment of principal of and interest on the general obligation bonds benefiting those funds, including payments by the Board under a bond enhancement agreement with respect to principal of or interest on the bonds, may be used by the Board, to the extent not inconsistent with the proceedings authorizing the bonds to:

(1) make temporary transfers to another of those funds to avoid a temporary cash deficiency in that fund or make a transfer to another of those funds for the purposes of that fund;

(2) pay the principal of and interest on general obligation bonds issued to provide money for another of those funds or make bond enhancement payments with respect to the bonds; or

(3) pay the principal of and interest on revenue bonds of the Board or make bond enhancement payments with respect to the bonds.

(s) If the Board determines that assets from the Veterans' Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II are not required for the purposes of the fund, the Board may:

(1) transfer the assets to another of those funds;

(2) use the assets to secure revenue bonds issued by the Board;

(3) use the assets to plan and design, operate, maintain, enlarge, or improve veterans cemeteries; or

(4) use the assets to plan and design, construct, acquire, own, operate, maintain, enlarge, improve, furnish, or equip veterans homes.

(t) The revenue bonds shall be special obligations of the Board and payable only from and secured only by receipts of the funds, assets transferred from the funds, and other revenues and assets as determined by the Board and shall not constitute indebtedness of the state or the Veterans' Land Board. The Board may issue revenue bonds from time to time, which bonds may not exceed an aggregate principal amount that the Board determines can be fully retired from the receipts of the funds, the assets transferred from the funds, and the other revenues and assets pledged to the retirement of the revenue bonds. Notwithstanding the rate of interest specified by any other provision of this constitution, revenue bonds shall bear a rate or rates of interest the Board determines. A determination made by the Board under this subsection shall be binding and conclusive as to the matter determined.

(u) The bonds authorized to be issued and sold by the Veterans' Land Board shall be issued and sold in forms and denominations, on terms, at times, in the manner, at places, and in installments the Board determines. The bonds shall bear a rate or rates of interest the Board determines. The bonds shall be incontestable after execution by the Board, approval by the Attorney General of Texas, and delivery to the purchaser or purchasers of the bonds.

(v) This Amendment being intended only to establish a basic framework and not to be a comprehensive treatment of the Veterans' Housing Assistance Program and the Veterans' Land Program, there is hereby reposed in the Legislature full power to implement and effectuate the design and objects of this Amendment, including the power to delegate such duties, responsibilities, functions, and authority to the Veterans' Land Board as it believes necessary.

(w) The Veterans' Land Board may provide for, issue, and sell general obligation bonds of the state for the purpose of selling land to veterans of the state or providing home or land mortgage loans to veterans of the state in a principal amount of outstanding bonds that must at all times be equal to or less than the aggregate principal amount of state general obligation bonds previously authorized for those purposes by prior constitutional amendments. Bonds and other obligations issued or executed under the authority of this subsection may not be included in the computation required by Section 49-j of this article. The bond proceeds shall be deposited in or used to benefit and augment the Veterans' Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II, as determined appropriate by the Veterans' Land Board, and shall be administered and invested as provided by law. Payments of principal and interest on the bonds, including payments made under a bond enhancement agreement with respect to principal of or interest on the bonds, shall be made from the sources and in the manner provided by this section for general obligation bonds issued for the benefit of the applicable fund.

Amendment to combine Sections 49-b, 49-b-1, 49-b-2, and 49-b-3, Article III and reenact them as Section 49-b, proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election; Amendment proposed by 2001 77th Leg., H.J.R. No. 82, approved by the electorate at the November 6, 2001 election; amendment proposed by 2003 78th Leg., H.J.R. No. 68, approved by the electorate at the September 13, 2003 election; amendment proposed by Acts 2009, 81st Leg., H.J.R. No. 116, § 1, approved by the electorate (Prop. 6) at the November 3, 2009 election; amendment proposed by Acts 2011, 82nd Leg., H.J.R. No. 109, § 1, approved by the electorate (Prop. 6) at the November 8, 2011 election.

Sec. 49-b-1. Bonds to Augment Veterans' Land Fund [Reenacted].

Reenacted as section 49-b by 1999 76th Leg., H.J.R. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Amendment to combine Sections 49-b, 49-b-1, 49-b-2, and 49-b-3, Article III and reenact them as Section 49-b, proposed by 1999 76th Leg., H.J.R. No. 62.

Sec. 49-b-2. Bonds to Augment Veterans' Land Fund [Reenacted].

Reenacted as section 49-b by 1999 76th Leg., H.J.R. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Amendment to combine Sections 49-b, 49-b-1, 49-b-2, and 49-b-3, Article III and reenact them as Section 49-b, proposed by 1999 76th Leg., H.J.R. No. 62.

Sec. 49-b-3. Veterans' Housing Bonds [Reenacted].

Reenacted as section 49-b by 1999 76th Leg., H.J.R. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Adoption proposed by 1995 74th Leg., H.J.R. No. 34, approved by electorate (Prop. 5) at the November 7, 1995 Election; amendment to combine Sections 49-b, 49-b-1, 49-b-2, and 49-b-3, Article III and reenact them as Section 49-b, proposed by 1999 76th Leg., H.J.R. No. 62.

Sec. 49-c. Texas Water Development Board; Bond Issue; Texas Water Development Fund.

(a) The Texas Water Development Board, an agency of the State of Texas, shall exercise such powers as necessary under this provision together with such other duties and restrictions as may be prescribed by law. The qualifications, compensation, and number of members of said Board shall be determined by law. They shall be appointed by the Governor with the advice and consent of the Senate in the manner and for such terms as may be prescribed by law.

(b) The Texas Water Development Board shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas as authorized by constitutional amendment or by a debt proposition under Section 49 of this article. The bonds shall be called "Texas Water Development Bonds," shall be executed in such form, denominations and upon such terms as may be prescribed by law, and may be issued in such installments as the Board finds feasible and practical in accomplishing the purpose set forth herein.

(c) All moneys received from the sale of the bonds shall be deposited in a fund hereby created in the State Treasury to be known as the Texas Water Development Fund to be administered (without further appropriation) by the Texas Water Development Board in such manner as prescribed by law.

(d) Such fund shall be used only for the purpose of aiding or making funds available upon such terms and conditions as the Legislature may prescribe, to the various political subdivisions or bodies politic and corporate of the State of Texas including river authorities, conservation and reclamation districts and districts created or organized or authorized to be created or organized under Article XVI, Section 59 or Article III, Section 52, of this Constitution, interstate compact commissions to which the State of Texas is a party and municipal corporations, in the conservation and development of the water resources of this State, including the control, storing and preservation of its storm and flood waters and the waters of its rivers and streams, for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs and other water storage projects, including any system necessary for the transportation of water from storage to points of treatment and/or distribution, including facilities for transporting water therefrom to wholesale purchasers, or for any one or more of such purposes or methods.

(e) Any or all financial assistance as provided herein shall be repaid with interest upon such terms, conditions and manner of repayment as may be provided by law.

(f) While any of the Texas Water Development Bonds, or any interest on any of such bonds, is outstanding and unpaid, there is hereby appropriated out of the first moneys coming into the Treasury in each fiscal year, not otherwise appropriated by this Constitution, an amount which is sufficient to pay the principal and interest on such bonds that mature or become due during such fiscal year, less the amount in the sinking fund at the close of the prior fiscal year.

(g) The Legislature may provide for the investment of moneys available in the Texas Water Development Fund, and the interest and sinking funds established for the payment of bonds issued by the Texas Water Development Board. Income from such investment shall be used for the purposes prescribed by the Legislature. The Legislature may also make appropriations from the General Revenue Fund for paying administrative expenses of the Board.

(h) From the moneys received by the Texas Water Development Board as repayment of principal for financial assistance or as interest thereon, there shall be deposited in the interest and sinking fund for the bonds sufficient moneys to pay the interest and principal to become due during the ensuing year and sufficient to establish and maintain a reserve in said fund equal to the average annual principal and interest requirements on all outstanding bonds. If any year moneys are received in excess of the foregoing requirements then such excess shall be deposited to the Texas Water Development Fund, and may be used for administrative expenses of the Board and for the same purposes and upon the same terms and conditions prescribed for the proceeds derived from the sale of such State bonds.

(i) All Texas Water Development Bonds shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 49-d. Development of Reservoirs and Water Facilities; Sale, Transfer, or Lease of Facilities or Public Waters.

(a) It is hereby declared to be the policy of the State of Texas to encourage the optimum development of the limited

number of feasible sites available for the construction or enlargement of dams and reservoirs for conservation of the public waters of the state, which waters are held in trust for the use and benefit of the public, and to encourage the optimum regional development of systems built for the filtration, treatment, and transmission of water and wastewater. The proceeds from the sale of bonds deposited in the Texas Water Development Fund may be used by the Texas Water Development Board, under such provisions as the Legislature may prescribe by General Law, including the requirement of a permit for storage or beneficial use, for the additional purposes of acquiring and developing storage facilities, and any system or works necessary for the filtration, treatment and transportation of water or wastewater, or for any one or more of such purposes or methods, whether or not such a system or works is connected with a reservoir in which the state has a financial interest; provided, however, the Texas Water Development Fund or any other state fund provided for water development, transmission, transfer or filtration shall not be used to finance any project which contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing fifty-year period within the river basin of origin, except on a temporary, interim basis.

(b) Under such provisions as the Legislature may prescribe by General Law the Texas Water Development Fund may be used for the conservation and development of water for useful purposes by construction or reconstruction or enlargement of reservoirs constructed or to be constructed or enlarged within the State of Texas or on any stream constituting a boundary of the State of Texas, together with any system or works necessary for the filtration, treatment and/or transportation of water, by any one or more of the following governmental agencies: by the United States of America or any agency, department or instrumentality thereof; by the State of Texas or any agency, department or instrumentality thereof; by political subdivisions or bodies politic and corporate of the state; by interstate compact commissions to which the State of Texas is a party; and by municipal corporations. The Legislature shall provide terms and conditions under which the Texas Water Development Board may sell, transfer or lease, in whole or in part, any reservoir and associated system or works which the Texas Water Development Board has financed in whole or in part.

(c) Under such provisions as the Legislature may prescribe by General Law, the Texas Water Development Board may also execute long-term contracts with the United States or any of its agencies for the acquisition and development of storage facilities in reservoirs constructed or to be constructed by the Federal Government. Such contracts when executed shall constitute general obligations of the State of Texas in the same manner and with the same effect as state bonds issued under the authority of Section 49-c of this article, and the provisions of Section 49-c of this article with respect to payment of principal and interest on state bonds issued shall likewise apply with respect to payment of principal and interest required to be paid by such contracts. If storage facilities are acquired for a term of years, such contracts shall contain provisions for renewal that will protect the state's investment.

(d) The Legislature shall provide terms and conditions for the Texas Water Development Board to sell, transfer or lease, in whole or in part, any acquired facilities or the right to use such facilities at a price not less than the direct cost of the Board in acquiring same; and the Legislature may provide terms and conditions for the Board to sell any unappropriated public waters of the state that might be stored in such facilities. As a prerequisite to the purchase of such storage or water, the applicant therefor shall have secured a valid permit from the state authorizing the acquisition of such storage facilities or the water impounded therein. The money received from any sale, transfer or lease of facilities shall be used to pay principal and interest on state bonds issued or contractual obligations incurred by the Texas Water Development Board, provided that when moneys are sufficient to pay the full amount of indebtedness then outstanding and the full amount of interest to accrue thereon, any further sums received from the sale, transfer or lease of such facilities shall be deposited and used as provided by law. Money received from the sale of water, which shall include standby service, may be used for the operation and maintenance of acquired facilities, and for the payment of principal and interest on debt incurred.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 49-d-1. Additional Texas Water Development Bonds.

(a) The Texas Water Development Board may issue Texas Water Development Bonds as authorized by constitutional amendment or by a debt proposition under Section 49 of this article to provide grants, loans, or any combination of grants and loans for water quality enhancement purposes as established by the Legislature to political subdivisions or bodies politic and corporate of the State of Texas, including municipal corporations, river authorities, conservation and reclamation districts, and districts created or organized or authorized to be created or organized under Article XVI, Section 59, or Article III, Section 52, of this Constitution, State agencies, and interstate agencies and compact commissions to which the State of Texas is a party, and upon such terms and conditions as the Legislature may authorize by general law. The bonds shall be issued for such terms, in such denominations, form and installments, and upon such conditions as the Legislature may authorize.

(b) The Texas Water Development Fund shall be used for the purposes heretofore permitted by, and subject to the limitations in this Section and Sections 49-c and 49-d; provided, however, that the financial assistance may be made subject only to the availability of funds.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 49-d-2. Additional Bonding Authority of Texas Water Development Board; Dedicated Use of Some Proceeds.

The Texas Water Development Board may issue Texas Water Development Bonds for flood control projects and for any acquisition or construction necessary to achieve structural and nonstructural flood control purposes.

Adoption proposed by Acts 1985, 69th Leg., H.J.R. No. 6, approved by the electorate at the November 5, 1985 election; amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 49-d-3. Creation and Use of Special Funds for Water Projects.

(a) The legislature by law may create one or more special funds in the state treasury for use for or in aid of water conservation, water development, water quality enhancement, flood control, drainage, subsidence control, recharge, chloride control, agricultural soil and water conservation, desalinization or any combination of those purposes, may make money in a special fund available to cities, counties, special governmental districts and authorities, and other political subdivisions of the state for use for the purposes for which the fund was created by grants, loans, or any other means, and may appropriate money to any of the special funds to carry out the purposes of this section.

(b) Money deposited in a special fund created under this section may not be used to finance or aid any project that contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable water requirements for the next ensuing 50-year period within the river basin of origin, except on a temporary, interim basis.

Adoption proposed by Acts 1985, 69th Leg., H.J.R. No. 6, approved by the electorate at the November 5, 1985 election.

Sec. 49-d-4. Bond Insurance Program for Water Projects.

(a) In addition to other programs authorized by this constitution, the legislature by law may provide for the creation, administration, and implementation of a bond insurance program to which the state pledges its general credit in an amount not to exceed $250 million to insure the payment in whole or in part of the principal of and interest on bonds or other obligations that are issued by cities, counties, special governmental districts and authorities, and other political subdivisions of the state as defined by law for use for or in aid of water conservation, water development, water quality enhancement, flood control, drainage, recharge, chloride control, desalinization, or any combination of those purposes.

(b) The legislature by law shall designate the state agency to administer the bond insurance program and may authorize that agency to execute insurance contracts that bind the state to pay the principal of and interest on the bonds if the bonds are in default or the bonds are subject to impending default, subject to the limits provided by this section and by law.

(c) The payment by the state of any insurance commitment made under this section must be made from the first money coming into the state treasury that is not otherwise dedicated by this constitution.

(d) Notwithstanding the total amount of bonds insured under this section, the total amount paid and not recovered by the state under this section, excluding the costs of administration, may not exceed $250 million.

(e) Except on a two-thirds vote of the members elected to each house of the legislature, the ratio of bonds insured to the total liability of the state must be two to one.

(f) Except on a two-thirds vote of the members elected to each house of the legislature, the state agency administering the bond insurance program may not authorize bond insurance coverage under the program in any state fiscal year that exceeds a total of $100 million.

(g) Unless authorized to continue by a two-thirds vote of the members elected to each house, this section and the bond insurance program authorized by this section expire on the sixth anniversary of the date on which this section becomes a part of the constitution. However, bond insurance issued before the expiration of this section and the program is not affected by the expiration of this section and the program and remains in effect according to its terms, and the state is required to fulfill all of the terms of that previously issued insurance.

Adoption proposed by Acts 1985, 69th Leg., H.J.R. No. 6, approved by the electorate at the November 5, 1985 election.

Sec. 49-d-5. Extension of Benefits to Nonprofit Water Supply Corporations.

For the purpose of any program established or authorized by this article and administered by the Texas Water Development Board, the legislature by law may extend any benefits to nonprofit water supply corporations that it may extend to a district created or organized under Article XVI, Section 59, of this constitution.

Adoption proposed by Acts 1985, 69th Leg., H.J.R. No. 6, approved by the electorate at the November 5, 1985 election; amendment proposed by Acts 1999, 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 49-d-6. Review and Approval of Texas Water Development Bonds.

The legislature may require review and approval of the issuance of Texas Water Development Bonds, of the use of the bond proceeds, or of the rules adopted by an agency to govern use of the bond proceeds. Notwithstanding any other

provision of this constitution, any entity created or directed to conduct this review and approval may include members or appointees of members of the executive, legislative, and judicial departments of state government.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 49-d-7. Use of Proceeds of Texas Water Development Bonds.

(a) The Texas Water Development Board may use the proceeds of Texas water development bonds issued for the purposes provided by Section 49-c of this article for the additional purpose of providing financial assistance, on terms and conditions provided by law, to various political subdivisions and bodies politic and corporate of the state and to nonprofit water supply corporations to provide for acquisition, improvement, extension, or construction of water supply projects that involve the distribution of water to points of delivery to wholesale or retail customers.

(b) The legislature may provide by law for subsidized loans and grants from the proceeds of Texas water development bonds to provide wholesale and retail water and wastewater facilities to economically distressed areas of the state as defined by law, provided, the principal amount of bonds that may be issued for the purposes under this subsection may not exceed $250 million. Separate accounts shall be established in the water development fund for administering the proceeds of bonds issued for purposes under this subsection, and an interest and sinking fund separate from and not subject to the limitations of the interest and sinking fund created for other Texas water development bonds is established in the State Treasury to be used for paying the principal of and interest on bonds for the purposes of this subsection. While any of the bonds authorized for the purposes of this subsection or any of the interest on those bonds is outstanding and unpaid, there is appropriated out of the first money coming into the State Treasury in each fiscal year, not otherwise appropriated by this constitution, an amount that is sufficient to pay the principal of and interest on those bonds issued for the purposes under this subsection that mature or become due during that fiscal year.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 49-d-8. Texas Water Development Fund II; Additional Bonds; Sale, Transfer, or Lease of Facilities or Public Waters.

(a) The Texas Water Development Fund II is in the state treasury as a fund separate and distinct from the Texas Water Development Fund established under Section 49-c of this article. Money in the Texas Water Development Fund II shall be administered without further appropriation by the Texas Water Development Board and shall be used for any one or more of the purposes currently or formerly authorized by Sections 49-c, 49-d, 49-d-1, 49-d-2, 49-d-5, 49-d-6, and 49-d-7 of this article, as determined by the Texas Water Development Board. Separate accounts shall be established in the Texas Water Development Fund II for administering proceedings related to the purposes described in Section 49-d of this article, the purposes described in Subsection (b) of Section 49-d-7 of this article, and all other authorized purposes. The Texas Water Development Board is hereby authorized, at its determination, to issue general obligation bonds for one or more accounts of the Texas Water Development Fund II in an aggregate principal amount equal to the amount of bonds previously authorized pursuant to former Section 49-d-6 and Sections 49-d-2 and 49-d-7 of this article less the amount of bonds issued pursuant to those sections to augment the Texas Water Development Fund and the amount of bonds issued to augment the Texas Water Development Fund II. Nothing in this section, however, shall grant to the Texas Water Development Board the authority to issue bonds in excess of the total amount of those previously authorized bonds or to issue bonds for purposes described in Subsection (b) of Section 49-d-7 of this article in excess of $250 million. The expenses of the Texas Water Development Board in connection with the issuance of bonds for an account of the Texas Water Development Fund II and administration of such account may be paid from money in such account.

(b) The Texas Water Development Board is hereby authorized, at its determination, to issue general obligation bonds for one or more accounts of the Texas Water Development Fund II in order to refund outstanding bonds previously issued to augment the Texas Water Development Fund, as long as the principal amount of the refunding bonds does not exceed the outstanding principal amount of the refunded bonds, and to refund the general obligation of the State of Texas under long-term contracts entered into by the Texas Water Development Board with the United States or any of its agencies under authority granted by Section 49-d of this article, as long as the principal amount of the refunding bonds does not exceed the principal amount of the contractual obligation of the Texas Water Development Board. Money and assets in the Texas Water Development Fund attributable to such refunding bonds shall be transferred to the appropriate account of the Texas Water Development Fund II, as determined by the Texas Water Development Board, to the extent not inconsistent with the proceedings authorizing any outstanding bonds issued to augment the Texas Water Development Fund and the terms of any long-term contracts entered into by the Texas Water Development Board with the United States or any of its agencies. In addition, the Texas Water Development Board may transfer other moneys and assets in the Texas Water Development Fund to the appropriate account of the Texas Water Development Fund II, as determined by the Texas Water Development Board, without the necessity of issuing refunding bonds to effect the transfer, to the extent not inconsistent with the proceedings authorizing any outstanding bonds issued to augment the Texas Water Development Fund. Further, at such time as all bonds issued to augment the Texas Water Development Fund and all such contractual obligations have been paid or otherwise discharged, all money and assets

in the Texas Water Development Fund shall be transferred to the credit of the Texas Water Development Fund II and deposited to the accounts therein, as determined by the Texas Water Development Board.

(c) Subject to the limitations set forth in Section 49-d of this article, the legislature shall provide terms and conditions under which the Texas Water Development Board may sell, transfer, or lease, in whole or in part, facilities held for the account established within the Texas Water Development Fund II for administering proceedings related to the purposes described in Section 49-d of this article, and the legislature may provide terms and conditions under which the Texas Water Development Board may sell any unappropriated public waters of the state that may be stored in such facilities. Money received from any sale, transfer, or lease of such facilities or water shall be credited to the account established within the Texas Water Development Fund II for the purpose of administering proceedings related to the purposes described in Section 49-d of this article.

(d) Each account of the Texas Water Development Fund II shall consist of:

(1) the Texas Water Development Board's rights to receive repayment of financial assistance provided from such account, together with any evidence of such rights;

(2) money received from the sale or other disposition of the Texas Water Development Board's rights to receive repayment of such financial assistance;

(3) money received as repayment of such financial assistance;

(4) money and assets attributable to bonds issued and sold by the Texas Water Development Board for such account, including money and assets transferred from the Texas Water Development Fund pursuant to this section;

(5) money deposited in such account pursuant to Subsection (c) of this section;

(6) payments received by the Texas Water Development Board under a bond enhancement agreement as authorized by law with respect to bonds issued for such account; and

(7) interest and other income received from investment of money in such account.

(e) Notwithstanding the other provisions of this article, the principal of and interest on the general obligation bonds issued for an account of the Texas Water Development Fund II, including payments by the Texas Water Development Board under a bond enhancement agreement as authorized by law with respect to principal of or interest on such bonds, shall be paid out of such account, but the money in such account that is not immediately committed to the purposes of such account or the payment of expenses may be invested as authorized by law until the money is needed for those purposes. If there is not enough money in any account available to pay the principal of and interest on the general obligation bonds issued for such account, including money to make payments by the Texas Water Development Board under a bond enhancement agreement as authorized by law with respect to principal of or interest on such bonds, there is appropriated out of the first money coming into the state treasury in each fiscal year not otherwise appropriated by this constitution an amount that is sufficient to pay the principal of and interest on such general obligation bonds that mature or become due during that fiscal year or to make bond enhancement payments with respect to those bonds.

(f) The general obligation bonds authorized by this section may be issued as bonds, notes, or other obligations as permitted by law and shall be sold in forms and denominations, on terms, at times, in the manner, at places, and in installments, all as determined by the Texas Water Development Board. The bonds shall bear a rate or rates of interest the Texas Water Development Board determines. The bonds authorized by this section shall be incontestable after execution by the Texas Water Development Board, approval by the attorney general, and delivery to the purchaser or purchasers of the bonds.

(g) This section being intended only to establish a basic framework and not to be a comprehensive treatment of the Texas Water Development Fund II, there is hereby reposed in the legislature full power to implement and effectuate the design and objects of this section, including the power to delegate such duties, responsibilities, functions, and authority to the Texas Water Development Board as it believes necessary.

(h) The Texas Water Development Fund II, including any account in that fund, may not be used to finance or aid any project that contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing 50-year period within the river basin of origin, except on a temporary, interim basis.

Amendment proposed by 1997 75th Leg., S.J.R. No. 17, approved by electorate at the November 4, 1997 Election; amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 49-d-9. Issuance of Additional General Obligation Bonds For Texas Water Development Fund II.

(a) The Texas Water Development Board may issue additional general obligation bonds, at its determination, for one or more accounts of the Texas Water Development Fund II, in an amount not to exceed $2 billion. Of the additional general obligation bonds authorized to be issued, $50 million of those bonds shall be used for the water infrastructure fund as provided by law.

(b) Section 49-d-8 of this article applies to the bonds authorized by this section. The limitation in Section 49-d-8 of this article that the Texas Water Development Board may not issue bonds in excess of the aggregate principal amount of previously authorized bonds does not apply to the bonds authorized by and issued under this section.

(c) A limitation on the percentage of state participation in any single project imposed by this article does not apply to a project funded with the proceeds of bonds issued under the authority of Section 49-d-8 of this article or this section.

Amendment proposed by Acts 2001, 77th Leg., H.J.R. No. 81, approved by the electorate (Prop. 19) at the November 6, 2001 election.

Sec. 49-d-10. Additional Bonds for Financial Assistance to Economically Distressed Areas.

(a) The Texas Water Development Board may issue additional general obligation bonds, at its determination, for the economically distressed areas program account of the Texas Water Development Fund II, in an amount not to exceed $250 million. The bonds shall be used to provide financial assistance to economically distressed areas of the state as defined by law.

(b) Section 49-d-8(e) of this article applies to the bonds authorized by this section.

Adoption proposed by Acts 2007, 80th Leg., S.J.R. No. 20, approved by the electorate (Prop. 16) at the November 6, 2007 election.

Sec. 49-d-11. Continuing Authorization for Additional Bonds for Texas Water Development Fund II.

(a) In addition to the bonds authorized by the other provisions of this article, the Texas Water Development Board may issue general obligation bonds, at its determination and on a continuing basis, for one or more accounts of the Texas Water Development Fund II in amounts such that the aggregate principal amount of the bonds issued by the board under this section that are outstanding at any time does not exceed $6 billion.

(b) Section 49-d-8 of this article applies to the bonds authorized by this section. The limitation in Section 49-d-8 of this article that the Texas Water Development Board may not issue bonds in excess of the aggregate principal amount of previously authorized bonds does not apply to the bonds authorized by and issued under this section.

(c) A limitation on the percentage of state participation in any single project imposed by this article does not apply to a project funded with the proceeds of bonds issued under the authority of this section or Section 49-d-8 of this article.

Adoption proposed by Acts 2011, 82nd Leg., S.J.R. No. 4; approved by electorate (Prop. 2) at November 8, 2011 election.

Sec. 49-d-12. State Water Implementation Fund for Texas.

(a) The State Water Implementation Fund for Texas is created as a special fund in the state treasury outside the general revenue fund. Money in the State Water Implementation Fund for Texas shall be administered, without further appropriation, by the Texas Water Development Board or that board's successor in function and shall be used for the purpose of implementing the state water plan that is adopted as required by general law by the Texas Water Development Board or that board's successor in function. Separate accounts may be established in the State Water Implementation Fund for Texas as necessary to administer the fund or authorized projects.

(b) The legislature by general law may authorize the Texas Water Development Board or that board's successor in function to enter into bond enhancement agreements to provide additional security for general obligation bonds or revenue bonds of the Texas Water Development Board or that board's successor in function, the proceeds of which are used to finance state water plan projects. Bond enhancement agreements must be payable solely from the State Water Implementation Fund for Texas; provided, however, the bond enhancement agreements may not exceed an amount that can be fully supported by the State Water Implementation Fund for Texas. Any amount paid under a bond enhancement agreement may be repaid as provided by general law; provided, however, any repayment may not cause general obligation bonds that are issued under Sections 49-d-9 and 49-d-11 of this article and that are payable from the fund or account receiving the bond enhancement payment to be no longer self-supporting for purposes of Section 49-j(b) of this article. Payments under a bond enhancement agreement entered into pursuant to this section may not be a constitutional state debt payable from general revenues of the state.

(c) The legislature by general law may authorize the Texas Water Development Board or that board's successor in function to use the State Water Implementation Fund for Texas to finance, including by direct loan, water projects included in the state water plan.

(d) The Texas Water Development Board or that board's successor in function shall provide written notice to the Legislative Budget Board or that board's successor in function before each bond enhancement agreement or loan agreement entered into pursuant to this section has been executed by the Texas Water Development Board or that board's successor in function and shall provide a copy of the proposed agreement to the Legislative Budget Board or that board's successor in function for approval. The proposed agreement shall be considered to be approved unless the Legislative Budget Board or that board's successor in function issues a written disapproval not later than the 21st day after the date on which the staff of that board receives the submission.

(e) The State Water Implementation Fund for Texas consists of:

(1) money transferred or deposited to the credit of the fund by general law, including money from any source transferred or deposited to the credit of the fund at the discretion of the Texas Water Development Board or that board's successor in function as authorized by general law;

(2) the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the fund;

(3) any other revenue that the legislature by statute dedicates for deposit to the credit of the fund;

(4) investment earnings and interest earned on amounts credited to the fund; and

(5) money transferred to the fund under a bond enhancement agreement from another fund or account to which money from the fund was transferred under a bond enhancement agreement, as authorized by general law.

(f) The legislature by general law shall provide for the manner in which the assets of the State Water Implementation Fund for Texas may be used, subject to the limitations provided by this section. The legislature by general law may provide for costs of investment of the State Water Implementation Fund for Texas to be paid from that fund.

(g) As provided by general law, each fiscal year the Texas Water Development Board or that board's successor in function shall set aside from amounts on deposit in the State Water Implementation Fund for Texas an amount that is sufficient to make payments under bond enhancement agreements that become due during that fiscal year.

(h) Any dedication or appropriation of amounts on deposit in the State Water Implementation Fund for Texas may not be modified so as to impair any outstanding obligation under a bond enhancement agreement secured by a pledge of those amounts unless provisions have been made for a full discharge of the bond enhancement agreement.

(i) Money in the State Water Implementation Fund for Texas is dedicated by this constitution for purposes of Section 22, Article VIII, of this constitution and an appropriation from the economic stabilization fund to the credit of the State Water Implementation Fund for Texas is an appropriation of state tax revenues dedicated by this constitution for the purposes of Section 22, Article VIII, of this constitution.

(j) This section being intended only to establish a basic framework and not to be a comprehensive treatment of the State Water Implementation Fund for Texas, there is hereby reposed in the legislature full power to implement and effectuate the design and objects of this section, including the power to delegate such duties, responsibilities, functions, and authority to the Texas Water Development Board or that board's successor in function as the legislature believes necessary.

Adoption proposed by Acts 2013, 83rd Leg., S.J.R. No. 1, § 1, approved by the electorate (Prop. 6) at the November 5, 2013 election.

Sec. 49-d-13. State Water Implementation Revenue Fund for Texas.

(a) The State Water Implementation Revenue Fund for Texas is created as a special fund in the state treasury outside the general revenue fund. Money in the State Water Implementation Revenue Fund for Texas shall be administered, without further appropriation, by the Texas Water Development Board or that board's successor in function and shall be used for the purpose of implementing the state water plan that is adopted as required by general law by the Texas Water Development Board or that board's successor in function. Separate accounts may be established in the State Water Implementation Revenue Fund for Texas as necessary to administer the fund or authorized projects.

(b) The legislature by general law may authorize the Texas Water Development Board or that board's successor in function to issue bonds and enter into related credit agreements that are payable from all revenues available to the State Water Implementation Revenue Fund for Texas.

(c) The Texas Water Development Board or that board's successor in function shall provide written notice to the Legislative Budget Board or that board's successor in function before issuing a bond pursuant to this section or entering into a related credit agreement that is payable from revenue deposited to the credit of the State Water Implementation Revenue Fund for Texas and shall provide a copy of the proposed bond or agreement to the Legislative Budget Board or that board's successor in function for approval. The proposed bond or agreement shall be considered to be approved unless the Legislative Budget Board or that board's successor in function issues a written disapproval not later than the 21st day after the date on which the staff of that board receives the submission.

(d) The State Water Implementation Revenue Fund for Texas consists of:

(1) money transferred or deposited to the credit of the fund by general law, including money from any source transferred or deposited to the credit of the fund at the discretion of the Texas Water Development Board or that board's successor in function as authorized by general law;

(2) the proceeds of any fee or tax imposed by this state that by statute is dedicated for deposit to the credit of the fund;

(3) any other revenue that the legislature by statute dedicates for deposit to the credit of the fund;

(4) investment earnings and interest earned on amounts credited to the fund;

(5) the proceeds from the sale of bonds, including revenue bonds issued under this section by the Texas Water Development Board or that board's successor in function for the purpose of providing money for the fund; and

(6) money disbursed to the fund from the State Water Implementation Fund for Texas as authorized by general law.

(e) The legislature by general law shall provide for the manner in which the assets of the State Water Implementation Revenue Fund for Texas may be used, subject to the limitations provided by this section. The legislature by general law may provide for costs of investment of the State Water Implementation Revenue Fund for Texas to be paid from that fund.

(f) In each fiscal year in which amounts become due under the bonds or agreements authorized by this section, the Texas Water Development Board or that board's successor in function shall transfer from revenue deposited to the credit of the State Water Implementation Revenue Fund for Texas in that fiscal year an amount that is sufficient to pay:

(1) the principal of and interest on the bonds that mature or become due during the fiscal year; and

(2) any cost related to the bonds, including payments under related credit agreements that become due during that fiscal year.

(g) Any obligations authorized by general law to be issued by the Texas Water Development Board or that board's successor in function pursuant to this section shall be special obligations payable solely from amounts in the State Water Implementation Revenue Fund for Texas. Obligations issued by the Texas Water Development Board or that board's successor in function pursuant to this section may not be a constitutional state debt payable from the general revenue of the state.

(h) Any dedication or appropriation of revenue to the credit of the State Water Implementation Revenue Fund for Texas may not be modified so as to impair any outstanding bonds secured by a pledge of that revenue unless provisions have been made for a full discharge of those bonds.

(i) Money in the State Water Implementation Revenue Fund for Texas is dedicated by this constitution for purposes of Section 22, Article VIII, of this constitution.

(j) This section being intended only to establish a basic framework and not to be a comprehensive treatment of the State Water Implementation Revenue Fund for Texas, there is hereby reposed in the legislature full power to implement and effectuate the design and objects of this section, including the power to delegate such duties, responsibilities, functions, and authority to the Texas Water Development Board or that board's successor in function as the legislature believes necessary.

Adoption proposed by Acts 2013, 83rd Leg., S.J.R. No. 1, § 1, approved by the electorate (Prop. 6) at the November 5, 2013 election.

Sec. 49-d-14. [2 Versions: Proposed enactment by Proposition No. 2, November 5, 2019]; [Texas Water Development Board to Issue Bonds]

(a) In addition to the bonds authorized by the other provisions of this article, the Texas Water Development Board may issue general obligation bonds, at its determination and on a continuing basis, for the economically distressed areas program account of the Texas Water Development Fund II in amounts such that the aggregate principal amount of the bonds issued by the board under this section that are outstanding at any time does not exceed $200 million. The bonds shall be used to provide financial assistance for the development of water supply and sewer service projects in economically distressed areas of the state as defined by law.

(b) The additional general obligation bonds authorized by this section may be issued as bonds, notes, or other obligations as permitted by law and shall be sold in forms and denominations, on terms, at times, in the manner, at places, and in installments, as determined by the Texas Water Development Board. The bonds shall bear a rate or rates of interest the Texas Water Development Board determines. The bonds shall be incontestable after execution by the Texas Water Development Board, approval by the attorney general, and delivery to the purchaser or purchasers of the bonds.

(c) Section 49-d-8(e) of this article applies to the additional general obligation bonds authorized by this section. The limitation in Section 49-d-8 of this article that the Texas Water Development Board may not issue bonds in excess of the aggregate principal amount of general obligation bonds previously authorized for the economically distressed areas program does not apply to the bonds authorized by and issued under this section.

Adoption proposed by Acts 2019, 86th Leg., S.J.R. No. 79, § 1, to be submitted to the electorate (Prop. 2) at the November 5, 2019 election.

Sec. 49-d-14. [2 Versions: Proposed enactment by Proposition No. 8, November 5, 2019]; [Flood Infrastructure Fund]; [See Editor's Note for contingency information]

(a) The flood infrastructure fund is created as a special fund in the state treasury outside the general revenue fund.

(b) As provided by general law, money in the flood infrastructure fund may be administered and used, without further appropriation, by the Texas Water Development Board or that board's successor in function to provide financing for a drainage, flood mitigation, or flood control project, including:

(1) planning and design activities;

(2) work to obtain regulatory approval to provide nonstructural and structural flood mitigation and drainage; or

(3) construction of structural flood mitigation and drainage infrastructure.

(c) Separate accounts may be established in the flood infrastructure fund as necessary to administer the fund or authorized projects.

Adoption proposed by Acts 2019, 86th Leg., H.J.R. No. 4, § 1, to be submitted to the electorate (Prop. 8) at the November 5, 2019 election.

Sec. 49-e. Texas Park Development Fund; Bonds.

(a) The Parks and Wildlife Department, or its successor vested with the powers, duties, and authority which deals with the operation, maintenance, and improvement of State Parks, shall have the authority to provide for, issue and sell general obligation bonds of the State of Texas in an amount authorized by constitutional amendment or by a debt proposition under Section 49 of this article. The bonds shall be called "Texas Park Development Bonds," shall be executed in such form, denominations, and upon such terms as may be prescribed by law, shall bear a rate or rates of interest as may be fixed by the Parks and Wildlife Department or its successor, not to exceed the maximum prescribed by Section 65 of this article, and may be issued in such installments as said Parks and Wildlife Department, or its said successor, finds feasible and practical in accomplishing the purpose set forth herein.

(b) All moneys received from the sale of said bonds shall be deposited in a fund hereby created with the Comptroller of Public Accounts of the State of Texas to be known as the Texas Park Development Fund to be administered (without further appropriation) by the said Parks and Wildlife Department, or its said successor, in such manner as prescribed by law.

(c) Such fund shall be used by said Parks and Wildlife Department, or its said successor, under such provisions as the Legislature may prescribe by general law, for the purposes of acquiring lands from the United States, or any governmental agency thereof, from any governmental agency of the State of Texas, or from any person, firm, or corporation, for State Park Sites and for developing said sites as State Parks.

(d) While any of the bonds, or any interest on any such bonds, is outstanding and unpaid, there is hereby appropriated out of the first moneys coming into the Treasury in each fiscal year, not otherwise appropriated by this Constitution, an amount which is sufficient to pay the principal and interest on such bonds that mature or become due during such fiscal year, less the amount in the interest and sinking fund at the close of the prior fiscal year, which includes any receipts derived during the prior fiscal year by said Parks and Wildlife Department, or its said successor, from admission charges to State Parks, as the Legislature may prescribe by general law.

(e) The Legislature may provide for the investment of moneys available in the Texas Park Development Fund and the interest and sinking fund established for the payment of bonds issued by said Parks and Wildlife Department, or its said successor. Income from such investment shall be used for the purposes prescribed by the Legislature.

(f) From the moneys received by said Parks and Wildlife Department, or its said successor, from the sale of the bonds issued hereunder, there shall be deposited in the interest and sinking fund for the bonds authorized by this section sufficient moneys to pay the interest to become due during the State fiscal year in which the bonds were issued. After all bonds have been fully paid with interest, or after there are on deposit in the interest and sinking fund sufficient moneys to pay all future maturities of principal and interest, additional moneys received from admission charges to State Parks shall be deposited to the State Parks Fund, or any successor fund which may be established by the Legislature as a depository for Park revenue earned by said Parks and Wildlife Department, or its said successor.

(g) All bonds issued hereunder shall after approval by the Attorney General, registration by the Comptroller of Public Accounts of the State of Texas, and delivery to the purchasers, be incontestable and shall constitute general obligations of the State of Texas under the Constitution of Texas.

Amendment proposed by Acts 1995, 74th Leg., S.J.R. No. 1, approved by electorate (Prop. 10) at the November 7, 1995 election; amendment proposed by Acts 1999, 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 49-f. Bonds for Financial Assistance to Purchase Farm and Ranch Land and for Rural Economic Development.

(a) The legislature by general law may provide for the issuance of general obligation bonds of the state, the proceeds of which shall be used to make loans and provide other financing assistance for the purchase of farm and ranch land.

(b) Except as provided by Subsection (g) of this section, all money received from the sale of the bonds shall be deposited in a fund created with the comptroller of public accounts to be known as the farm and ranch finance program fund. This fund shall be administered by the Texas Agricultural Finance Authority in the manner prescribed by law.

(c) Section 65(b) of this article applies to the payment of interest on the bonds.

(d) The principal amount of bonds outstanding at one time may not exceed $500 million.

(e) While any of the bonds authorized by this section or any interest on those bonds is outstanding and unpaid, there is appropriated out of the first money coming into the treasury in each fiscal year not otherwise appropriated by this constitution an amount that is sufficient to pay the principal and interest on the bonds that mature or become due during the fiscal year less the amount in the interest and sinking fund at the close of the prior fiscal year.

(f) The bonds shall be approved by the attorney general and registered with the comptroller of public accounts. The bonds, when approved and registered, are general obligations of the state and are incontestable.

(g) Notwithstanding Subsection (a) of this section, the proceeds of $200 million of the bonds authorized by this section may be used for the purposes provided by Section 49-i of this article and for other rural economic development programs, and the proceeds of bonds issued for those purposes under this subsection shall be deposited in the Texas agricultural fund, to be administered in the same manner that proceeds of bonds issued under Section 49-i of this article are administered.

Amendments proposed by 1995 74th Leg., S.J.R. Nos. 1 and 51, approved by electorate (Props. 3 and 10) at the November 7, 1995, election.

Sec. 49-g. Economic Stabilization Fund; Allocation of Certain Oil and Gas Production Tax Revenue.

(a) The economic stabilization fund is established as a special fund in the state treasury.

(b) The comptroller shall, not later than the 90th day of each biennium, transfer to the economic stabilization fund one-half of any unencumbered positive balance of general revenues on the last day of the preceding biennium. If necessary, the comptroller shall reduce the amount transferred in proportion to the other amounts prescribed by this section to prevent the amount in the fund from exceeding the limit in effect for that biennium under Subsection (g) of this section.

(c) Not later than the 90th day of each fiscal year, the comptroller of public accounts shall transfer from the general revenue fund to the economic stabilization fund and the state highway fund the sum of the amounts described by Subsections (d) and (e) of this section, to be allocated as provided by Subsections (c-1) and (c-2) of this section. However, if necessary and notwithstanding the allocations prescribed by Subsections (c-1) and (c-2) of this section, the comptroller shall reduce proportionately the amounts described by Subsections (d) and (e) of this section to be transferred and

allocated to the economic stabilization fund to prevent the amount in that fund from exceeding the limit in effect for that biennium under Subsection (g) of this section. Revenue transferred to the state highway fund under this subsection may be used only for constructing, maintaining, and acquiring rights-of-way for public roadways other than toll roads.

(c-1) Of the sum of the amounts described by Subsections (d) and (e) of this section and required to be transferred from the general revenue fund under Subsection (c) of this section, the comptroller shall allocate one-half to the economic stabilization fund and the remainder to the state highway fund, except as provided by Subsection (c-2) of this section.

(c-2) The legislature by general law shall provide for a procedure by which the allocation of the sum of the amounts described by Subsections (d) and (e) of this section may be adjusted to provide for a transfer to the economic stabilization fund of an amount greater than the allocation provided for under Subsection (c-1) of this section with the remainder of that sum, if any, allocated for transfer to the state highway fund. The allocation made as provided by that general law is binding on the comptroller for the purposes of the transfers required by Subsection (c) of this section.

(d) If in the preceding year the state received from oil production taxes a net amount greater than the net amount of oil production taxes received by the state in the fiscal year ending August 31, 1987, the comptroller shall transfer under Subsection (c) of this section and allocate in accordance with Subsections (c-1) and (c-2) of this section an amount equal to 75 percent of the difference between those amounts. The comptroller shall retain the remaining 25 percent of the difference as general revenue. In computing the net amount of oil production taxes received, the comptroller may not consider refunds paid as a result of oil overcharge litigation.

(e) If in the preceding year the state received from gas production taxes a net amount greater than the net amount of gas production taxes received by the state in the fiscal year ending August 31, 1987, the comptroller shall transfer under Subsection (c) of this section and allocate in accordance with Subsections (c-1) and (c-2) of this section an amount equal to 75 percent of the difference between those amounts. The comptroller shall retain the remaining 25 percent of the difference as general revenue. For the purposes of this subsection, the comptroller shall adjust the computation of revenues to reflect only 12 months of collection.

(f) The legislature may appropriate additional amounts to the economic stabilization fund.

(g) During each fiscal biennium, the amount in the economic stabilization fund may not exceed an amount equal to 10 percent of the total amount, excluding investment income, interest income, and amounts borrowed from special funds, deposited in general revenue during the preceding biennium.

(h) In preparing an estimate of anticipated revenues for a succeeding biennium as required by Article III, Section 49a, of this constitution, the comptroller shall estimate the amount of the transfers that will be made under Subsections (b), (d), and (e) of this section. The comptroller shall deduct that amount from the estimate of anticipated revenues as if the transfers were made on August 31 of that fiscal year.

(i) The comptroller shall credit to general revenue interest due to the economic stabilization fund that would result in an amount in the economic stabilization fund that exceeds the limit in effect under Subsection (g) of this section.

(j) The comptroller may transfer money from the economic stabilization fund to general revenue to prevent or eliminate a temporary cash deficiency in general revenue. The comptroller shall return the amount transferred to the economic stabilization fund as soon as practicable, but not later than August 31 of each odd-numbered year. The comptroller shall allocate the depository interest as if the transfers had not been made. If the comptroller submits a statement to the governor and the legislature under Article III, Section 49a, of this constitution when money from the economic stabilization fund is in general revenue, the comptroller shall state that the transferred money is not available for appropriation from general revenue.

(k) Amounts from the economic stabilization fund may be appropriated during a regular legislative session only for a purpose for which an appropriation from general revenue was made by the preceding legislature and may be appropriated in a special session only for a purpose for which an appropriation from general revenue was made in a preceding legislative session of the same legislature. An appropriation from the economic stabilization fund may be made only if the comptroller certifies that appropriations from general revenue made by the preceding legislature for the current biennium exceed available general revenues and cash balances for the remainder of that biennium. The amount of an appropriation from the economic stabilization fund may not exceed the difference between the comptroller's estimate of general revenue for the current biennium at the time the comptroller receives for certification the bill making the appropriation and the amount of general revenue appropriations for that biennium previously certified by the comptroller. Appropriations from the economic stabilization fund under this subsection may not extend beyond the last day of the current biennium. An appropriation from the economic stabilization fund must be approved by a three-fifths vote of the members present in each house of the legislature.

(*l*) If an estimate of anticipated revenues for a succeeding biennium prepared by the comptroller pursuant to Article III, Section 49a, of this constitution is less than the revenues that are estimated at the same time by the comptroller to be available for the current biennium, the legislature may, by a three-fifths vote of the members present in each house, appropriate for the succeeding biennium from the economic stabilization fund an amount not to exceed this difference. Following each fiscal year, the actual amount of revenue shall be computed, and if the estimated difference exceeds the actual difference, the comptroller shall transfer the amount necessary from general revenue to the economic stabilization fund so that the actual difference shall not be exceeded. If all or a portion of the difference in revenue from one biennium to the next results, at least in part, from a change in a tax rate or base adopted by the legislature, the computation of revenue difference shall be adjusted to the amount that would have been available had the rate or base not been changed.

(m) In addition to the appropriation authority provided by Subsections (k) and (*l*) of this section, the legislature may, by a two-thirds vote of the members present in each house, appropriate amounts from the economic stabilization fund at any time and for any purpose.

(n) Money appropriated from the economic stabilization fund is subject to being withheld or transferred, within any limits provided by statute, by any person or entity authorized to exercise the power granted by Article XVI, Section 69, of this constitution.

(o) In this section, "net" means the amount of money that is equal to the difference between gross collections and refunds before the comptroller allocates the receipts as provided by law.

(p) [Expired pursuant to Acts 1987, 70th Leg., H.J.R. No. 2, § 1, effective September 2, 1989.]

Amendment proposed by 1995 74th Leg., S.J.R. No. 1, approved by electorate (Prop. 10) at the November 7, 1995 election; amendment proposed by Acts 2013, 83rd Leg., 3rd C.S., S.J.R. 1, approved by the electorate (Prop. 1) at the November 4, 2014 election.

Sec. 49-h. Bond Issuance for Correctional and Statewide Law Enforcement Facilities and for Institutions for Persons with Intellectual and Developmental Disabilities.

(a) In amounts authorized by constitutional amendment or by a debt proposition under Section 49 of this article, the legislature may provide for the issuance of general obligation bonds and the use of the bond proceeds for acquiring, constructing, or equipping new facilities or for major repair or renovation of existing facilities of corrections institutions, including youth corrections institutions, and mental health and mental retardation institutions. The legislature may require the review and approval of the issuance of the bonds and the projects to be financed by the bond proceeds. Notwithstanding any other provision of this constitution, the issuer of the bonds or any entity created or directed to review and approve projects may include members or appointees of members of the executive, legislative, and judicial departments of state government.

(b) Bonds issued under this section constitute a general obligation of the state. While any of the bonds or interest on the bonds is outstanding and unpaid, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, the amount sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year, less any amount in any sinking fund at the end of the preceding fiscal year that is pledged to payment of the bonds or interest.

(c) In addition to the purposes authorized under Subsection (a), the legislature may authorize the issuance of the general obligation bonds for acquiring, constructing, or equipping:

(1) new statewide law enforcement facilities and for major repair or renovation of existing facilities; and

(2) new prisons and substance abuse felony punishment facilities to confine criminals and major repair or renovation of existing facilities of those institutions, and for the acquisition of, major repair to, or renovation of other facilities for use as state prisons or substance abuse felony punishment facilities.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 49-i. Texas Agricultural Fund; Rural Microenterprise Development Fund.

(a) The legislature by law may provide for the issuance of general obligation bonds of the state for the purpose of providing money to establish a Texas agricultural fund in the state treasury to be used without further appropriation in the manner provided by law and for the purpose of providing money to establish a rural microenterprise development fund in the state treasury to be used without further appropriation in the manner provided by law. The Texas agricultural fund shall be used only to provide financial assistance to develop, increase, improve, or expand the production, processing, marketing, or export of crops or products grown or produced primarily in this state by agricultural businesses domiciled in the state. The rural microenterprise development fund shall be used only in furtherance of a program established by the legislature to foster and stimulate the creation and expansion of small businesses in rural areas. The financial assistance offered by both funds may include loan guarantees, insurance, coinsurance, loans, and indirect loans or purchases or acceptances of assignments of loans or other obligations.

(b) The principal amount of bonds outstanding at one time may not exceed $25 million for the Texas agricultural fund and $5 million for the rural microenterprise development fund.

(c) The legislature may establish an interest and sinking account and other accounts within the Texas agricultural fund and within the rural microenterprise development fund. The legislature may provide for the investment of bond proceeds and of the interest and sinking accounts. Income from the investment of money in the funds that is not immediately committed to the payment of the principal of and interest on the bonds or the provision of financial assistance shall be used to create new employment and business opportunities in the state through the diversification and expansion of agricultural or rural small businesses, as provided by the legislature.

(d) Bonds authorized under this section constitute a general obligation of the state. While any of the bonds or interest on the bonds is outstanding and unpaid, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, the amount sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year, less any amounts in the interest and sinking accounts at the close of the preceding fiscal year that are pledged to payment of the bonds or interest.

Sec. 49-j. Limit on State Debt Payable from General Revenue Fund.

(a) The legislature may not authorize additional state debt if the resulting annual debt service exceeds the limitation imposed by this section. The maximum annual debt service in any fiscal year on state debt payable from the general revenue fund may not exceed five percent of an amount equal to the average of the amount of general revenue fund revenues, excluding revenues constitutionally dedicated for purposes other than payment of state debt, for the three preceding fiscal years.

(b) For purposes of this section, "state debt payable from the general revenue fund" means general obligation and revenue bonds, including authorized but unissued bonds, and lease-purchase agreements in an amount greater than $250,000, which bonds or lease purchase agreements are designed to be repaid with the general revenues of the state. The term does not include bonds that, although backed by the full faith or credit of the state, are reasonably expected to be paid from other revenue sources and that are not expected to create a general revenue draw. Bonds or lease purchase agreements that pledge the full faith and credit of the state are considered to be reasonably expected to be paid from other revenue sources if they are designed to receive revenues other than state general revenues sufficient to cover their debt service over the life of the bonds or agreement. If those bonds or agreements, or any portion of the bonds or agreements, subsequently requires use of the state's general revenue for payment, the bonds or agreements, or portion of the bonds or agreements, is considered to be a "state debt payable from the general revenue fund" under this section, until:

(1) the bonds or agreements are backed by insurance or another form of guarantee that ensures payment from a source other than general revenue; or

(2) the issuer demonstrates to the satisfaction of the Bond Review Board or its successor designated by law that the bonds no longer require payment from general revenue, and the Bond Review Board so certifies to the Legislative Budget Board or its successor designated by law.

Amendment proposed by 1997 75th Leg., H.J.R. No. 59, approved by electorate at the November 4, 1997 election.

Sec. 49-k. Texas Mobility Fund.

(a) In this section:

(1) "Commission" means the Texas Transportation Commission or its successor.

(2) "Comptroller" means the comptroller of public accounts of the State of Texas.

(3) "Department" means the Texas Department of Transportation or its successor.

(4) "Fund" means the Texas Mobility Fund.

(5) "Obligations" means bonds, notes, and other public securities.

(b) The Texas Mobility Fund is created in the state treasury and shall be administered by the commission as a revolving fund to provide a method of financing the construction, reconstruction, acquisition, and expansion of state highways, including costs of any necessary design and costs of acquisition of rights-of-way, as determined by the commission in accordance with standards and procedures established by law.

(c) Money in the fund may also be used to provide participation by the state in the payment of a portion of the costs of constructing and providing publicly owned toll roads and other public transportation projects in accordance with the procedures, standards, and limitations established by law.

(d) The commission may issue and sell obligations of the state and enter into related credit agreements that are payable from and secured by a pledge of and a lien on all or part of the money on deposit in the fund in an aggregate principal amount that can be repaid when due from money on deposit in the fund, as that aggregate amount is projected by the comptroller in accordance with procedures established by law. The proceeds of the obligations must be deposited in the fund and used for one or more specific purposes authorized by law, including:

(1) refunding obligations and related credit agreements authorized by this section;

(2) creating reserves for payment of the obligations and related credit agreements;

(3) paying the costs of issuance; and

(4) paying interest on the obligations and related credit agreements for a period not longer than the maximum period established by law.

(e) The legislature by law may dedicate to the fund one or more specific sources or portions, or a specific amount, of the revenue, including taxes, and other money of the state that are not otherwise dedicated by this constitution. The legislature may not dedicate money from the collection of motor vehicle registration fees and taxes on motor fuels and lubricants dedicated by Section 7-a, Article VIII, of this constitution, but it may dedicate money received from other sources that are allocated to the same costs as those dedicated taxes and fees.

(f) Money dedicated as provided by this section is appropriated when received by the state, shall be deposited in the fund, and may be used as provided by this section and law enacted under this section without further appropriation. While money in the fund is pledged to the payment of any outstanding obligations or related credit agreements, the dedication of a specific source or portion of revenue, taxes, or other money made as provided by this section may not be reduced, rescinded, or repealed unless:

(1) the legislature by law dedicates a substitute or different source that is projected by the comptroller to be of a value equal to or greater than the source or amount being reduced, rescinded, or repealed and authorizes the commission to implement the authority granted by Subsection (g) of this section; and

(2) the commission implements the authority granted by the legislature pursuant to Subsection (g) of this section.

(g) In addition to the dedication of specified sources or amounts of revenue, taxes, or money as provided by Subsection (e) of this section, the legislature may by law authorize the commission to guarantee the payment of any obligations and credit agreements issued and executed by the commission under the authority of this section by pledging the full faith and credit of the state to that payment if dedicated revenue is insufficient for that purpose. If that authority is granted and is implemented by the commission, while any of the bonds, notes, other obligations, or credit agreements are outstanding and unpaid, and for any fiscal year during which the dedicated revenue, taxes, and money are insufficient to make all payments when due, there is appropriated, and there shall be deposited in the fund, out of the first money coming into the state treasury in each fiscal year that is not otherwise appropriated by this constitution, an amount that is sufficient to pay the principal of the obligations and agreements and the interest on the obligations and agreements that become due during that fiscal year, minus any amount in the fund that is available for that payment in accordance with applicable law.

(h) Proceedings authorizing obligations and related credit agreements to be issued and executed under the authority of this section shall be submitted to the attorney general for approval as to their legality. If the attorney general finds that they will be issued in accordance with this section and applicable law, the attorney general shall approve them, and, after payment by the purchasers of the obligations in accordance with the terms of sale and after execution and delivery of the related credit agreements, the obligations and related credit agreements are incontestable for any cause.

(i) Obligations and credit agreements issued or executed under the authority of this section may not be included in the computation required by Section 49-j, Article III, of this constitution, except that if money has been dedicated to the fund without specification of its source or the authority granted by Subsection (g) of this section has been implemented, the obligations and credit agreements shall be included to the extent the comptroller projects that general funds of the state, if any, will be required to pay amounts due on or on account of the obligations and credit agreements.

(j) The collection and deposit of the amounts required by this section, applicable law, and contract to be applied to the payment of obligations and credit agreements issued, executed, and secured under the authority of this section may be enforced by mandamus against the commission, the department, and the comptroller in a district court of Travis County, and the sovereign immunity of the state is waived for that purpose.

Amendment proposed by 2001 77th Leg., S.J.R. No. 16, approved by the electorate at the November 6, 2001 election.

Sec. 49-*l*. Financial Assistance to Counties for Roadway Projects to Serve Border Colonias.

(a) To fund financial assistance to counties for roadways to serve border colonias, the legislature by general law may authorize the governor to authorize the Texas Public Finance Authority or its successor to issue general obligation bonds or notes of the State of Texas in an aggregate amount not to exceed $175 million and to enter into related credit agreements. Except as provided by Subsection (c) of this section, the proceeds from the sale of the bonds and notes may be used only to provide financial assistance to counties for projects to provide access roads to connect border colonias with public roads. Projects may include the construction of colonia access roads, the acquisition of materials used in maintaining colonia access roads, and projects related to the construction of colonia access roads, such as projects for the drainage of the roads.

(b) The Texas Transportation Commission may, in its discretion and in consultation with the office of the governor, determine what constitutes a border colonia for purposes of selecting the counties and projects that may receive assistance under this section.

(c) A portion of the proceeds from the sale of the bonds and notes and a portion of the interest earned on the bonds and notes may be used to pay:

(1) the costs of administering projects authorized under this section; and

(2) all or part of a payment owed or to be owed under a credit agreement.

(d) The bonds and notes authorized under this section constitute a general obligation of the state. While any of the bonds or notes or interest on the bonds or notes is outstanding and unpaid, there is appropriated out of the general revenue fund in each fiscal year an amount sufficient to pay the principal of and interest on the bonds and notes that mature or become due during the fiscal year, including an amount sufficient to make payments under a related credit agreement.

Amendment proposed by 2001 77th Leg., S.J.R. No. 37, approved by electorate at the November 6, 2001 election.

Sec. 49-m. Short-Term Notes and Loans for Texas Department of Transportation Functions.

(a) The legislature, by law, may authorize the Texas Transportation Commission or its successor to authorize the Texas Department of Transportation or its successor to issue notes or borrow money from any source to carry out the functions of the department.

(b) Notes issued or a loan obtained under this section may not have a term of more than two years. The legislature may appropriate money dedicated by Sections 7-a and 7-b, Article VIII, of this constitution for the purpose of paying a debt created by the notes or loan.

Amendment proposed by 2003 78th Leg., H.J.R. No. 28, approved by the electorate at the September 13, 2003 election.

Sec. 49-n. [2 Versions: As added by Acts 2003, 78th Leg., H.J.R. No. 28] Public Securities and Bond Enhancement Agreements Payable from State Highway Fund for Highway Improvement Projects.

(a) To fund highway improvement projects, the legislature may authorize the Texas Transportation Commission or its successor to issue bonds and other public securities and enter into bond enhancement agreements that are payable from revenue deposited to the credit of the state highway fund.

(b) In each fiscal year in which amounts become due under the bonds, other public securities, or agreements authorized by this section, there is appropriated from the revenue deposited to the credit of the state highway fund in that fiscal year an amount that is sufficient to pay:

(1) the principal of and interest on the bonds or other public securities that mature or become due during the fiscal year; and

(2) any cost related to the bonds and other public securities, including payments under bond enhancement agreements, that becomes due during that fiscal year.

(c) Any dedication or appropriation of revenue to the credit of the state highway fund may not be modified so as to impair any outstanding bonds or other public securities secured by a pledge of that revenue unless provisions have been made for a full discharge of those securities.

Amendment proposed by 2003 78th Leg., H.J.R. No. 28, approved by the electorate at the September 13, 2003 election.

Sec. 49-n. [2 Versions: As added by Acts 2003, 78th Leg., S.J.R. No. 55] General Obligation Bonds and Notes for Military Value Revolving Loan Account.

(a) The legislature by general law may authorize one or more state agencies to issue general obligation bonds or notes of the State of Texas in an aggregate amount not to exceed $250 million and enter into related credit agreements. The proceeds from the sale of the bonds and notes shall be deposited in the Texas military value revolving loan account in the state treasury or its successor account to be used by one or more state agencies designated by the legislature by general law without further appropriation to provide loans for economic development projects that benefit defense-related communities, as defined by the legislature by general law, including projects that enhance the military value of military installations located in the state.

(b) The expenses incurred in connection with the issuance of the bonds and notes and the costs of administering the Texas military value revolving loan account may be paid from money in the account. Money in the Texas military value revolving loan account may be used to pay all or part of any payment owed under a credit agreement related to the bonds or notes.

(c) A defense-related community receiving a loan from the Texas military value revolving loan account may use money from the account to capitalize interest on the loan.

(d) An agency providing a loan from the Texas military value revolving loan account to a defense-related community may require the defense-related community to pay any pro rata cost of issuing the general obligation bonds and notes.

(e) Bonds and notes authorized under this section are a general obligation of the state. While any of the bonds or notes or interest on the bonds or notes is outstanding and unpaid, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, the amount sufficient to pay the principal of and interest on the bonds or notes that mature or become due during the fiscal year, including an amount sufficient to make payments under a related credit agreement, less any amounts in the interest and sinking accounts at the close of the preceding fiscal year that are pledged to payment of the bonds or notes or interest.

Amendment proposed by 2003 78th Leg., H.J.R. No. 55, approved by the electorate at the September 13, 2003 election.

Sec. 49-o. Texas Rail Relocation and Improvement Fund.

(a) In this section:

(1) "Commission" means the Texas Transportation Commission or its successor.

(2) "Comptroller" means the comptroller of public accounts of the State of Texas.

(3) "Department" means the Texas Department of Transportation or its successor.

(4) "Fund" means the Texas rail relocation and improvement fund.

(5) "Improvement" includes construction, reconstruction, acquisition, rehabilitation, and expansion.

(6) "Obligations" means bonds, notes, and other public securities.

(b) The Texas rail relocation and improvement fund is created in the state treasury. The fund shall be administered by the commission to provide a method of financing the relocation and improvement of privately and publicly owned passenger and freight rail facilities for the purposes of:

(1) relieving congestion on public highways;

(2) enhancing public safety;

(3) improving air quality; or

(4) expanding economic opportunity.

(b-1) The fund may also be used to provide a method of financing the construction of railroad underpasses and overpasses, if the construction is part of the relocation of a rail facility.

(c) The commission may issue and sell obligations of the state and enter into related credit agreements that are payable from and secured by a pledge of and a lien on all or part of the money on deposit in the fund in an aggregate principal amount that can be repaid when due from money on deposit in the fund, as that aggregate amount is projected by the comptroller in accordance with procedures established by law. The proceeds of the obligations must be deposited in the fund and used for one or more specific purposes authorized by law, including:

(1) refunding obligations and related credit agreements authorized by this section;

(2) creating reserves for payment of the obligations and related credit agreements;

(3) paying the costs of issuance; and

(4) paying interest on the obligations and related credit agreements for a period not longer than the maximum period established by law.

(d) The legislature by law may dedicate to the fund one or more specific sources or portions, or a specific amount, of the revenue, including taxes, and other money of the state that are not otherwise dedicated by this constitution.

(e) Money dedicated as provided by this section is appropriated when received by the state, shall be deposited in the fund, and may be used as provided by this section and law enacted under this section without further appropriation. While money in the fund is pledged to the payment of any outstanding obligations or related credit agreements, the dedication of a specific source or portion of revenue, taxes, or other money made as provided by this section may not be reduced, rescinded, or repealed unless:

(1) the legislature by law dedicates a substitute or different source that is projected by the comptroller to be of a value equal to or greater than the source or amount being reduced, rescinded, or repealed and authorizes the commission to implement the authority granted by Subsection (f) of this section; and

(2) the commission implements the authority granted by the legislature pursuant to Subsection (f) of this section.

(f) In addition to the dedication of specified sources or amounts of revenue, taxes, or money as provided by Subsection (d) of this section, the legislature may by law authorize the commission to guarantee the payment of any obligations and credit agreements issued and executed by the commission under the authority of this section by pledging the full faith and credit of the state to that payment if dedicated revenue is insufficient for that purpose. If that authority is granted and is implemented by the commission, while any of the bonds, notes, other obligations, or credit agreements are outstanding and unpaid, and for any fiscal year during which the dedicated revenue, taxes, and money are insufficient to make all payments when due, there is appropriated, and there shall be deposited in the fund, out of the first money coming into the state treasury in each fiscal year that is not otherwise appropriated by this constitution, an amount sufficient to pay the principal of and interest on the obligations and agreements that become due during that fiscal year, minus any amount in the fund that is available for that payment in accordance with applicable law.

(g) Proceedings authorizing obligations and related credit agreements to be issued and executed under the authority of this section shall be submitted to the attorney general for approval as to their legality. If the attorney general finds that they will be issued in accordance with this section and applicable law, the attorney general shall approve them, and, after payment by the purchasers of the obligations in accordance with the terms of sale and after execution and delivery of the related credit agreements, the obligations and related credit agreements are incontestable for any cause.

(h) Obligations and credit agreements issued or executed under the authority of this section may not be included in the computation required by Section 49-j, Article III, of this constitution, except that if money has been dedicated to the fund without specification of its source or the authority granted by Subsection (f) of this section has been implemented, the obligations and credit agreements shall be included to the extent the comptroller projects that general funds of the state, if any, will be required to pay amounts due on or on account of the obligations and credit agreements.

(i) The collection and deposit of the amounts required by this section, applicable law, and contract to be applied to the payment of obligations and credit agreements issued, executed, and secured under the authority of this section may be enforced by mandamus against the commission, the department, and the comptroller in a district court of Travis County, and the sovereign immunity of the state is waived for that purpose.

Adoption proposed by Acts 2005, 79th Leg., H.J.R. No. 54, approved by electorate (Prop. 1) at the November 8, 2005 election.

Sec. 49-p. General Obligation Bonds for Highway Improvements.

(a) To provide funding for highway improvement projects, the legislature by general law may authorize the Texas Transportation Commission or its successor to issue general obligation bonds of the State of Texas in an aggregate amount not to exceed $5 billion and enter into related credit agreements. The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the Texas Transportation Commission or its successor.

(b) A portion of the proceeds from the sale of the bonds and a portion of the interest earned on the bonds may be used to pay:

(1) the costs of administering projects authorized under this section;

(2) the cost or expense of the issuance of the bonds; and

(3) all or part of a payment owed or to be owed under a credit agreement.

(c) The bonds authorized under this section constitute a general obligation of the state. While any of the bonds or interest on the bonds is outstanding and unpaid, there is appropriated out of the first money coming into the treasury each fiscal year, not otherwise appropriated by this constitution, an amount sufficient to pay the principal of and

interest on the bonds that mature or become due during the fiscal year, including an amount sufficient to make payments under a related credit agreement.

(d) Bonds issued under this section, after approval by the attorney general, registration by the comptroller of public accounts, and delivery to the purchasers, are incontestable and are general obligations of the State of Texas under this constitution.

Adoption proposed by Acts 2007, 80th Leg., S.J.R. No. 64, approved by the electorate (Prop. 12) at the November 6, 2007 election.

Sec. 50. Loan or Pledge of Credit of the State.

The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State in aid of, or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

Sec. 50a. State Medical Education Board; State Medical Education Fund; Purpose [Repealed].

Repeal by Acts 2013, 83rd Leg., H.J.R. No. 79, § 1, effective November 5, 2013.

Repeal proposed by Acts 2013, 83rd Leg., H.J.R. No. 79, § 1.

Sec. 50b. Student Loans [Repealed].

Repeal approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 50b-1. Additional Student Loans [Repealed].

Repeal approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 50b-2. Additional Student Loans [Repealed].

Repeal approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 50b-3. Additional Student Loans [Repealed].

Repeal approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 50b-4. Additional Student Loans.

(a) The legislature by general law may authorize the Texas Higher Education Coordinating Board or its successor or successors to issue and sell general obligation bonds of the State of Texas in an amount authorized by constitutional amendment or by a debt proposition under Section 49 of this article to finance educational loans to students who have been admitted to attend an institution of higher education within the State of Texas, public or private, which is recognized or accredited under terms and conditions prescribed by the Legislature.

(b) The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the Texas Higher Education Coordinating Board or its successor or successors.

(c) The maximum net effective interest rate to be borne by bonds issued under this section must be set by law.

(d) The legislature may provide for the investment of bond proceeds and may establish and provide for the investment of an interest and sinking fund to pay the bonds. Income from the investment shall be used for the purposes prescribed by the legislature.

(e) While any of the bonds issued under this section or interest on the bonds is outstanding and unpaid, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, the amount sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year, less any amount in an interest and sinking fund established under this section at the end of the preceding fiscal year that is pledged to the payment of the bonds or interest.

(f) Bonds issued under this section, after approval by the attorney general, registration by the comptroller of public accounts, and delivery to the purchasers, are incontestable.

Adoption proposed by 1995, 74th Leg., H.J.R. No. 50, approved by electorate (Prop. 1) at the November 7, 1995 Election; amendment proposed by 1999, 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 50b-5. Additional Student Loans.

(a) The legislature by general law may authorize the Texas Higher Education Coordinating Board or its successor or successors to issue and sell general obligation bonds of the State of Texas in an amount not to exceed $400 million to finance educational loans to students. The bonds are in addition to those bonds issued under Sections 50b, 50b-1, 50b-2, 50b-3, and 50b-4 of this article.

(b) The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the Texas Higher Education Coordinating Board or its successor or successors.

(c) The maximum net effective interest rate to be borne by bonds issued under this section may not exceed the maximum rate provided by law.

(d) The legislature may provide for the investment of bond proceeds and may establish and provide for the investment of an interest and sinking fund to pay the bonds. Income from the investment shall be used for the purposes prescribed by the legislature.

(e) While any of the bonds issued under this section or interest on the bonds is outstanding and unpaid, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, the amount sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year, less any amount in an interest and sinking fund established under this section at the end of the preceding fiscal year that is pledged to the payment of the bonds or interest.

(f) Bonds issued under this section, after approval by the attorney general, registration by the comptroller of public accounts, and delivery to the purchasers, are incontestable.

Adoption proposed by 1999, 76th Leg., S.J.R. No. 16, approved by electorate (Prop. 13) at the November 2, 1999 election.

Sec. 50b-6. Additional Student Loans.

(a) The legislature by general law may authorize the Texas Higher Education Coordinating Board or its successor or successors to issue and sell general obligation bonds of the State of Texas in an amount not to exceed $500 million in order to finance educational loans to students in the manner provided by law. The bonds are in addition to bonds issued under Sections 50b-4 and 50b-5 of this article and under any other provision or former provision of this constitution authorizing similar bonds.

(b) The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the Texas Higher Education Coordinating Board or its successor or successors.

(c) The maximum net effective interest rate to be borne by bonds issued under this section may not exceed the maximum rate provided by law.

(d) The legislature may provide for the investment of bond proceeds and may establish and provide for the investment of an interest and sinking fund to pay the bonds. Income from the investment shall be used for the purposes prescribed by the legislature.

(e) Notwithstanding any other provision of this article, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, the amount sufficient to pay the principal of and interest on any bonds issued under this section, under Sections 50b-4 and 50b-5 of this article, and under any other provision or former provision of this article authorizing similar bonds that mature or become due during the fiscal year, less any amount remaining in an interest and sinking fund established under this section, Section 50b-4 or 50b-5 of this article, or any other provision or former provision of this article authorizing similar bonds at the end of the preceding fiscal year that is pledged to the payment of the bonds or interest.

(f) Bonds issued under this section, after approval by the attorney general, registration by the comptroller of public accounts, and delivery to the purchasers, are incontestable.

Adoption proposed by Acts 2007, 80th Leg., S.J.R. No. 57, approved by the electorate (Prop. 2) at the November 6, 2007 election.

Sec. 50b-6A. Bond Enhancement Agreements with Respect to Bonds Issued for Student Loans.

The legislature by general law may provide for the Texas Higher Education Coordinating Board or its successor or successors to enter into bond enhancement agreements with appropriate entities with respect to any bonds issued under Section 50b-4, 50b-5, or 50b-6 of this article or under any other provision or former provision of this article authorizing similar bonds. Payments due from the coordinating board under a bond enhancement agreement with respect to the principal of or interest on the bonds shall be treated for purposes of this constitution as payments of the principal of and interest on the bonds, and money appropriated for the purpose of paying the principal of and interest on the bonds as they mature or become due may be used to make payments under bond enhancement agreements authorized by this section with respect to the bonds.

Adoption proposed by Acts 2007, 80th Leg., S.J.R. No. 57, approved by the electorate (Prop. 2) at the November 6, 2007 election.

Sec. 50b-7. Continuing Authorization for Additional Bonds for Student Loans.

(a) The legislature by general law may authorize the Texas Higher Education Coordinating Board or its successor or successors to issue and sell general obligation bonds of the State of Texas for the purpose of financing educational loans to students in the manner provided by law. The principal amount of outstanding bonds issued under this section must at all times be equal to or less than the aggregate principal amount of state general obligation bonds previously authorized for that purpose by any other provision or former provision of this constitution.

(b) The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the Texas Higher Education Coordinating Board or its successor or successors.

(c) The maximum net effective interest rate to be borne by bonds issued under this section may not exceed the maximum rate provided by law.

(d) The legislature may provide for the investment of bond proceeds and may establish and provide for the investment of an interest and sinking fund to pay the bonds. Income from the investment shall be used for the purposes prescribed by the legislature.

(e) While any of the bonds issued under this section or interest on the bonds is outstanding and unpaid, there is appropriated out of the first money coming into the treasury in each fiscal year, not otherwise appropriated by this constitution, the amount sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year, less any amount in an interest and sinking fund established under this section at the end of the preceding fiscal year that is pledged to the payment of the bonds or interest.

(f) Bonds issued under this section, after approval by the attorney general, registration by the comptroller of public accounts, and delivery to the purchasers, are incontestable.

Adoption proposed by Acts 2011, 82nd Leg., S.J.R. No. 50; approved by the electorate (Prop. 3) at the election held November 8, 2011.

Sec. 50c. Farm and Ranch Loan Security Fund.

(a) The legislature may provide that the commissioner of agriculture shall have the authority to provide for, issue, and sell general obligation bonds of the State of Texas in an amount not to exceed $10 million. The bonds shall be called "Farm and Ranch Loan Security Bonds" and shall be executed in such form, denominations, and on such terms as may be prescribed by law. The bonds shall bear interest rates fixed by the Legislature of the State of Texas.

(b) All money received from the sale of Farm and Ranch Loan Security Bonds shall be deposited in a fund hereby created with the comptroller of public accounts to be known as the "Farm and Ranch Loan Security Fund." This fund shall be administered without further appropriation by the commissioner of agriculture in the manner prescribed by law.

(c) The Farm and Ranch Loan Security Fund shall be used by the commissioner of agriculture under provisions prescribed by the legislature for the purpose of guaranteeing loans used for the purchase of farm and ranch real estate, for acquiring real estate mortgages or deeds of trust on lands purchased with guaranteed loans, and to advance to the borrower a percentage of the principal and interest due on those loans; provided that the commissioner shall require at least six percent interest be paid by the borrower on any advance of principal and interest. The legislature may authorize the commissioner to sell at foreclosure any land acquired in this manner, and proceeds from that sale shall be deposited in the Farm and Ranch Loan Security Fund.

(d) The legislature may provide for the investment of money available in the Farm and Ranch Loan Security Fund and the interest and sinking fund established for the payment of bonds issued by the commissioner of agriculture. Income from the investment shall be used for purposes prescribed by the legislature.

(e) While any of the bonds authorized by this section or any interest on those bonds is outstanding and unpaid, there is hereby appropriated out of the first money coming into the treasury in each fiscal year not otherwise appropriated by this constitution an amount that is sufficient to pay the principal and interest on the bonds that mature or become due during the fiscal year less the amount in the interest and sinking fund at the close of the prior fiscal year.

Amendment proposed by 1995 74th Leg., S.J.R. No. 1, approved by electorate (Prop. 10) at the November 7, 1995 election.

Sec. 50-d. Agricultural Water Conservation Fund.

(a) On a two-thirds vote of the members elected to each house of the legislature, the Texas Water Development Board may issue and sell Texas agricultural water conservation bonds in an amount not to exceed $200 million.

(b) The proceeds from the sale of Texas agricultural water conservation bonds shall be deposited in a fund created in the state treasury to be known as the agricultural water conservation fund.

(c) Texas agricultural water conservation bonds are general obligations of the State of Texas. During the time that Texas agricultural water conservation bonds or any interest on those bonds is outstanding or unpaid, there is appropriated out of the first money coming into the state treasury in each fiscal year, not otherwise appropriated by this constitution, an amount that is sufficient to pay the principal of and interest on those bonds that mature or become due during that fiscal year.

(d) The terms, conditions, provisions, and procedures for issuance and sale and management of proceeds of Texas agricultural water conservation bonds shall be provided by law.

(e) [Repealed by Acts 1989, 71st Leg., S.J.R. No. 44, § 1, effective November 7, 1989.]

Amendment proposed by 1997 75th Leg., S.J.R. No. 17, approved by electorate at the November 4, 1997 election.

Sec. 50-e. Guarantee of Texas Grain Warehouse Self-Insurance Fund.

(a) For the purposes of providing surety for the Texas grain warehouse self-insurance fund, the legislature by general law may establish or provide for a guarantee of the fund not to exceed $5 million.

(b) At the beginning of the fiscal year after the fund reaches $5 million, as certified by the comptroller of public accounts, the guarantee of the fund shall cease and this provision shall expire.

(c) Should the legislature enact any enabling laws in anticipation of this amendment, no such law shall be void by reason of its anticipating nature.

(d) If the provisions of this section conflict with any other provisions of this constitution, the provisions of this section shall prevail.

Sec. 50-f. General Obligation Bonds for Construction and Repair Projects and for Purchase of Equipment.

(a) The legislature by general law may authorize the Texas Public Finance Authority to provide for, issue, and sell general obligation bonds of the State of Texas in an amount not to exceed $850 million and to enter into related credit agreements. The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the Texas Public Finance Authority.

(b) Proceeds from the sale of the bonds shall be deposited in a separate fund or account within the state treasury created by the comptroller for this purpose. Money in the separate fund or account may be used only to pay for:

(1) construction and repair projects authorized by the legislature by general law or the General Appropriations Act and administered by or on behalf of the General Services Commission, the Texas Youth Commission, the Texas Department of Criminal Justice, the Texas Department of Mental Health and Mental Retardation, the Parks and Wildlife Department, the adjutant general's department, the Texas School for the Deaf, the Department of Agriculture, the Department of Public Safety of the State of Texas, the State Preservation Board, the Texas Department of Health, the Texas Historical Commission, or the Texas School for the Blind and Visually Impaired; or

(2) the purchase, as authorized by the legislature by general law or the General Appropriations Act, of needed equipment by or on behalf of a state agency listed in Subdivision (1) of this subsection.

(c) The maximum net effective interest rate to be borne by bonds issued under this section may be set by general law.

(d) While any of the bonds or interest on the bonds authorized by this section is outstanding and unpaid, from the first money coming into the state treasury in each fiscal year not otherwise appropriated by this constitution, an amount sufficient to pay the principal and interest on bonds that mature or become due during the fiscal year and to make payments that become due under a related credit agreement during the fiscal year is appropriated, less the amount in the sinking fund at the close of the previous fiscal year.

(e) Bonds issued under this section, after approval by the attorney general, registration by the comptroller of public accounts, and delivery to the purchasers, are incontestable and are general obligations of the State of Texas under this constitution.

Amendment proposed by 2001, 77th Leg., H.J.R. No. 97, approved by the electorate at the November 6, 2001 election.

Sec. 50-g. General Obligation Bonds for Maintenance, Improvement, Repair or Construction Projects and for Purchase of Equipment.

(a) The legislature by general law may authorize the Texas Public Finance Authority to provide for, issue, and sell general obligation bonds of the State of Texas in an amount not to exceed $1 billion and to enter into related credit agreements. The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the Texas Public Finance Authority.

(b) Proceeds from the sale of the bonds shall be deposited in a separate fund or account within the state treasury created by the comptroller of public accounts for this purpose. Money in the separate fund or account may be used only to pay for:

(1) maintenance, improvement, repair, or construction projects authorized by the legislature by general law or the General Appropriations Act and administered by or on behalf of the Texas Building and Procurement Commission, the Parks and Wildlife Department, the adjutant general's department, the Department of State Health Services, the Department of Aging and Disability Services, the Texas School for the Blind and Visually Impaired, the Texas Youth Commission, the Texas Historical Commission, the Texas Department of Criminal Justice, the Texas School for the Deaf, or the Department of Public Safety of the State of Texas; or

(2) the purchase, as authorized by the legislature by general law or the General Appropriations Act, of needed equipment by or on behalf of a state agency listed in Subdivision (1) of this subsection.

(c) The maximum net effective interest rate to be borne by bonds issued under this section may be set by general law.

(d) While any of the bonds or interest on the bonds authorized by this section is outstanding and unpaid, from the first money coming into the state treasury in each fiscal year not otherwise appropriated by this constitution, an amount sufficient to pay the principal and interest on bonds that mature or become due during the fiscal year and to make payments that become due under a related credit agreement during the fiscal year is appropriated, less the amount in the sinking fund at the close of the previous fiscal year.

(e) Bonds issued under this section, after approval by the attorney general, registration by the comptroller of public accounts, and delivery to the purchasers, are incontestable and are general obligations of the State of Texas under this constitution.

Adoption proposed by Acts 2007, 80th Leg., S.J.R. No. 65, approved by the electorate (Prop. 4) at the November 6, 2007 election.

Sec. 51. Grants of Public Money Prohibited.

The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any

individual, association of individuals, municipal or other corporations whatsoever; provided that the provisions of this Section shall not be construed so as to prevent the grant of aid in cases of public calamity.

Amendment proposed by 1999, 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 51-a. Assistance Grants, Medical Care and Certain Other Services for Needy Persons, Federal Matching Funds.

(a) The Legislature shall have the power, by General Laws, to provide, subject to limitations herein contained, and such other limitations, restrictions and regulations as may by the Legislature be deemed expedient, for assistance grants to needy dependent children and the caretakers of such children, needy persons who are totally and permanently disabled because of a mental or physical handicap, needy aged persons and needy blind persons.

(b) The Legislature may provide by General Law for medical care, rehabilitation and other similar services for needy persons. The Legislature may prescribe such other eligibility requirements for participation in these programs as it deems appropriate and may make appropriations out of state funds for such purposes. The maximum amount paid out of state funds for assistance grants to or on behalf of needy dependent children and their caretakers shall not exceed one percent of the state budget. The Legislature by general statute shall provide for the means for determining the state budget amounts, including state and other funds appropriated by the Legislature, to be used in establishing the biennial limit.

(c) Provided further, that if the limitations and restrictions herein contained are found to be in conflict with the provisions of appropriate federal statutes, as they now are or as they may be amended to the extent that federal matching money is not available to the state for these purposes, then and in that event the Legislature is specifically authorized and empowered to prescribe such limitations and restrictions and enact such laws as may be necessary in order that such federal matching money will be available for assistance and/or medical care for or on behalf of needy persons.

(d) Nothing in this Section shall be construed to amend, modify or repeal Section 31 of Article XVI of this Constitution; provided further, however, that such medical care, services or assistance shall also include the employment of objective or subjective means, without the use of drugs, for the purpose of ascertaining and measuring the powers of vision of the human eye, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. Nothing herein shall be construed to permit optometrists to treat the eyes for any defect whatsoever in any manner nor to administer nor to prescribe any drug or physical treatment whatsoever, unless such optometrist is a regularly licensed physician or surgeon under the laws of this state.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 51-a-1. Financial Assistance to Local Fire Departments and Other Public Fire - Fighting Organizations.

(a) The legislature by general law may authorize the use of public money to provide to local fire departments and other public fire-fighting organizations:

(1) loans or other financial assistance to purchase fire-fighting equipment and to aid in providing necessary equipment and facilities to comply with federal and state law; and

(2) scholarships and grants to educate and train the members of local fire departments and other public fire-fighting organizations.

(b) A portion of the money used under this section may be used for the administrative costs of the program. The legislature shall provide for the terms and conditions of scholarships, grants, loans, and other financial assistance to be provided under this section.

Sec. 51-c. Aid or Compensation to Persons Improperly Fined or Imprisoned.

The Legislature may grant aid and compensation to any person who has heretofore paid a fine or served a sentence in prison, or who may hereafter pay a fine or serve a sentence in prison, under the laws of this State for an offense for which he or she is not guilty, under such regulations and limitations as the Legislature may deem expedient.

Sec. 51-d. Assistance to Survivors of Public Servant Suffering Death in Performance of Hazardous Duty.

The Legislature shall have the power, by general law, to provide for the payment of assistance by the State of Texas to the surviving spouse, minor children, and surviving dependent parents, brothers, and sisters of officers, employees, and agents, including members of organized volunteer fire departments and members of organized police reserve or auxiliary units with authority to make an arrest, of the state or of any city, county, district, or other political subdivision who, because of the hazardous nature of their duties, suffer death in the course of the performance of those official duties. Should the Legislature enact any enabling laws in anticipation of this amendment, no such law shall be void by reason of its anticipatory nature.

Sec. 51e. [Repealed].

Repeal proposed by Acts 1975, 64th Leg., S.J.R. 3, approved by the electorate (Prop. 1) at the April 22, 1975 election.

Sec. 51f. [Repealed].

Repeal proposed by Acts 1975, 64th Leg., S.J.R. 3, approved by the electorate (Prop. 1) at the April 22, 1975 election.

Sec. 51g. Social Security Coverage of Proprietary Employees of Political Subdivisions.

The Legislature shall have the power to pass such laws as may be necessary to enable the State to enter into agreements with the Federal Government to obtain for proprietary employees of its political subdivisions coverage under the old-age and survivors insurance provisions of Title II of the Federal Social Security Act as amended. The Legislature shall have the power to make appropriations and authorize all obligations necessary to the establishment of such Social Security coverage program.

Sec. 52. Restrictions on Lending Credit or Making Grants by Political Corporations or Political Subdivisions; Authorized Bonds; Investment of Funds.

(a) Except as otherwise provided by this section, the Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company. However, this section does not prohibit the use of public funds or credit for the payment of premiums on nonassessable property and casualty, life, health, or accident insurance policies and annuity contracts issued by a mutual insurance company authorized to do business in this State.

(b) Under Legislative provision, any county, political subdivision of a county, number of adjoining counties, political subdivision of the State, or defined district now or hereafter to be described and defined within the State of Texas, and which may or may not include, towns, villages or municipal corporations, upon a vote of two-thirds majority of the voting qualified voters of such district or territory to be affected thereby, may issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such district or territory, except that the total bonded indebtedness of any city or town shall never exceed the limits imposed by other provisions of this Constitution, and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof, as the Legislature may authorize, and in such manner as it may authorize the same, for the following purposes to wit:

(1) The improvement of rivers, creeks, and streams to prevent overflows, and to permit of navigation thereof, or irrigation thereof, or in aid of such purposes.

(2) The construction and maintenance of pools, lakes, reservoirs, dams, canals and waterways for the purposes of irrigation, drainage or navigation, or in aid thereof.

(3) The construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof.

(c) Notwithstanding the provisions of Subsection (b) of this Section, bonds may be issued by any county in an amount not to exceed one-fourth of the assessed valuation of the real property in the county, for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof, upon a vote of a majority of the voting qualified voters of the county, and without the necessity of further or amendatory legislation. The county may levy and collect taxes to pay the interest on the bonds as it becomes due and to provide a sinking fund for redemption of the bonds.

(d) Any defined district created under this section that is authorized to issue bonds or otherwise lend its credit for the purposes stated in Subdivisions (1) and (2) of Subsection (b) of this section may engage in fire-fighting activities and may issue bonds or otherwise lend its credit for fire-fighting purposes as provided by law and this constitution.

(e) A county, city, town, or other political corporation or subdivision of the state may invest its funds as authorized by law.

Amendment to subsection (a) proposed by 1999 76th Leg., H.J.R. No. 69, approved by electorate (Prop. 11); amendments to subsections (b) and (c) proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 52-a. Programs and Loans or Grants of Public Money for Economic Development.

Notwithstanding any other provision of this constitution, the legislature may provide for the creation of programs and the making of loans and grants of public money, other than money otherwise dedicated by this constitution to use for a different purpose, for the public purposes of development and diversification of the economy of the state, the elimination of unemployment or underemployment in the state, the stimulation of agricultural innovation, the fostering of the growth of enterprises based on agriculture, or the development or expansion of transportation or commerce in the state. Any bonds or other obligations of a county, municipality, or other political subdivision of the state that are issued for the purpose of making loans or grants in connection with a program authorized by the legislature under this section and that are payable from ad valorem taxes must be approved by a vote of the majority of the registered voters of the county, municipality, or political subdivision voting on the issue. A program created or a loan or grant made as provided by this section that is not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the political subdivision does not constitute or create a debt for the purpose

of any provision of this constitution. An enabling law enacted by the legislature in anticipation of the adoption of this amendment is not void because of its anticipatory character.

Added November 3, 1987; amendment proposed by Acts 2005, 79th Leg., H.J.R. 80 (Prop. 3), was approved by the electorate at the November 8, 2005 election.

Sec. 52-b. Loan of State's Credit, Grant of Public Money, or Assumption of Debt for Toll Road Purposes.

The Legislature shall have no power or authority to in any manner lend the credit of the State or grant any public money to, or assume any indebtedness, present or future, bonded or otherwise, of any individual, person, firm, partnership, association, corporation, public corporation, public agency, or political subdivision of the State, or anyone else, which is now or hereafter authorized to construct, maintain or operate toll roads and turnpikes within this State except that the Legislature may authorize the Texas Department of Transportation to expend, grant, or loan money, from any source available, for the acquisition, construction, maintenance, or operation of turnpikes, toll roads, and toll bridges.

Amendment proposed by 2001 77th Leg., S.J.R. No. 16, approved by the electorate at the November 6, 2001 election.

Sec. 52-c. (Blank).

Sec. 52d. County or Road District Tax for Road and Bridge Purposes in Harris County.

(a) Upon the vote of a majority of the qualified voters so authorizing, a county or road district may collect an annual tax for a period not exceeding five (5) years to create a fund for constructing lasting and permanent roads and bridges or both. No contract involving the expenditure of any of such fund shall be valid unless, when it is made, money shall be on hand in such fund.

(b) At such election, the Commissioners' Court shall submit for adoption a road plan and designate the amount of special tax to be levied; the number of years said tax is to be levied; the location, description, and character of the roads and bridges; and the estimated cost thereof. The funds raised by such taxes shall not be used for purposes other than those specified in the plan submitted to the voters. Elections may be held from time to time to extend or discontinue said plan or to increase or diminish said tax. The Legislature shall enact laws prescribing the procedure hereunder.

(c) The provisions of this section shall apply only to Harris County and road districts therein.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 52e. County Payment of Medical Expenses of Law Enforcement Officials.

Each county in the State of Texas is hereby authorized to pay all medical expenses, all doctor bills and all hospital bills for Sheriffs, Deputy Sheriffs, Constables, Deputy Constables and other county and precinct law enforcement officials who are injured in the course of their official duties; providing that while said Sheriff, Deputy Sheriff, Constable, Deputy Constable or other county or precinct law enforcement official is hospitalized or incapacitated that the county shall continue to pay his maximum salary; providing, however, that said payment of salary shall cease on the expiration of the term of office to which such official was elected or appointed. Provided, however, that no provision contained herein shall be construed to amend, modify, repeal or nullify Article 16, Section 31, of the Constitution of the State of Texas.

Sec. 52f. Private Road Work by Counties with Population of 7,500 or Less.

A county with a population of 7,500 or less, according to the most recent federal census, may construct and maintain private roads if it imposes a reasonable charge for the work. The Legislature by general law may limit this authority. Revenue received from private road work may be used only for the construction, including right-of-way acquisition, or maintenance of public roads.

HISTORY: Amendment proposed by Acts 2015, 84th Leg., S.J.R. No. 17, § 1, approved by the electorate (Prop. 5) at the November 3, 2015 election.

Sec. 52g. Dallas County Bond Issues for Roads and Turnpikes.

Bonds to be issued by Dallas County under Section 52(b)(3) of Article III of this Constitution may, without the necessity of further or amendatory legislation, be issued upon a vote of a majority of the voting qualified voters of said county, and bonds heretofore or hereafter issued under Subsections (a) and (b) of said Section 52 shall not be included in determining the debt limit prescribed in said Section.

Amendment proposed by 1997 75th Leg., H.J.R. No. 104, approved by electorate at the November 4, 1997 Election; amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 52h. Donations by Municipalities of Outdated or Surplus Fire Fighting Equipment to Underdeveloped Counties.

A municipality may donate to an underdeveloped country outdated or surplus equipment, supplies, or other materials used in fighting fires.

Amendment proposed by 2001 77th Leg., S.J.R. No. 32, approved by electorate at the November 6, 2001 election.

Sec. 52i. Donations by Municipalities of Surplus Fire Fighting Equipment for Rural Fire Protection.

(a) A municipality may donate surplus equipment, supplies, or other materials used in fighting fires to the Texas Forest Service or to a successor agency authorized to cooperate in the development of rural fire protection plans.

(b) The Texas Forest Service or the successor agency may, based on need, redistribute to rural volunteer fire departments the equipment, supplies, or materials donated under Subsection (a).

Amendment proposed by 2003, 78th Leg., H.J.R. No. 61, approved by electorate (Prop. 10) at the September 13, 2003 election.

Sec. 52j. Sale of Real Property Acquired Through Eminent Domain.

A governmental entity may sell real property acquired through eminent domain to the person who owned the real property interest immediately before the governmental entity acquired the property interest, or to the person's heirs, successors, or assigns, at the price the entity paid at the time of acquisition if:

(1) the public use for which the property was acquired through eminent domain is canceled;

(2) no actual progress is made toward the public use during a prescribed period of time; or

(3) the property is unnecessary for the public use.

Adoption proposed by Acts 2007, 80th Leg., H.J.R. No. 3057, approved by the electorate (Prop. 7) at the November 6, 2007 election.

Sec. 52k. County or Municipal Bonds or Notes to Acquire Land Adjacent to Military Installations.

The legislature by general law may authorize a municipality or county to issue bonds or notes to finance the acquisition of buffer areas or open spaces adjacent to a military installation for the prevention of encroachment or for the construction of roadways, utilities, or other infrastructure to protect or promote the mission of the military installation. The municipality or county may pledge increases in ad valorem tax revenues imposed in the area by the municipality, county, or other political subdivisions for repayment of the bonds or notes.

Adoption proposed by Acts 2009, 81st Leg., H.J.R. No. 132, § 1, approved by the electorate (Prop. 1) at the November 3, 2009 election.

Sec. 52l. [As added by Proposition No. 10, November 5, 2019]; [Transfer of Care of Law Enforcement Animals]; [See Editor's Note for contingency information]

The legislature may authorize a state agency or a county, a municipality, or other political subdivision to transfer a law enforcement dog, horse, or other animal to the animal's handler or another qualified caretaker for no consideration on the animal's retirement or at another time if the transfer is in the animal's best interest.

Adoption proposed by Acts 2019, 86th Leg., S.J.R. No. 32, § 1, to be submitted to the electorate (Prop. 10) at the November 5, 2019 election.

Sec. 53. Payment of Extra Compensation or Unauthorized Claims Prohibited.

The Legislature shall have no power to grant, or to authorize any county or municipal authority to grant, any extra compensation, fee or allowance to a public officer, agent, servant or contractor, after service has been rendered, or a contract has been entered into, and performed in whole or in part; nor pay, nor authorize the payment of, any claim created against any county or municipality of the State, under any agreement or contract, made without authority of law.

Sec. 54. Liens on Railroad; Release, Alienation, or Change [Repealed].

Repeal proposed by Acts 1999, 76th Leg., H.J.R. 62, § 55(1), approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 55. Release or Extinguishment of Indebtedness to State, County, Subdivision, or Municipal Corporation.

The Legislature shall have no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual, to this State or to any county or defined subdivision thereof, or other municipal corporation therein, except delinquent taxes which have been due for a period of at least ten years.

Sec. 56. Prohibited Local and Special Laws.

(a) The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing:

(1) the creation, extension or impairing of liens;

(2) regulating the affairs of counties, cities, towns, wards or school districts;

(3) changing the names of persons or places;

(4) changing the venue in civil or criminal cases;

(5) authorizing the laying out, opening, altering or maintaining of roads, highways, streets or alleys;

(6) relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State;

(7) vacating roads, town plats, streets or alleys;

(8) relating to cemeteries, grave-yards or public grounds not of the State;

(9) authorizing the adoption or legitimation of children;

(10) locating or changing county seats;

(11) incorporating cities, towns or villages, or changing their charters;

(12) for the opening and conducting of elections, or fixing or changing the places of voting;

(13) granting divorces;

(14) creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts;

(15) changing the law of descent or succession;

(16) regulating the practice or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;

(17) regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables;

(18) regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;

(19) fixing the rate of interest;

(20) affecting the estates of minors, or persons under disability;

(21) remitting fines, penalties and forfeitures, and refunding moneys legally paid into the treasury;

(22) exempting property from taxation;

(23) regulating labor, trade, mining and manufacturing;

(24) declaring any named person of age;

(25) extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of his official duties, or his securities from liability;

(26) giving effect to informal or invalid wills or deeds;

(27) summoning or empanelling grand or petit juries;

(28) for limitation of civil or criminal actions;

(29) for incorporating railroads or other works of internal improvements; or

(30) relieving or discharging any person or set of persons from the performance of any public duty or service imposed by general law.

(b) In addition to those laws described by Subsection (a) of this section in all other cases where a general law can be made applicable, no local or special law shall be enacted; provided, that nothing herein contained shall be construed to prohibit the Legislature from passing:

(1) special laws for the preservation of the game and fish of this State in certain localities; and

(2) fence laws applicable to any subdivision of this State or counties as may be needed to meet the wants of the people.

Amendment proposed by 2001 77th Leg., H.J.R. No. 75, approved by electorate at the November 6, 2001 election.

Sec. 57. Notice of Intention to Apply for Local or Special Law.

No local or special law shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the Legislature of such bill and in the manner to be provided by law. The evidence of such notice having been published, shall be exhibited in the Legislature, before such act shall be passed.

Sec. 58. Seat of Government.

The Legislature shall hold its sessions at the City of Austin, which is hereby declared to be the seat of government.

Sec. 59. Workers' Compensation Insurance for State Employees.

The Legislature shall have power to pass such laws as may be necessary to provide for Workers' Compensation Insurance for such State employees, as in its judgment is necessary or required; and to provide for the payment of all costs, charges, and premiums on such policies of insurance; providing the State shall never be required to purchase insurance for any employee.

Amendment proposed by 2001 77th Leg., H.J.R. No. 75, approved by electorate at the November 6, 2001 election.

Sec. 60. Workers' Compensation Insurance for Employees of Political Subdivisions.

The Legislature shall have the power to pass such laws as may be necessary to enable all counties, cities, towns, villages, and other political subdivisions of this State to provide Workers' Compensation Insurance, including the right of a political subdivision to provide its own insurance risk, for all employees of the political subdivision as in its judgment is necessary or required; and the Legislature shall provide suitable laws for the administration of such insurance in the counties, cities, towns, villages, or other political subdivisions of this State and for the payment of the costs, charges and premiums on such policies of insurance and the benefits to be paid thereunder.

Amendment proposed by 2001 77th Leg., H.J.R. No. 75, approved by the electorate at the November 6, 2001 election.

Sec. 61. Workers' Compensation Insurance for Municipal Employees [Repealed].

Repeal proposed by Acts 2001, 77th Leg., H.J.R. 75, § 1.06, approved by electorate at the November 6, 2001 election.

Sec. 61-a. Minimum Salaries of Certain State Officers.

The Legislature shall not fix the salary of the Governor, Attorney General, Comptroller of Public Accounts, Commissioner of the General Land Office or Secretary of State at a sum less than that fixed for such officials in the Constitution on January 1, 1953.

Amendment proposed by 1995 74th Leg., S.J.R. No. 1, approved by electorate (Prop. 10) at the November 7, 1995 election; amendment proposed by 1997 75th Leg., H.J.R. No. 104, approved by electorate at the November 4, 1997 election.

Sec. 62. Continuity of State and Local Governmental Operations Following Enemy Attack.

(a) The Legislature, in order to insure continuity of state and local governmental operations in periods of emergency resulting from disasters caused by enemy attack, shall have the power and the immediate duty to provide for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices. Provided, however, that Article I of the Constitution of Texas, known as the "Bill of Rights" shall not be in any manner affected, amended, impaired, suspended, repealed or suspended hereby.

(b) When such a period of emergency or the immediate threat of enemy attack exists, the Legislature may suspend procedural rules imposed by this Constitution that relate to:

(1) the order of business of the Legislature;

(2) the percentage of each house of the Legislature necessary to constitute a quorum;

(3) the requirement that a bill must be read on three days in each house before it has the force of law;

(4) the requirement that a bill must be referred to and reported from committee before its consideration; and

(5) the date on which laws passed by the Legislature take effect.

(c) When such a period of emergency or the immediate threat of enemy attack exists, the Governor, after consulting with the Lieutenant Governor and the Speaker of the House of Representatives, may suspend the constitutional requirement that the Legislature hold its sessions in Austin, the seat of government. When this requirement has been suspended, the Governor shall determine a place other than Austin at which the Legislature will hold its sessions during such period of emergency or immediate threat of enemy attack. The Governor shall notify the Lieutenant Governor and the Speaker of the House of Representatives of the place and time at which the Legislature will meet. The Governor may take security precautions, consistent with the state of emergency, in determining the extent to which that information may be released.

(d) To suspend the constitutional rules specified by Subsection (b) of this section, the Governor must issue a proclamation and the House of Representatives and the Senate must concur in the proclamation as provided by this section.

(e) The Governor's proclamation must declare that a period of emergency resulting from disasters caused by enemy attack exists, or that the immediate threat of enemy attack exists, and that suspension of constitutional rules relating to legislative procedure is necessary to assure continuity of state government. The proclamation must specify the period, not to exceed two years, during which the constitutional rules specified by Subsection (b) of this section are suspended.

(f) The House of Representatives and the Senate, by concurrent resolution approved by the majority of the members present, must concur in the Governor's proclamation. A resolution of the House of Representatives and the Senate

concurring in the Governor's proclamation suspends the constitutional rules specified by Subsection (b) of this section for the period of time specified by the Governor's proclamation.

(g) The constitutional rules specified by Subsection (b) of this section may not be suspended for more than two years under a single proclamation. A suspension may be renewed, however, if the Governor issues another proclamation as provided by Subsection (e) of this section and the House of Representatives and the Senate, by concurrent resolution, concur in that proclamation.

Sec. 63. Consolidation of Governmental Functions in Counties of 1,200,000 or More [Repealed].

Repeal approved by electorate at the November 6, 2001 election.

Sec. 64. Consolidation of Offices and Functions of Political Subdivisions; Contracts Between Political Subdivisions.

(a) The Legislature may by special statute provide for consolidation of governmental offices and functions of government of any one or more political subdivisions comprising or located within any county. Any such statute shall require an election to be held within the political subdivisions affected thereby with approval by a majority of the voters in each of these subdivisions, under such terms and conditions as the Legislature may require.

(b) The county government, or any political subdivision(s) comprising or located therein, may contract one with another for the performance of governmental functions required or authorized by this Constitution or the Laws of this State, under such terms and conditions as the Legislature may prescribe. No person acting under a contract made pursuant to this Subsection (b) shall be deemed to hold more than one office of honor, trust or profit or more than one civil office of emolument. The term "governmental functions," as it relates to counties, includes all duties, activities and operations of statewide importance in which the county acts for the State, as well as of local importance, whether required or authorized by this Constitution or the Laws of this State.

Sec. 65. Maximum Interest Rate on Public Bonds.

(a) Wherever the Constitution authorizes an agency, instrumentality, or subdivision of the State to issue bonds and specifies the maximum rate of interest which may be paid on such bonds issued pursuant to such constitutional authority, such bonds may bear interest at rates not to exceed a weighted average annual interest rate of 12% unless otherwise provided by Subsection (b) of this section. All Constitutional provisions specifically setting rates in conflict with this provision are hereby repealed.

(b) Bonds issued by the Veterans' Land Board after the effective date of this subsection bear interest at a rate or rates determined by the board, but the rate or rates may not exceed a net effective interest rate of 10% per year unless otherwise provided by law. A statute that is in effect on the effective date of this subsection and that sets as a maximum interest rate payable on bonds issued by the Veterans' Land Board a rate different from the maximum rate provided by this subsection is ineffective unless reenacted by the legislature after that date.

Sec. 66. Limitation of Liability for Noneconomic Damages.

(a) In this section "economic damages" means compensatory damages for any pecuniary loss or damage. The term does not include any loss or damage, however characterized, for past, present, and future physical pain and suffering, mental anguish and suffering, loss of consortium, loss of companionship and society, disfigurement, or physical impairment.

(b) Notwithstanding any other provision of this constitution, the legislature by statute may determine the limit of liability for all damages and losses, however characterized, other than economic damages, of a provider of medical or health care with respect to treatment, lack of treatment, or other claimed departure from an accepted standard of medical or health care or safety, however characterized, that is or is claimed to be a cause of, or that contributes or is claimed to contribute to, disease, injury, or death of a person. This subsection applies without regard to whether the claim or cause of action arises under or is derived from common law, a statute, or other law, including any claim or cause of action based or sounding in tort, contract, or any other theory or any combination of theories of liability. The claim or cause of action includes a medical or health care liability claim as defined by the legislature.

(c) Notwithstanding any other provision of this constitution, after January 1, 2005, the legislature by statute may determine the limit of liability for all damages and losses, however characterized, other than economic damages, in a claim or cause of action not covered by Subsection (b) of this section. This subsection applies without regard to whether the claim or cause of action arises under or is derived from common law, a statute, or other law, including any claim or cause of action based or sounding in tort, contract, or any other theory or any combination of theories of liability.

(d) Except as provided by Subsection (c) of this section, this section applies to a law enacted by the 78th Legislature, Regular Session, 2003, and to all subsequent regular or special sessions of the legislature.

(e) A legislative exercise of authority under Subsection (c) of this section requires a three-fifths vote of all the members elected to each house and must include language citing this section.

Adoption proposed by Acts 2003, 78th Leg., H.J.R. 3, approved by the electorate (Prop. 12) at the September 13, 2003 election.

Sec. 67. Cancer Prevention and Research Institute of Texas; Bonds.

(a) The legislature shall establish the Cancer Prevention and Research Institute of Texas to:

(1) make grants to provide funds to public or private persons to implement the Texas Cancer Plan, and to institutions of learning and to advanced medical research facilities and collaborations in this state for:

(A) research into the causes of and cures for all forms of cancer in humans;

(B) facilities for use in research into the causes of and cures for cancer; and

(C) research, including translational research, to develop therapies, protocols, medical pharmaceuticals, or procedures for the cure or substantial mitigation of all types of cancer in humans;

(2) support institutions of learning and advanced medical research facilities and collaborations in this state in all stages in the process of finding the causes of all types of cancer in humans and developing cures, from laboratory research to clinical trials and including programs to address the problem of access to advanced cancer treatment; and

(3) establish the appropriate standards and oversight bodies to ensure the proper use of funds authorized under this provision for cancer research and facilities development.

(b) The members of the governing body and any other decision-making body of the Cancer Prevention and Research Institute of Texas may serve four-year terms.

(c) **[2 Versions: Effective unless and until Acts 2019, 86th Leg., H.J.R. No. 12, Prop. No. 6 is approved by voters and the ballot certified — see Editor's Note]** The legislature by general law may authorize the Texas Public Finance Authority to provide for, issue, and sell general obligation bonds of the State of Texas on behalf of the Cancer Prevention and Research Institute of Texas in an amount not to exceed $3 billion and to enter into related credit agreements. The Texas Public Finance Authority may not issue more than $300 million in bonds authorized by this subsection in a year. The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the Texas Public Finance Authority.

(c) **[2 Versions: Proposed amendment by Acts 2019, 86th Leg., H.J.R. No. 12, Prop. No. 6, Contingent on Voter Approval — see Editor's Note]** The legislature by general law may authorize the Texas Public Finance Authority to provide for, issue, and sell general obligation bonds of the State of Texas on behalf of the Cancer Prevention and Research Institute of Texas in an amount not to exceed $6 billion and to enter into related credit agreements. The Texas Public Finance Authority may not issue more than $300 million in bonds authorized by this subsection in a year. The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the Texas Public Finance Authority.

(d) Proceeds from the sale of the bonds shall be deposited in separate funds or accounts, as provided by general law, within the state treasury to be used by the Cancer Prevention and Research Institute of Texas for the purposes of this section.

(e) Notwithstanding any other provision of this constitution, the Cancer Prevention and Research Institute of Texas, which is established in state government, may use the proceeds from bonds issued under Subsection (c) of this section and federal or private grants and gifts to pay for:

(1) grants for cancer research, for research facilities, and for research opportunities in this state to develop therapies, protocols, medical pharmaceuticals, or procedures for the cure or substantial mitigation of all types of cancer in humans;

(2) grants for cancer prevention and control programs in this state to mitigate the incidence of all types of cancer in humans;

(3) the purchase, subject to approval by the Cancer Prevention and Research Institute, of laboratory facilities by or on behalf of a state agency or grant recipient; and

(4) the operation of the Cancer Prevention and Research Institute of Texas.

(f) The bond proceeds may be used to pay the costs of issuing the bonds and any administrative expense related to the bonds.

(g) While any of the bonds or interest on the bonds authorized by this section is outstanding and unpaid, from the first money coming into the state treasury in each fiscal year not otherwise appropriated by this constitution, an amount sufficient to pay the principal of and interest on bonds that mature or become due during the fiscal year and to make payments that become due under a related credit agreement during the fiscal year is appropriated, less the amount in the sinking fund at the close of the previous fiscal year.

(h) Bonds issued under this section, after approval by the attorney general, registration by the comptroller of public accounts, and delivery to the purchasers, are incontestable and are general obligations of the State of Texas under this constitution.

(i) Before the Cancer Prevention and Research Institute of Texas may make a grant of any proceeds of the bonds issued under this section, the recipient of the grant must have an amount of funds equal to one-half the amount of the grant dedicated to the research that is the subject of the grant request.

(j) The Texas Public Finance Authority shall consider using a business whose principal place of business is located in the state to issue the bonds authorized by this section and shall include using a historically underutilized business as defined by general law.

Adoption proposed by Acts 2007, 80th Leg., H.J.R. No. 90, approved by the electorate (Prop. 15) at the November 6, 2007 election; amendment proposed by Acts 2019, 86th Leg., H.J.R. No.12, § 1, (Prop. 6) at the November 5, 2019 election.

Sec. 521. [As added by Proposition No. 10, November 5, 2019]; [Transfer of Care of Law Enforcement Animals]; [See Editor's Note for contingency information]

The legislature may authorize a state agency or a county, a municipality, or other political subdivision to transfer a law enforcement dog, horse, or other animal to the animal's handler or another qualified caretaker for no consideration on the animal's retirement or at another time if the transfer is in the animal's best interest.

Adoption proposed by Acts 2019, 86th Leg., S.J.R. No. 32, § 1, to be submitted to the electorate (Prop. 10) at the November 5, 2019 election.

ARTICLE VII

Education

Sec. 1. Support and Maintenance of System of Public Free Schools.

A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

Sec. 2. Permanent School Fund.

All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or other corporations of any nature whatsoever; one half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a permanent school fund.

Amendment proposed by Acts 2011, 82nd Leg., H.J.R. No. 109, § 2; approved by the electorate (Prop. 6) at the election held November 8, 2011.

Sec. 2A. Release of State Claim to Certain Lands and Minerals within Shelby, Frazier, and McCormick League and in Bastrop County.

(a) The State of Texas hereby relinquishes and releases any claim of sovereign ownership or title to an undivided one-third interest in and to the lands and minerals within the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the interest in that league originally granted under the Mexican Colonization Law of 1823 to John McCormick on or about July 24, 1824, and subsequently voided by the governing body of Austin's Original Colony on or about December 15, 1830.

(b) The State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to the lands, excluding the minerals, in Tracts 2-5, 13, 15-17, 19-20, 23-26, 29-32, and 34-37, in the A. P. Nance Survey, Bastrop County, as said tracts are:

(1) shown on Bastrop County Rolled Sketch No. 4, recorded in the General Land Office on December 15, 1999; and

(2) further described by the field notes prepared by a licensed state land surveyor of Travis County in September through November 1999 and May 2000.

(c) Title to such interest in the lands and minerals described by Subsection (a) is confirmed to the owners of the remaining interests in such lands and minerals. Title to the lands, excluding the minerals, described by Subsection (b) is confirmed to the holder of record title to each tract. Any outstanding land award or land payment obligation owed to the state for lands described by Subsection (b) is canceled, and any funds previously paid related to an outstanding land award or land payment obligation may not be refunded.

(d) The General Land Office shall issue a patent to the holder of record title to each tract described by Subsection (b). The patent shall be issued in the same manner as other patents except that no filing fee or patent fee may be required.

(e) A patent issued under Subsection (d) shall include a provision reserving all mineral interest in the land to the state.

(f) This section is self-executing.

Amendment proposed by 2001 77th Leg., H.J.R. No. 52, approved by electorate at the November 6, 2001 election.

Sec. 2B. Authority to Release State's Interest in Certain Permanent School Fund Land Held By Person Under Color of Title.

(a) The legislature by law may provide for the release of all or part of the state's interest in land, excluding mineral rights, if:

(1) the land is surveyed, unsold, permanent school fund land according to the records of the General Land Office;

(2) the land is not patentable under the law in effect before January 1, 2002; and

(3) the person claiming title to the land:

(A) holds the land under color of title;

(B) holds the land under a chain of title that originated on or before January 1, 1952;

(C) acquired the land without actual knowledge that title to the land was vested in the State of Texas;

(D) has a deed to the land recorded in the appropriate county; and

(E) has paid all taxes assessed on the land and any interest and penalties associated with any period of tax delinquency.

(b) This section does not apply to:

(1) beach land, submerged or filled land, or islands; or

(2) land that has been determined to be state-owned by judicial decree.

(c) This section may not be used to:

(1) resolve boundary disputes; or

(2) change the mineral reservation in an existing patent.

(d) [Expired pursuant to Acts 2001, 77th Leg., H.J.R. No. 53, § 1, effective January 2, 2002.]

Adoption proposed by Acts 2001, 77th Leg., H.J.R. No. 53, approved by electorate (Prop. 17) at the November 6, 2001 election, effective January 1, 2002.

Sec. 2C. Release of State Claim to Certain Lands in Upshur and Smith Counties.

(a) Except as provided by Subsection (b) of this section, the State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to the tracts of land, including mineral rights, described as follows:

Tract 1:

The first tract of land is situated in Upshur County, Texas, about 14 miles South 30 degrees east from Gilmer, the county seat, and is bounded as follows: Bound on the North by the J. Manning Survey, A-314 the S.W. Beasley Survey A-66 and the David Meredith Survey A-315 and bound on the East by the M. Mann Survey, A-302 and by the M. Chandler Survey, A-84 and bound on the South by the G. W. Hooper Survey, A-657 and by the D. Ferguson Survey, A-158 and bound on the West by the J. R. Wadkins Survey, A-562 and the H. Alsup Survey, A-20, and by the W. Bratton Survey, A-57 and the G. H. Burroughs Survey, A-30 and the M. Tidwell Survey, A-498 of Upshur County, Texas.

Tract 2:

The second tract of land is situated in Smith County, Texas, north of Tyler and is bounded as follows: on the north and west by the S. Leeper A-559, the Frost Thorn Four League Grant A-3, A-9, A-7, A-19, and the H. Jacobs A-504 and on the south and east by the following surveys: John Carver A-247, A. Loverly A-609, J. Gimble A-408, R. Conner A-239, N.J. Blythe A-88, N.J. Blythe A-89, J. Choate A-195, Daniel Minor A-644, William Keys A-527, James H. Thomas A-971, Seaborn Smith A-899, and Samuel Leeper A-559.

(b) This section does not apply to:

(1) any public right-of-way, including a public road right-of-way, or related interest owned by a governmental entity;

(2) any navigable waterway or related interest owned by a governmental entity; or

(3) any land owned by a governmental entity and reserved for public use, including a park, recreation area, wildlife area, scientific area, or historic site.

(c) This section is self-executing.

Adoption proposed by Acts 2005, 79th Leg., S.J.R. 40 (Prop. 8), approved by electorate at the November 8, 2005 election.

Sec. 3. Taxes for Benefit of Schools; Provision of Free Text Books; School Districts.

(a) One-fourth of the revenue derived from the State occupation taxes shall be set apart annually for the benefit of the public free schools.

(b) It shall be the duty of the State Board of Education to set aside a sufficient amount of available funds to provide free text books for the use of children attending the public free schools of this State.

(c) Should the taxation herein named be insufficient the deficit may be met by appropriation from the general funds of the State.

(d) The Legislature may provide for the formation of school districts by general laws, and all such school districts may embrace parts of two or more counties.

(e) The Legislature shall be authorized to pass laws for the assessment and collection of taxes in all school districts and for the management and control of the public school or schools of such districts, whether such districts are composed of territory wholly within a county or in parts of two or more counties, and the Legislature may authorize an additional ad valorem tax to be levied and collected within all school districts for the further maintenance of public free schools, and for the erection and equipment of school buildings therein; provided that a majority of the qualified voters of the district voting at an election to be held for that purpose, shall approve the tax.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 3a. [Repealed].

Repeal proposed by Acts 1969, 61st Leg., H.J.R. No. 3, § 1, approved by the electorate (Prop. 1) at the August 5, 1969 election.

Sec. 3-b. Independent School District and Junior College District Taxes and Bonds not Affected by Changes in Boundaries.

No tax for the maintenance of public free schools voted in any independent school district and no tax for the maintenance of a junior college voted by a junior college district, nor any bonds voted in any such district, but unissued, shall be abrogated, cancelled or invalidated by change of any kind in the boundaries thereof. After any change in boundaries, the governing body of any such district, without the necessity of an additional election, shall have the power to assess, levy and collect ad valorem taxes on all taxable property within the boundaries of the district as changed, for the purposes of the maintenance of public free schools or the maintenance of a junior college, as the case may be, and the payment of principal of and interest on all bonded indebtedness outstanding against, or attributable, adjusted or allocated to, such district or any territory therein, in the amount, at the rate, or not to exceed the rate, and in the manner authorized in the district prior to the change in its boundaries, and further in accordance with the laws under which all such bonds, respectively, were voted; and such governing body also shall have the power, without the necessity of an additional election, to sell and deliver any unissued bonds voted in the district prior to any such change in boundaries, and to assess, levy and collect ad valorem taxes on all taxable property in the district as changed, for the payment of principal of and interest on such bonds in the manner permitted by the laws under which such bonds were voted. In those instances where the boundaries of any such independent school district are changed by the annexation of, or consolidation with, one or more whole school districts, the taxes to be levied for the purposes hereinabove authorized may be in the amount or at not to exceed the rate theretofore voted in the district having at the time of such change the greatest scholastic population according to the latest scholastic census and only the unissued bonds of such district voted prior to such change, may be subsequently sold and delivered and any voted, but unissued, bonds of other school districts involved in such annexation or consolidation shall not thereafter be issued.

Sec. 4. Sale of Permanent School Fund Lands; Investment of Proceeds.

The lands herein set apart to the Permanent School fund, shall be sold under such regulations, at such times, and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to purchasers thereof. The proceeds of such sales must be used to acquire other land for the Permanent School fund as provided by law or the proceeds shall be invested by the comptroller of public accounts, as may be directed by the Board of Education herein provided for, in the bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the State shall be responsible for all investments.

Amendment proposed by Acts 1995, 74th Leg., S.J.R. No. 1, approved by electorate (Prop. 10) at the November 7, 1995 election; amendment proposed by Acts 2011, 82nd Leg., H.J.R. No. 109, § 2, approved by the electorate (Prop. 6) at the election held November 8, 2011.

Sec. 4A. Public Free School Fund Lands Held Fifty Years Under Color of Title; Application for Patent; Conditions; Excluded Lands [Repealed].

Repeal, approved by the electorate (Prop. 12) at the November 6, 2001 election.

Sec. 4B. Donation of Real Property by Independent School District for Historical Preservation.

(a) The legislature by general law may authorize the board of trustees of an independent school district to donate district real property and improvements formerly used as a school campus for the purpose of preserving the improvements.

(b) A law enacted under this section must provide that before the board of trustees may make the donation, the board must determine that:

(1) the improvements have historical significance;

(2) the transfer will further the preservation of the improvements; and

(3) at the time of the transfer, the district does not need the real property or improvements for educational purposes.

Amendment proposed by 2001 77th Leg., S.J.R. No. 2, approved by electorate at the November 6, 2001 election.

Sec. 5. Permanent School Fund and Available School Fund: Composition, Management, Use and Distribution.

(a) The permanent school fund consists of all land appropriated for public schools by this constitution or the other laws of this state, other properties belonging to the permanent school fund, and all revenue derived from the land or other properties. The available school fund consists of the distributions made to it from the total return on all investment assets of the permanent school fund, the taxes authorized by this constitution or general law to be part of the available school fund, and appropriations made to the available school fund by the legislature. The total amount distributed from the permanent school fund to the available school fund:

(1) in each year of a state fiscal biennium must be an amount that is not more than six percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, but including discretionary real assets investments and cash in the state treasury derived from property belonging to the fund, on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before that state fiscal biennium, in accordance with the rate adopted by:

(A) a vote of two-thirds of the total membership of the State Board of Education, taken before the regular session of the legislature convenes; or

(B) the legislature by general law or appropriation, if the State Board of Education does not adopt a rate as provided by Paragraph (A) of this subdivision; and

(2) over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years may not exceed the total return on all investment assets of the permanent school fund over the same 10-year period.

(b) The expenses of managing permanent school fund land and investments shall be paid by appropriation from the permanent school fund.

(c) The available school fund shall be applied annually to the support of the public free schools. Except as provided by this section, the legislature may not enact a law appropriating any part of the permanent school fund or available school fund to any other purpose. The permanent school fund and the available school fund may not be appropriated to or used for the support of any sectarian school. The available school fund shall be distributed to the several counties according to their scholastic population and applied in the manner provided by law.

(d) The legislature by law may provide for using the permanent school fund to guarantee bonds issued by school districts or by the state for the purpose of making loans to or purchasing the bonds of school districts for the purpose of acquisition, construction, or improvement of instructional facilities including all furnishings thereto. If any payment is required to be made by the permanent school fund as a result of its guarantee of bonds issued by the state, an amount equal to this payment shall be immediately paid by the state from the treasury to the permanent school fund. An amount owed by the state to the permanent school fund under this section shall be a general obligation of the state until paid. The amount of bonds authorized hereunder shall not exceed $750 million or a higher amount authorized by a two-thirds record vote of both houses of the legislature. If the proceeds of bonds issued by the state are used to provide a loan to a school district and the district becomes delinquent on the loan payments, the amount of the delinquent payments shall be offset against state aid to which the district is otherwise entitled.

(e) The legislature may appropriate part of the available school fund for administration of a bond guarantee program established under this section.

(f) Notwithstanding any other provision of this constitution, in managing the assets of the permanent school fund, the State Board of Education may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas growth fund created by Article XVI, Section 70, of this constitution, that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or

retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(g) **[2 Versions: Effective unless and until Acts 2019, 86th Leg., H.J.R. No. 151, Prop. No. 7 is approved by voters and the ballot certified – See Editor's Note]** Notwithstanding any other provision of this constitution or of a statute, the General Land Office or an entity other than the State Board of Education that has responsibility for the management of permanent school fund land or other properties may in its sole discretion distribute to the available school fund each year revenue derived during that year from the land or properties, not to exceed $300 million each year.

(g) **[2 Versions: Proposed amendment by Acts 2019, 86th Leg., H.J.R. No. 151, Prop. No. 7 contingent on Voter Approval – See Editor's Note]** Notwithstanding any other provision of this constitution or of a statute, the State Board of Education, the General Land Office, or another entity that has responsibility for the management of revenues derived from permanent school fund land or other properties may, in its sole discretion and in addition to other distributions authorized under this constitution or a statute, distribute to the available school fund each year revenue derived during that year from the land or properties, not to exceed $600 million by each entity each year.

(h) [Expired pursuant to Acts 2003, 78th Leg., H.J.R. No. 68, § 2, effective December 1, 2006.]

Amendment proposed by Acts 2003, 78th Leg., H.J.R. No. 68, approved by the electorate (Prop. 9) at the September 13, 2003 election; amendment proposed by Acts 2011, 82nd Leg., H.J.R. No. 109, § 3, approved by the electorate (Prop. 6) at the election held November 8, 2011; amendment proposed by Acts 2019, 86th Leg., H.J.R. No. 151, § 1, (Prop. 7) at the November 5, 2019 election.

Sec. 6. County School Lands and Proceeds of Sales Held as School Trust.

All lands heretofore, or hereafter granted to the several counties of this State for educational purposes, are of right the property of said counties respectively, to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in manner to be provided by the Commissioners Court of the county. Said lands, and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the counties shall be responsible for all investments; the interest thereon, and other revenue, except the principal shall be available fund.

Amendment proposed by 2001 77th Leg., H.J.R. No. 75, approved by electorate at the November 6, 2001 election.

Sec. 6a. County Agricultural or Grazing School Land Subject to Tax.

All agriculture or grazing school land mentioned in Section 6 of this article owned by any county shall be subject to taxation except for State purposes to the same extent as lands privately owned.

Sec. 6b. County Permanent School Fund: Reduction and Distribution.

Notwithstanding the provisions of Section 6, Article VII, Constitution of the State of Texas, any county, acting through the commissioners court, may reduce the county permanent school fund of that county and may distribute the amount of the reduction to the independent and common school districts of the county on a per scholastic basis to be used solely for the purpose of reducing bonded indebtedness of those districts or for making permanent improvements. The commissioners court shall, however, retain a sufficient amount of the corpus of the county permanent school fund to pay ad valorem taxes on school lands or royalty interests owned at the time of the distribution. Nothing in this Section affects financial aid to any school district by the state.

Sec. 7. [Repealed].

Repeal proposed by Acts 1969, 61st Leg., H.J.R. No. 3, approved by the electorate (Prop. 1) at the August 5, 1969 election.

Sec. 8. State Board of Education.

The Legislature shall provide by law for a State Board of Education, whose members shall be appointed or elected in such manner and by such authority and shall serve for such terms as the Legislature shall prescribe not to exceed six years. The said board shall perform such duties as may be prescribed by law.

Sec. 9. Permanent Fund for Asylums [Repealed].

Repeal proposed by Acts 2001, 77th Leg., H.J.R. No. 75, approved by the electorate (Prop. 12) at the November 6, 2001 election.

Sec. 9-a. Disposition of Property and Money [Expired].

Expired pursuant to Acts 2001, 77th Leg., H.J.R. No. 75, § 4.02, effective January 1, 2005.

Amendment proposed by Acts 2001, 77th Leg., H.J.R. No. 75, approved by the electorate (Prop. 12) at the November 6, 2001 election.

Sec. 10. Establishment of University of Texas; Agricultural and Mechanical Department.

The legislature shall as soon as practicable establish, organize and provide for the maintenance, support and direction of a University of the first class, to be located by a vote of the people of this State, and styled, "The University of Texas," for the promotion of literature, and the arts and sciences, including an Agricultural, and Mechanical department.

Sec. 11. Establishment of Permanent University Fund; Investment in Government Bonds.

In order to enable the Legislature to perform the duties set forth in the foregoing Section, it is hereby declared all lands and other property heretofore set apart and appropriated for the establishment and maintenance of the University of Texas, together with all the proceeds of sales of the same, heretofore made or hereafter to be made, and all grants, donations and appropriations that may hereafter be made by the State of Texas, or from any other source, except donations limited to specific purposes, shall constitute and become a Permanent University Fund. And the same as realized and received into the Treasury of the State (together with such sums belonging to the Fund, as may now be in the Treasury), shall be invested in bonds of the United States, the State of Texas, or counties of said State, or in School Bonds of municipalities, or in bonds of any city of this State, or in bonds issued under and by virtue of the Federal Farm Loan Act approved by the President of the United States, July 17, 1916, and amendments thereto; and the interest accruing thereon shall be subject to appropriation by the Legislature to accomplish the purpose declared in the foregoing Section; provided, that the one-tenth of the alternate Section of the lands granted to railroads, reserved by the State, which were set apart and appropriated to the establishment of the University of Texas, by an Act of the Legislature of February 11, 1858, entitled, "An Act to establish the University of Texas," shall not be included in, or constitute a part of, the Permanent University Fund.

Sec. 11a. Investment of Permanent University Fund.

In addition to the bonds enumerated in Section 11 of Article VII of the Constitution of the State of Texas, the Board of Regents of The University of Texas may invest the Permanent University Fund in securities, bonds or other obligations issued, insured, or guaranteed in any manner by the United States Government, or any of its agencies, and in such bonds, debentures, or obligations, and preferred and common stocks issued by corporations, associations, or other institutions as the Board of Regents of The University of Texas System may deem to be proper investments for said funds; provided, however, that not more than one per cent (1%) of said fund shall be invested in the securities of any one (1) corporation, nor shall more than five per cent (5%) of the voting stock of any one (1) corporation be owned; provided, further, that stocks eligible for purchase shall be restricted to stocks of companies incorporated within the United States which have paid dividends for five (5) consecutive years or longer immediately prior to the date of purchase and which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Securities and Exchange Commission or its successors.

In making each and all of such investments said Board of Regents shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

The interest, dividends and other income accruing from the investments of the Permanent University Fund, except the portion thereof which is appropriated by the operation of Section 18 of Article VII for the payment of principal and interest on bonds or notes issued thereunder, shall be subject to appropriation by the Legislature to accomplish the purposes declared in Section 10 of Article VII of this Constitution.

This amendment shall be self-enacting, and shall become effective upon its adoption, provided, however, that the Legislature shall provide by law for full disclosure of all details concerning the investments in corporate stocks and bonds and other investments authorized herein.

Sec. 11b. Expanded Investment Authority for Permanent University Fund.

Notwithstanding any other provision of this constitution, in managing the assets of the permanent university fund, the Board of Regents of The University of Texas System may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas growth fund created by Article XVI, Section 70, of this constitution, that prudent investors, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

Amendment proposed by 1995 74th Leg., S.J.R. No. 1, approved by electorate (Prop. 10) at the November 7, 1995 election; amendment proposed by 1999 76th Leg., H.J.R. No. 58, approved by electorate (Prop. 17) at the November 2, 1999 election.

Sec. 12. Sale of Permanent University Fund Lands.

The land herein set apart to the University fund shall be sold under such regulations, at such times, and on such terms as may be provided by law; and the Legislature shall provide for the prompt collection, at maturity, of all debts

due on account of University lands, heretofore sold, or that may hereafter be sold, and shall in neither event have the power to grant relief to the purchasers.

Sec. 13. Agricultural and Mechanical College.

The Agricultural and Mechanical College of Texas, established by an Act of the Legislature passed April 17th, 1871, located in the county of Brazos, is hereby made, and constituted a Branch of the University of Texas, for instruction in Agriculture, the Mechanic Arts, and the Natural Sciences connected therewith. And the Legislature shall at its next session, make an appropriation, not to exceed forty thousand dollars, for the construction and completion of the buildings and improvements, and for providing the furniture necessary to put said College in immediate and successful operation.

Sec. 14. Prairie View A&M University.

Prairie View A&M University in Waller County is an institution of the first class under the direction of the same governing board as Texas A&M University referred to in Article VII, Section 13, of this constitution as the Agricultural and Mechanical College of Texas.

Sec. 15. Grant of Additional Lands to University of Texas.

In addition to the lands heretofore granted to the University of Texas, there is hereby set apart, and appropriated, for the endowment maintenance, and support of said University and its branches, one million acres of the unappropriated public domain of the State, to be designated, and surveyed as may be provided by law; and said lands shall be sold under the same regulations, and the proceeds invested in the same manner, as is provided for the sale and investment of the permanent University fund; and the Legislature shall not have power to grant any relief to the purchasers of said lands.

Sec. 16. County Taxation of University Lands.

All land mentioned in Sections 11, 12, and 15 of Article VII, of the Constitution of the State of Texas, now belonging to the University of Texas shall be subject to the taxation for county purposes to the same extent as lands privately owned; provided they shall be rendered for taxation upon values fixed by the State Tax Board; and providing that the State shall remit annually to each of the counties in which said lands are located an amount equal to the tax imposed upon said land for county purposes.

Sec. 16-a. Terms of Office of Educational Officers.

The Legislature shall fix by law the terms of all offices of the public school system and of the State institutions of higher education, inclusive, and the terms of members of the respective boards, not to exceed six years.

Amendment proposed by 1997 75th Leg., H.J.R. No. 104, approved by electorate at the November 4, 1997 election.

Sec. 17. Funding to Support Agencies and Institutions of Higher Education Not Supported by Available University Fund.

(a) In the fiscal year beginning September 1, 1985, and each fiscal year thereafter, there is hereby appropriated out of the first money coming into the state treasury not otherwise appropriated by the constitution $100 million to be used by eligible agencies and institutions of higher education for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair or rehabilitation of buildings or other permanent improvements, acquisition of capital equipment, library books and library materials, and paying for acquiring, constructing, or equipping or for major repair or rehabilitation of buildings, facilities, other permanent improvements, or capital equipment used jointly for educational and general activities and for auxiliary enterprises to the extent of their use for educational and general activities. For the five-year period that begins on September 1, 2000, and for each five-year period that begins after that period, the legislature, during a regular session that is nearest, but preceding, a five-year period, may by two-thirds vote of the membership of each house increase the amount of the constitutional appropriation for the five-year period but may not adjust the appropriation in such a way as to impair any obligation created by the issuance of bonds or notes in accordance with this section.

(b) The funds appropriated under Subsection (a) of this section shall be for the use of the following eligible agencies and institutions of higher education (even though their names may be changed):

(1) East Texas State University including East Texas State University at Texarkana;
(2) Lamar University including Lamar University at Orange and Lamar University at Port Arthur;
(3) Midwestern State University;
(4) University of North Texas;
(5) The University of Texas—Pan American including The University of Texas at Brownsville;
(6) Stephen F. Austin State University;

(7) Texas College of Osteopathic Medicine;
(8) Texas State University System Administration and the following component institutions:
(9) Sam Houston State University;
(10) Southwest Texas State University;
(11) Sul Ross State University including Uvalde Study Center;
(12) Texas Southern University;
(13) Texas Tech University;
(14) Texas Tech University Health Sciences Center;
(15) Angelo State University;
(16) Texas Woman's University;
(17) University of Houston System Administration and the following component institutions:
(18) University of Houston;
(19) University of Houston—Victoria;
(20) University of Houston—Clear Lake;
(21) University of Houston—Downtown;
(22) Texas A&M University—Corpus Christi;
(23) Texas A&M International University;
(24) Texas A&M University—Kingsville;
(25) West Texas A&M University; and
(26) Texas State Technical College System and its campuses, but not its extension centers or programs.

(c) Pursuant to a two-thirds vote of the membership of each house of the legislature, institutions of higher education may be created at a later date by general law, and, when created, such an institution shall be entitled to participate in the funding provided by this section if it is not created as a part of The University of Texas System or The Texas A&M University System. An institution that is entitled to participate in dedicated funding provided by Article VII, Section 18, of this constitution may not be entitled to participate in the funding provided by this section.

(d) In the year 1985 and every 10 years thereafter, the legislature or an agency designated by the legislature no later than August 31 of such year shall allocate by equitable formula the annual appropriations made under Subsection (a) of this section to the governing boards of eligible agencies and institutions of higher education. The legislature shall review, or provide for a review, of the allocation formula at the end of the fifth year of each 10-year allocation period. At that time adjustments may be made in the allocation formula, but no adjustment that will prevent the payment of outstanding bonds and notes, both principal and interest, may be made.

(d-1) Notwithstanding Subsection (d) of this section, the allocation of the annual appropriation to Texas State Technical College System and its campuses may not exceed 2.2 percent of the total appropriation each fiscal year.

(e) Each governing board authorized to participate in the distribution of money under this section is authorized to expend all money distributed to it for any of the purposes enumerated in Subsection (a). In addition, such governing board may issue bonds and notes for the purposes of refunding bonds or notes issued under this section or prior law, acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, acquiring capital equipment, library books, and library materials, paying for acquiring, constructing, or equipping or for major repair or rehabilitation of buildings, facilities, other permanent improvements, or capital equipment used jointly for educational and general activities and for auxiliary enterprises to the extent of their use for educational and general activities, and for major repair and rehabilitation of buildings or other permanent improvements, and may pledge up to 50 percent of the money allocated to such governing board pursuant to this section to secure the payment of the principal and interest of such bonds or notes. Proceeds from the issuance of bonds or notes under this subsection shall be maintained in a local depository selected by the governing board issuing the bonds or notes. The bonds and notes issued under this subsection shall be payable solely out of the money appropriated by this section and shall mature serially or otherwise in not more than 10 years from their respective dates. All bonds issued under this section shall be sold only through competitive bidding and are subject to approval by the attorney general. Bonds approved by the attorney general shall be incontestable. The permanent university fund may be invested in the bonds and notes issued under this section.

(f) The funds appropriated by this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used only for student housing, intercollegiate athletics, or auxiliary enterprises.

(g) The comptroller of public accounts shall make annual transfers of the funds allocated pursuant to Subsection (d) directly to the governing boards of the eligible institutions.

(h) To assure efficient use of construction funds and the orderly development of physical plants to accommodate the state's real need, the legislature may provide for the approval or disapproval of all new construction projects at the eligible agencies and institutions entitled to participate in the funding provided by this section.

(i) [Repealed by Acts 2009, 81st Leg., H.J.R. No. 14, § 2.02, approved by the electorate (Prop. 4) at the November 3, 2009 election, effective January 1, 2010].

(j) The state systems and institutions of higher education designated in this section may not receive any additional funds from the general revenue of the state for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements except that:

(1) in the case of fire or natural disaster the legislature may appropriate from the general revenue an amount sufficient to replace the uninsured loss of any building or other permanent improvement; and

(2) the legislature, by two-thirds vote of each house, may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate additional general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements.

This subsection does not apply to legislative appropriations made prior to the adoption of this amendment.

(k) Without the prior approval of the legislature, appropriations under this section may not be expended for acquiring land with or without permanent improvements, or for constructing and equipping buildings or other permanent improvements, for a branch campus or educational center that is not a separate degree-granting institution created by general law.

(*l*) This section is self-enacting upon the issuance of the governor's proclamation declaring the adoption of the amendment, and the state comptroller of public accounts shall do all things necessary to effectuate this section. This section does not impair any obligation created by the issuance of any bonds and notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest, in accordance with their terms. If the provisions of this section conflict with any other provisions of this constitution, then the provisions of this section shall prevail, notwithstanding all such conflicting provisions.

Amendment proposed by 1995 74th Leg., S.J.R. No. 1, approved by electorate (Prop. 10) at the November 7, 1995 election; amendment proposed by Acts 2007, 80th Leg., H.J.R. No. 103, approved by the electorate (Prop. 1) at the November 6, 2007 election; amendment proposed by Acts 2009, 81st Leg., H.J.R. No. 14, § 2.02, approved by the electorate (Prop. 4) at the November 3, 2009 election, effective January 1, 2010.

Sec. 18. Funding to Support Texas A & M University System and University of Texas System; Available University Fund.

(a) The Board of Regents of The Texas A&M University System may issue bonds and notes not to exceed a total amount of 10 percent of the cost value of the investments and other assets of the permanent university fund (exclusive of real estate) at the time of the issuance thereof, and may pledge all or any part of its one-third interest in the available university fund to secure the payment of the principal and interest of those bonds and notes, for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued under this Section or prior law, at or for The Texas A&M University System administration and the following component institutions of the system:

(1) Texas A&M University, including its medical college which the legislature may authorize as a separate medical institution;

(2) Prairie View A&M University, including its nursing school in Houston;

(3) Tarleton State University;

(4) Texas A&M University at Galveston;

(5) Texas Forest Service;

(6) Texas Agricultural Experiment Stations;

(7) Texas Agricultural Extension Service;

(8) Texas Engineering Experiment Stations;

(9) Texas Transportation Institute; and

(10) Texas Engineering Extension Service.

(b) The Board of Regents of The University of Texas System may issue bonds and notes not to exceed a total amount of 20 percent of the cost value of investments and other assets of the permanent university fund (exclusive of real estate) at the time of issuance thereof, and may pledge all or any part of its two-thirds interest in the available university fund to secure the payment of the principal and interest of those bonds and notes, for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of buildings and other permanent improvements, acquiring capital equipment and library books and library materials, and refunding bonds or notes issued under this section or prior law, at or for The University of Texas System administration and the following component institutions of the system:

(1) The University of Texas at Arlington;

(2) The University of Texas at Austin;

(3) The University of Texas at Dallas;

(4) The University of Texas at El Paso;

(5) The University of Texas of the Permian Basin;

(6) The University of Texas at San Antonio;

(7) The University of Texas at Tyler;

(8) The University of Texas Health Science Center at Dallas;

(9) The University of Texas Medical Branch at Galveston;

(10) The University of Texas Health Science Center at Houston;

(11) The University of Texas Health Science Center at San Antonio;

(12) The University of Texas System Cancer Center;

(13) The University of Texas Health Center at Tyler; and

(14) The University of Texas Institute of Texan Cultures at San Antonio.

(c) Pursuant to a two-thirds vote of the membership of each house of the legislature, institutions of higher education may be created at a later date as a part of The University of Texas System or The Texas A&M University System by general law, and, when created, such an institution shall be entitled to participate in the funding provided by this section for the system in which it is created. An institution that is entitled to participate in dedicated funding provided by Article VII, Section 17, of this constitution may not be entitled to participate in the funding provided by this section.

(d) The proceeds of the bonds or notes issued under Subsection (a) or (b) of this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used for student housing, intercollegiate athletics, or auxiliary enterprises.

(e) The available university fund consists of the distributions made to it from the total return on all investment assets of the permanent university fund, including the net income attributable to the surface of permanent university fund land. The amount of any distributions to the available university fund shall be determined by the board of regents of The University of Texas System in a manner intended to provide the available university fund with a stable and predictable stream of annual distributions and to maintain over time the purchasing power of permanent university fund investments and annual distributions to the available university fund. The amount distributed to the available university fund in a fiscal year must be not less than the amount needed to pay the principal and interest due and owing in that fiscal year on bonds and notes issued under this section. If the purchasing power of permanent university fund investments for any rolling 10-year period is not preserved, the board may not increase annual distributions to the available university fund until the purchasing power of the permanent university fund investments is restored, except as necessary to pay the principal and interest due and owing on bonds and notes issued under this section. An annual distribution made by the board to the available university fund during any fiscal year may not exceed an amount equal to seven percent of the average net fair market value of permanent university fund investment assets as determined by the board, except as necessary to pay any principal and interest due and owing on bonds issued under this section. The expenses of managing permanent university fund land and investments shall be paid by the permanent university fund.

(f) Out of one-third of the annual distribution from the permanent university fund to the available university fund, there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the Board of Regents of The Texas A&M University System under this section and prior law, and the remainder of that one-third of the annual distribution to the available university fund shall be appropriated to the Board of Regents of The Texas A&M University System, which shall have the authority and duty in turn to appropriate an equitable portion of the same for the support and maintenance of The Texas A&M University System administration, Texas A&M University, and Prairie View A&M University. The Board of Regents of The Texas A&M University System, in making just and equitable appropriations to Texas A&M University and Prairie View A&M University, shall exercise its discretion with due regard to such criteria as the board may deem appropriate from year to year. Out of the other two-thirds of the annual distribution from the permanent university fund to the available university fund there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued by the Board of Regents of The University of Texas System under this section and prior law, and the remainder of such two-thirds of the annual distribution to the available university fund, shall be appropriated for the support and maintenance of The University of Texas at Austin and The University of Texas System administration.

(g) The bonds and notes issued under this section shall be payable solely out of the available university fund, mature serially or otherwise in not more than 30 years from their respective dates, and, except for refunding bonds, be sold only through competitive bidding. All of these bonds and notes are subject to approval by the attorney general and when so approved are incontestable. The permanent university fund may be invested in these bonds and notes.

(h) To assure efficient use of construction funds and the orderly development of physical plants to accommodate the state's real need, the legislature may provide for the approval or disapproval of all new construction projects at the eligible agencies and institutions entitled to participate in the funding provided by this section except The University of Texas at Austin, Texas A&M University in College Station, and Prairie View A&M University.

(i) The state systems and institutions of higher education designated in this section may not receive any funds from the general revenue of the state for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements except that:

(1) in the case of fire or natural disaster the legislature may appropriate from the general revenue an amount sufficient to replace the uninsured loss of any building or other permanent improvement; and

(2) the legislature, by two-thirds vote of each house, may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements.

This subsection does not apply to legislative appropriations made prior to the adoption of this amendment.

(j) This section is self-enacting on the issuance of the governor's proclamation declaring the adoption of this amendment, and the state comptroller of public accounts shall do all things necessary to effectuate this section. This

section does not impair any obligation created by the issuance of bonds or notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest, in accordance with their terms, and the changes herein made in the allocation of the available university fund shall not affect the pledges thereof made in connection with such bonds or notes heretofore issued. If the provisions of this section conflict with any other provision of this constitution, then the provisions of this section shall prevail, notwithstanding any such conflicting provisions.

Amendment proposed by 1995 74th Leg., S.J.R. No. 1, approved by electorate (Prop. 10) at the November 7, 1995 election; amendment to subsection (e) and adoption of second subsection (f) proposed by 1999 76th Leg., H.J.R. No. 58, approved by electorate (Prop. 17) at the November 2, 1999 election.

Sec. 19. Texas Tomorrow Fund.

(a) The Texas tomorrow fund is created as a trust fund dedicated to the prepayment of tuition and fees for higher education as provided by the general laws of this state for the prepaid higher education tuition program. The assets of the fund are held in trust for the benefit of participants and beneficiaries and may not be diverted. The state shall hold the assets of the fund for the exclusive purposes of providing benefits to participants and beneficiaries and defraying reasonable expenses of administering the program.

(b) Financing of benefits must be based on sound actuarial principles. The amount contributed by a person participating in the prepaid higher education program shall be as provided by the general laws of this state, but may not be less than the amount anticipated for tuition and required fees based on sound actuarial principles. If in any fiscal year there is not enough money in the Texas tomorrow fund to pay the tuition and required fees of an institution of higher education in which a beneficiary enrolls or the appropriate portion of the tuition and required fees of a private or independent institution of higher education in which a beneficiary enrolls as provided by a prepaid tuition contract, there is appropriated out of the first money coming into the state treasury in each fiscal year not otherwise appropriated by the constitution the amount that is sufficient to pay the applicable amount of tuition and required fees of the institution.

(c) Assets of the fund may be invested by an entity designated by general law in securities considered prudent investments. Investments shall be made in the exercise of judgment and care under the circumstances that a person of ordinary prudence, discretion, and intelligence exercises in the management of the person's affairs, not for speculation, but for the permanent disposition of funds, considering the probable income from the disposition as well as the probable safety of capital.

(d) The state comptroller of public accounts shall take the actions necessary to implement this section.

(e) To the extent this section conflicts with any other provision of this constitution, this section controls.

Amendment proposed by 1997 75th Leg., H.J.R. No. 8, approved by electorate at the November 4, 1997 election.

Sec. 20. National Research University Fund.

(a) There is established the national research university fund for the purpose of providing a dedicated, independent, and equitable source of funding to enable emerging research universities in this state to achieve national prominence as major research universities.

(b) The fund consists of money transferred or deposited to the credit of the fund and any interest or other return on the investment assets of the fund. The legislature may dedicate state revenue to the credit of the fund.

(c) The legislature shall provide for administration of the fund, which shall be invested in the manner and according to the standards provided for investment of the permanent university fund. The expenses of managing the investments of the fund shall be paid from the fund.

(d) In each state fiscal biennium, the legislature may appropriate as provided by Subsection (f) of this section all or a portion of the total return on all investment assets of the fund to carry out the purposes for which the fund is established.

(e) The legislature biennially shall allocate the amounts appropriated under this section, or shall provide for a biennial allocation of those amounts, to eligible state universities to carry out the purposes of the fund. The money shall be allocated based on an equitable formula established by the legislature or an agency designated by the legislature. The legislature shall review and as appropriate adjust, or provide for a review and adjustment, of the allocation formula at the end of each state fiscal biennium.

(f) The portion of the total return on investment assets of the fund that is available for appropriation in a state fiscal biennium under this section is the portion determined by the legislature, or an agency designated by the legislature, as necessary to provide as nearly as practicable a stable and predictable stream of annual distributions to eligible state universities and to maintain over time the purchasing power of fund investment assets. If the purchasing power of fund investment assets for any rolling 10-year period is not preserved, the distributions may not be increased until the purchasing power of the fund investment assets is restored. The amount appropriated from the fund in any fiscal year may not exceed an amount equal to seven percent of the average net fair market value of the investment assets of the fund, as determined by law. Until the fund has been invested for a period of time sufficient to determine the purchasing power over a 10-year period, the legislature may provide by law for means of preserving the purchasing power of the fund.

(g) The legislature shall establish criteria by which a state university may become eligible to receive a portion of the distributions from the fund. A state university that becomes eligible to receive a portion of the distributions from the fund in a state fiscal biennium remains eligible to receive additional distributions from the fund in any subsequent state fiscal biennium. The University of Texas at Austin and Texas A&M University are not eligible to receive money from the fund.

(h) An eligible state university may use distributions from the fund only for the support and maintenance of educational and general activities that promote increased research capacity at the university.

Adoption proposed by Acts 2009, 81st Leg., H.J.R. No. 14, § 2.01, approved by the electorate (Prop. 4) at the November 3, 2009 election, effective January 1, 2010.

ARTICLE VIII

Taxation and Revenue

Sec. 1. Equality and Uniformity of Taxation; Taxation of Property in Proportion to Value; Occupation and Income Taxes; Exemption of Certain Tangible Personal Property and Small Mineral Interests from Ad Valorem Taxation; Valuation of Residence Homesteads for Tax Purposes.

(a) Taxation shall be equal and uniform.

(b) All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.

(c) [**2 Versions: Effective unless and until Acts 2019, 86th Leg., H.J.R. No. 151, Prop. No. 7 is approved by voters and the ballot certified – See Editor's Note**] The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. Subject to the restrictions of Section 24 of this article, it may also tax incomes of both natural persons and corporations other than municipal. Persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

(c) **[2 Versions: Proposed amendment by Acts 2019, 86th Leg., H.J.R. No. 151, Prop. No. 7 contingent on Voter Approval – See Editor's Note]** The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. The Legislature may also tax incomes of corporations other than municipal. Persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

(d) The Legislature by general law shall exempt from ad valorem taxation household goods not held or used for the production of income and personal effects not held or used for the production of income. The Legislature by general law may exempt from ad valorem taxation:

(1) all or part of the personal property homestead of a family or single adult, "personal property homestead" meaning that personal property exempt by law from forced sale for debt;

(2) subject to Subsections (e) and (g) of this section, all other tangible personal property, except structures which are substantially affixed to real estate and are used or occupied as residential dwellings and except property held or used for the production of income;

(3) subject to Subsection (e) of this section, a leased motor vehicle that is not held primarily for the production of income by the lessee and that otherwise qualifies under general law for exemption; and

(4) one motor vehicle, as defined by general law, owned by an individual that is used in the course of the individual's occupation or profession and is also used for personal activities of the owner that do not involve the production of income.

(e) The governing body of a political subdivision may provide for the taxation of all property exempt under a law adopted under Subdivision (2) or (3) of Subsection (d) of this section and not exempt from ad valorem taxation by any other law. The Legislature by general law may provide limitations to the application of this subsection to the taxation of vehicles exempted under the authority of Subdivision (3) of Subsection (d) of this section.

(f) The occupation tax levied by any county, city or town for any year on persons or corporations pursuing any profession or business, shall not exceed one half of the tax levied by the State for the same period on such profession or business.

(g) The Legislature may exempt from ad valorem taxation tangible personal property that is held or used for the production of income and has a taxable value of less than the minimum amount sufficient to recover the costs of the administration of the taxes on the property, as determined by or under the general law granting the exemption.

(h) The Legislature may exempt from ad valorem taxation a mineral interest that has a taxable value of less than the minimum amount sufficient to recover the costs of the administration of the taxes on the interest, as determined by or under the general law granting the exemption.

(i) Notwithstanding Subsections (a) and (b) of this section, the Legislature by general law may limit the maximum appraised value of a residence homestead for ad valorem tax purposes in a tax year to the lesser of the most recent market value of the residence homestead as determined by the appraisal entity or 110 percent, or a greater percentage, of the appraised value of the residence homestead for the preceding tax year. A limitation on appraised values authorized by this subsection:

(1) takes effect as to a residence homestead on the later of the effective date of the law imposing the limitation or January 1 of the tax year following the first tax year the owner qualifies the property for an exemption under Section 1-b of this article; and

(2) expires on January 1 of the first tax year that neither the owner of the property when the limitation took effect nor the owner's spouse or surviving spouse qualifies for an exemption under Section 1-b of this article.

(i-1) [Expired pursuant to Acts 2003, 78th Leg., S.J.R. No. 25, § 3, effective January 1, 2005.]

(j) The Legislature by general law may provide for the taxation of real property that is the residence homestead of the property owner solely on the basis of the property's value as a residence homestead, regardless of whether the residential use of the property by the owner is considered to be the highest and best use of the property.

(j-1) [Expired pursuant to Acts 2001, 77th Leg., H.J.R. No. 44, § 1, effective January 1, 2004.]

Amendment proposed by Acts 1995, 74th Leg., H.J.R. No. 31, approved by electorate (Prop. 12) at the November 7, 1995 election; amendment proposed by Acts 1997, 75th Leg., S.J.R. No. 43, approved by electorate (Prop. 2) at the November 4, 1997 election;

amendment proposed by Acts 1999, 76th Leg., S.J.R. No. 21, approved by electorate (Prop. 12) at the November 2, 1999 election; Amendment proposed by Acts 2001, 77th Leg., H.J.R. No. 44, approved by electorate at the November 6, 2001 election; amendment proposed by Acts 2003, 78th Leg., S.J.R. No. 25, approved by the electorate (Prop. 5) at the September 13, 2003 election; amendment proposed by Acts 2007, 80th Leg., H.J.R. No. 40, approved by the electorate (Prop. 3) at the November 6, 2007 election; amendment proposed by Acts 2007, 80th Leg., H.J.R. No. 54, approved by the electorate (Prop. 6) at the November 6, 2007 election; amendment proposed by Acts 2009, 81st Leg., H.J.R. No. 36, § 1.01, approved by the electorate (Prop. 2) at the November 3, 2009 election; amendment proposed by Acts 2019, 86th Leg., H.J.R. 38, § 1, (Prop. 4) at the November 5, 2019 election.

Sec. 1-a. County Tax Levy for Roads and Flood Control.

The several counties of the State are authorized to levy ad valorem taxes upon all property within their respective boundaries for county purposes, except the first Three Thousand Dollars ($3,000) value of residential homesteads of married or unmarried adults, including those living alone, not to exceed thirty cents (30¢) on each One Hundred Dollars ($100) valuation, in addition to all other ad valorem taxes authorized by the Constitution of this State, provided the revenue derived therefrom shall be used for construction and maintenance of Farm to Market Roads or for Flood Control, except as herein otherwise provided.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election; Amendment proposed by 2001 77th Leg., H.J.R. No. 75, approved by electorate at the November 6, 2001 election.

Sec. 1-b. Residence Homestead Tax Exemptions and Limitations.

(a) Three Thousand Dollars ($3,000) of the assessed taxable value of all residence homesteads of married or unmarried adults, male or female, including those living alone, shall be exempt from all taxation for all State purposes.

(b) The governing body of any county, city, town, school district, or other political subdivision of the State may exempt by its own action not less than Three Thousand Dollars ($3,000) of the market value of residence homesteads of persons, married or unmarried, including those living alone, who are under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance or its successor or of married or unmarried persons sixty-five (65) years of age or older, including those living alone, from all ad valorem taxes thereafter levied by the political subdivision. As an alternative, upon receipt of a petition signed by twenty percent (20%) of the voters who voted in the last preceding election held by the political subdivision, the governing body of the subdivision shall call an election to determine by majority vote whether an amount not less than Three Thousand Dollars ($3,000) as provided in the petition, of the market value of residence homesteads of disabled persons or of persons sixty-five (65) years of age or over shall be exempt from ad valorem taxes thereafter levied by the political subdivision. An eligible disabled person who is sixty-five (65) years of age or older may not receive both exemptions from the same political subdivision in the same year but may choose either if the subdivision has adopted both. Where any ad valorem tax has theretofore been pledged for the payment of any debt, the taxing officers of the political subdivision shall have authority to continue to levy and collect the tax against the homestead property at the same rate as the tax so pledged until the debt is discharged, if the cessation of the levy would impair the obligation of the contract by which the debt was created.

(c) The amount of $25,000 of the market value of the residence homestead of a married or unmarried adult, including one living alone, is exempt from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may provide that all or part of the exemption does not apply to a district or political subdivision that imposes ad valorem taxes for public education purposes but is not the principal school district providing general elementary and secondary public education throughout its territory. In addition to this exemption, the legislature by general law may exempt an amount not to exceed $10,000 of the market value of the residence homestead of a person who is disabled as defined in Subsection (b) of this section and of a person 65 years of age or older from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may base the amount of and condition eligibility for the additional exemption authorized by this subsection for disabled persons and for persons 65 years of age or older on economic need. An eligible disabled person who is 65 years of age or older may not receive both exemptions from a school district but may choose either. An eligible person is entitled to receive both the exemption required by this subsection for all residence homesteads and any exemption adopted pursuant to Subsection (b) of this section, but the legislature shall provide by general law whether an eligible disabled or elderly person may receive both the additional exemption for the elderly and disabled authorized by this subsection and any exemption for the elderly or disabled adopted pursuant to Subsection (b) of this section. Where ad valorem tax has previously been pledged for the payment of debt, the taxing officers of a school district may continue to levy and collect the tax against the value of homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature shall provide for formulas to protect school districts against all or part of the revenue loss incurred by the implementation of this subsection, Subsection (d) of this section, and Section 1-d-1 of this article. The legislature by general law may define residence homestead for purposes of this section.

(d) Except as otherwise provided by this subsection, if a person receives a residence homestead exemption prescribed by Subsection (c) of this section for homesteads of persons who are 65 years of age or older or who are disabled, the total amount of ad valorem taxes imposed on that homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person or that person's spouse who receives the exemption. If a person 65 years of age or older dies in a year in which the person received the exemption, the total

amount of ad valorem taxes imposed on the homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person's surviving spouse if the spouse is 55 years of age or older at the time of the person's death, subject to any exceptions provided by general law. The legislature, by general law, may provide for the transfer of all or a proportionate amount of a limitation provided by this subsection for a person who qualifies for the limitation and establishes a different residence homestead. However, taxes otherwise limited by this subsection may be increased to the extent the value of the homestead is increased by improvements other than repairs or improvements made to comply with governmental requirements and except as may be consistent with the transfer of a limitation under this subsection. For a residence homestead subject to the limitation provided by this subsection in the 1996 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 1997 tax year and subsequent tax years in an amount equal to $10,000 multiplied by the 1997 tax rate for general elementary and secondary public school purposes applicable to the residence homestead. For a residence homestead subject to the limitation provided by this subsection in the 2014 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 2015 tax year and subsequent tax years in an amount equal to $10,000 multiplied by the 2015 tax rate for general elementary and secondary public school purposes applicable to the residence homestead.

(d-1) Notwithstanding Subsection (d) of this section, the legislature by general law may provide for the reduction of the amount of a limitation provided by that subsection and applicable to a residence homestead for the 2007 tax year to reflect any reduction from the 2006 tax year in the tax rate for general elementary and secondary public school purposes applicable to the homestead. A general law enacted under this subsection may also take into account any reduction in the tax rate for those purposes from the 2005 tax year to the 2006 tax year if the homestead was subject to the limitation in the 2006 tax year. A general law enacted under this subsection may provide that, except as otherwise provided by Subsection (d) of this section, a limitation provided by that subsection that is reduced under the general law continues to apply to the residence homestead in subsequent tax years until the limitation expires.

(e) The governing body of a political subdivision, other than a county education district, may exempt from ad valorem taxation a percentage of the market value of the residence homestead of a married or unmarried adult, including one living alone. In the manner provided by law, the voters of a county education district at an election held for that purpose may exempt from ad valorem taxation a percentage of the market value of the residence homestead of a married or unmarried adult, including one living alone. The percentage may not exceed twenty percent. However, the amount of an exemption authorized pursuant to this subsection may not be less than $5,000 unless the legislature by general law prescribes other monetary restrictions on the amount of the exemption. The legislature by general law may prohibit the governing body of a political subdivision that adopts an exemption under this subsection from reducing the amount of or repealing the exemption. An eligible adult is entitled to receive other applicable exemptions provided by law. Where ad valorem tax has previously been pledged for the payment of debt, the governing body of a political subdivision may continue to levy and collect the tax against the value of the homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature by general law may prescribe procedures for the administration of residence homestead exemptions.

(e-1) Expired pursuant to Acts 1981, 67th Leg., H.J.R. No. 81, § 1, effective January 2, 1982.

(f) The surviving spouse of a person who received an exemption under Subsection (b) of this section for the residence homestead of a person sixty-five (65) years of age or older is entitled to an exemption for the same property from the same political subdivision in an amount equal to that of the exemption received by the deceased spouse if the deceased spouse died in a year in which the deceased spouse received the exemption, the surviving spouse was fifty-five (55) years of age or older when the deceased spouse died, and the property was the residence homestead of the surviving spouse when the deceased spouse died and remains the residence homestead of the surviving spouse. A person who receives an exemption under Subsection (b) of this section is not entitled to an exemption under this subsection. The legislature by general law may prescribe procedures for the administration of this subsection.

(g) If the legislature provides for the transfer of all or a proportionate amount of a tax limitation provided by Subsection (d) of this section for a person who qualifies for the limitation and subsequently establishes a different residence homestead, the legislature by general law may authorize the governing body of a school district to elect to apply the law providing for the transfer of the tax limitation to a change of a person's residence homestead that occurred before that law took effect, subject to any restrictions provided by general law. The transfer of the limitation may apply only to taxes imposed in a tax year that begins after the tax year in which the election is made.

(h) The governing body of a county, a city or town, or a junior college district by official action may provide that if a person who is disabled or is sixty-five (65) years of age or older receives a residence homestead exemption prescribed or authorized by this section, the total amount of ad valorem taxes imposed on that homestead by the county, the city or town, or the junior college district may not be increased while it remains the residence homestead of that person or that person's spouse who is disabled or sixty-five (65) years of age or older and receives a residence homestead exemption on the homestead. As an alternative, on receipt of a petition signed by five percent (5%) of the registered voters of the county, the city or town, or the junior college district, the governing body of the county, the city or town, or the junior college district shall call an election to determine by majority vote whether to establish a tax limitation provided by this subsection. If a county, a city or town, or a junior college district establishes a tax limitation provided by this subsection and a disabled person or a person sixty-five (65) years of age or older dies in a year in which the person received a residence homestead exemption, the total amount of ad valorem taxes imposed on the homestead by the

county, the city or town, or the junior college district may not be increased while it remains the residence homestead of that person's surviving spouse if the spouse is fifty-five (55) years of age or older at the time of the person's death, subject to any exceptions provided by general law. The legislature, by general law, may provide for the transfer of all or a proportionate amount of a tax limitation provided by this subsection for a person who qualifies for the limitation and establishes a different residence homestead within the same county, within the same city or town, or within the same junior college district. A county, a city or town, or a junior college district that establishes a tax limitation under this subsection must comply with a law providing for the transfer of the limitation, even if the legislature enacts the law subsequent to the county's, the city's or town's, or the junior college district's establishment of the limitation. Taxes otherwise limited by a county, a city or town, or a junior college district under this subsection may be increased to the extent the value of the homestead is increased by improvements other than repairs and other than improvements made to comply with governmental requirements and except as may be consistent with the transfer of a tax limitation under a law authorized by this subsection. The governing body of a county, a city or town, or a junior college district may not repeal or rescind a tax limitation established under this subsection.

(i) The legislature by general law may exempt from ad valorem taxation all or part of the market value of the residence homestead of a disabled veteran who is certified as having a service-connected disability with a disability rating of 100 percent or totally disabled and may provide additional eligibility requirements for the exemption. For purposes of this subsection, "disabled veteran" means a disabled veteran as described by Section 2(b) of this article.

(j) The legislature by general law may provide that the surviving spouse of a disabled veteran who qualified for an exemption in accordance with Subsection (i) or (l) of this section from ad valorem taxation of all or part of the market value of the disabled veteran's residence homestead when the disabled veteran died is entitled to an exemption from ad valorem taxation of the same portion of the market value of the same property to which the disabled veteran's exemption applied if:

(1) the surviving spouse has not remarried since the death of the disabled veteran; and

(2) the property:

(A) was the residence homestead of the surviving spouse when the disabled veteran died; and

(B) remains the residence homestead of the surviving spouse.

(j-1) The legislature by general law may provide that the surviving spouse of a disabled veteran who would have qualified for an exemption from ad valorem taxation of all or part of the market value of the disabled veteran's residence homestead under Subsection (i) of this section if that subsection had been in effect on the date the disabled veteran died is entitled to an exemption from ad valorem taxation of the same portion of the market value of the same property to which the disabled veteran's exemption would have applied if the surviving spouse otherwise meets the requirements of Subsection (j) of this section.

(k) The legislature by general law may provide that if a surviving spouse who qualifies for an exemption in accordance with Subsection (j) or (j-1) of this section subsequently qualifies a different property as the surviving spouse's residence homestead, the surviving spouse is entitled to an exemption from ad valorem taxation of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption from ad valorem taxation of the former homestead in accordance with Subsection (j) or (j-1) of this section in the last year in which the surviving spouse received an exemption in accordance with the applicable subsection for that homestead if the surviving spouse has not remarried since the death of the disabled veteran.

(*l*) The legislature by general law may provide that a partially disabled veteran is entitled to an exemption from ad valorem taxation of a percentage of the market value of the disabled veteran's residence homestead that is equal to the percentage of disability of the disabled veteran if the residence homestead was donated to the disabled veteran by a charitable organization for less than the market value of the residence homestead, including at no cost to the disabled veteran. The legislature by general law may provide additional eligibility requirements for the exemption. For purposes of this subsection, "partially disabled veteran" means a disabled veteran as described by Section 2(b) of this article who is certified as having a disability rating of less than 100 percent. A limitation or restriction on a disabled veteran's entitlement to an exemption under Section 2(b) of this article, or on the amount of an exemption under Section 2(b), does not apply to an exemption under this subsection.

(m) The legislature by general law may provide that the surviving spouse of a member of the armed services of the United States who is killed in action is entitled to an exemption from ad valorem taxation of all or part of the market value of the surviving spouse's residence homestead if the surviving spouse has not remarried since the death of the member of the armed services.

(n) The legislature by general law may provide that a surviving spouse who qualifies for and receives an exemption in accordance with Subsection (l) of this section and who subsequently qualifies a different property as the surviving spouse's residence homestead is entitled to an exemption from ad valorem taxation of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption from ad valorem taxation of the first homestead for which the exemption was received in accordance with Subsection (l) of this section in the last year in which the surviving spouse received the exemption in accordance with that subsection for that homestead if the surviving spouse has not remarried since the death of the member of the armed services.

(o) The legislature by general law may provide that the surviving spouse of a first responder who is killed or fatally injured in the line of duty is entitled to an exemption from ad valorem taxation of all or part of the market value of the surviving spouse's residence homestead if the surviving spouse has not remarried since the death of the first responder.

The legislature by general law may define "first responder" for purposes of this subsection and may prescribe additional eligibility requirements for the exemption authorized by this subsection.

(p) The legislature by general law may provide that a surviving spouse who qualifies for and receives an exemption in accordance with Subsection (o) of this section and who subsequently qualifies a different property as the surviving spouse's residence homestead is entitled to an exemption from ad valorem taxation of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption from ad valorem taxation of the first homestead for which the exemption was received in accordance with Subsection (o) of this section in the last year in which the surviving spouse received the exemption in accordance with that subsection for that homestead if the surviving spouse has not remarried since the death of the first responder.

HISTORY: Amendment proposed by Acts 1995, 74th Leg., H.J.R. No. 64, approved by electorate (Prop. 6) at the November 7, 1995 election; amendment proposed by Acts 1997, 75th Leg., H.J.R. No. 4, approved by electorate (Prop. 1) at the August 9, 1997 election; amendment proposed by Acts 1997, 75th Leg., S.J.R. No. 43, approved by electorate (Prop. 2) at the November 4, 1997 election; amendment proposed by Acts 1999, 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election; amendment proposed by Acts 2003, 78th Leg., H.J.R. Nos. 16 and 21, approved by electorate (Props. 13 and 17) at the September 13, 2003 election; amendment proposed by Acts 2007, 80th Leg., S.J.R. No. 13, approved by electorate (Prop. 1) at the May 12, 2007 election; amendment proposed by Acts 2007, 80th Leg., S.J.R. No. 29, approved by the electorate (Prop. 9) at the November 6, 2007 election; amendment proposed by Acts 2011, 82nd Leg., S.J.R. No. 14, § 1, approved by the electorate (Prop. 1) at the election held November 8, 2011; amendment proposed by Acts 2013, 83rd Leg., H.J.R. No. 24, § 1, approved by the electorate (Prop. 4) at the election held November 6, 2013; amendment proposed by Acts 2013, 83rd Leg., H.J.R. No. 62, § 1, approved by the electorate (Prop. 1) at the election held November 6, 2013; amendment proposed by Acts 2015, 84th Leg., H.J.R. No. 75, § 1, approved by the electorate (Prop. 2) at the November 3, 2015 election; amendment proposed by Acts 2015, 84th Leg., S.J.R. No. 1, § 1, approved by the electorate (Prop. 1) at the November 3, 2015 election; amendment proposed by Acts 2017, 85th Leg., S.J.R. No. 1 (Prop. 6), effective January 1, 2018, and H.J.R. No. 21 (Prop. 1), effective November 7, 2017, approved by the electorate at the November 7, 2017 election.

Sec. 1-b-1. Reference to County Education Districts [Repealed].

Repeal proposed by Acts 1999, 76th Leg., H.J.R. No. 62, § 55(2), approved by the electorate (Prop. 3) at the November 2, 1999 election.

Sec. 1-c. Effectiveness of Resolution [Repealed].

Repeal proposed by Acts 1999, 76th Leg., H.J.R. No. 62, § 55(2), approved by the electorate (Prop. 3) at the November 2, 1999 election.

Sec. 1-d. Assessment for Tax Purposes of Lands Designated for Agricultural Use.

(a) All land owned by natural persons which is designated for agricultural use in accordance with the provisions of this Section shall be assessed for all tax purposes on the consideration of only those factors relative to such agricultural use. "Agricultural use" means the raising of livestock or growing of crops, fruit, flowers, and other products of the soil under natural conditions as a business venture for profit, which business is the primary occupation and source of income of the owner.

(b) For each assessment year the owner wishes to qualify his land under provisions of this Section as designated for agricultural use he shall file with the local tax assessor a sworn statement in writing describing the use to which the land is devoted.

(c) Upon receipt of the sworn statement in writing the local tax assessor shall determine whether or not such land qualifies for the designation as to agricultural use as defined herein and in the event it so qualifies he shall designate such land as being for agricultural use and assess the land accordingly.

(d) Such local tax assessor may inspect the land and require such evidence of use and source of income as may be necessary or useful in determining whether or not the agricultural use provision of this article applies.

(e) No land may qualify for the designation provided for in this Act unless for at least three (3) successive years immediately preceding the assessment date the land has been devoted exclusively for agricultural use, or unless the land has been continuously developed for agriculture during such time.

(f) Each year during which the land is designated for agricultural use, the local tax assessor shall note on his records the valuation which would have been made had the land not qualified for such designation under this Section. If designated land is subsequently diverted to a purpose other than that of agricultural use, or is sold, the land shall be subject to an additional tax. The additional tax shall equal the difference between taxes paid or payable, hereunder, and the amount of tax payable for the preceding three years had the land been otherwise assessed. Until paid, there shall be a lien for additional taxes and interest on land assessed under the provisions of this Section.

(g) The valuation and assessment of any minerals or subsurface rights to minerals shall not come within the provisions of this Section.

Sec. 1-d-1. Taxation of Certain Open-Space Land.

(a) To promote the preservation of open-space land, the legislature shall provide by general law for taxation of open-space land devoted to farm, ranch, or wildlife management purposes on the basis of its productive capacity and may provide by general law for taxation of open-space land devoted to timber production on the basis of its productive

capacity. The legislature by general law may provide eligibility limitations under this section and may impose sanctions in furtherance of the taxation policy of this section.

(b) If a property owner qualifies his land for designation for agricultural use under Section 1-d of this article, the land is subject to the provisions of Section 1-d for the year in which the designation is effective and is not subject to a law enacted under this Section 1-d-1 in that year.

Amendment proposed by Acts 1995, 74th Leg., H.J.R. No. 72, approved by electorate (Prop. 11) at the November 7, 1995 election; amendment proposed by Acts 2011, 82nd Leg., S.J.R. No. 16, was not approved by the electorate (Prop. 8) at the November 8, 2011 election.

Sec. 1-e. State Ad Valorem Taxes Prohibited.

No State ad valorem taxes shall be levied upon any property within this State.

Amendment proposed by 2001 77th Leg., H.J.R. No. 75, approved by electorate at the November 6, 2001 election.

Sec. 1-f. Ad Valorem Tax Relief.

The legislature by law may provide for the preservation of cultural, historical, or natural history resources by:

(1) granting exemptions or other relief from state ad valorem taxes on appropriate property so designated in the manner prescribed by law; and

(2) authorizing political subdivisions to grant exemptions or other relief from ad valorem taxes on appropriate property so designated by the political subdivision in the manner prescribed by general law.

Sec. 1-g. Development or Redevelopment of Property; Ad Valorem Tax Relief and Issuance of Bonds and Notes.

(a) The legislature by general law may authorize cities, towns, and other taxing units to grant exemptions or other relief from ad valorem taxes on property located in a reinvestment zone for the purpose of encouraging development or redevelopment and improvement of the property.

(b) The legislature by general law may authorize an incorporated city or town to issue bonds or notes to finance the development or redevelopment of an unproductive, underdeveloped, or blighted area within the city or town and to pledge for repayment of those bonds or notes increases in ad valorem tax revenues imposed on property in the area by the city or town and other political subdivisions.

Amendment proposed by Acts 2011, 82nd Leg., H.J.R. No. 63, was not approved by the electorate (Prop. 4) at the November 8, 2011 election.

Sec. 1-h. Validation of Assessment Ratio.

Section 26.03, Tax Code, is validated as of January 1, 1980.

Sec. 1-i. Mobile Marine Drilling Equipment; Ad Valorem Tax Relief.

The legislature by general law may provide ad valorem tax relief for mobile marine drilling equipment designed for offshore drilling of oil or gas wells that is being stored while not in use in a county bordering on the Gulf of Mexico or on a bay or other body of water immediately adjacent to the Gulf of Mexico.

Sec. 1-j. Exemption from Ad Valorem Taxation of Certain Tangible Personal Property Temporarily Located in this State.

(a) To promote economic development in the State, goods, wares, merchandise, other tangible personal property, and ores, other than oil, natural gas, and other petroleum products, are exempt from ad valorem taxation by a political subdivision of this State if:

(1) the property is acquired in or imported into this State to be forwarded outside this State, whether or not the intention to forward the property outside this State is formed or the destination to which the property is forwarded is specified when the property is acquired in or imported into this State;

(2) the property is detained in this State for assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property; and

(3) the property is transported outside of this State not later than:

(A) 175 days after the date the person acquired or imported the property in this State; or

(B) if applicable, a later date established by the governing body of the political subdivision under Subsection (d) of this section.

(b) The governing body of a county, common, or independent school district, junior college district, or municipality that, acting under previous constitutional authority, taxes property otherwise exempt by Subsection (a) of this section may subsequently exempt the property from taxation by rescinding its action to tax the property. The exemption applies to each tax year that begins after the date the action is taken and applies to the tax year in which the action is taken

if the governing body so provides. A governing body that rescinds its action to tax the property may not take action to tax such property after the rescission.

(c) For purposes of this section:

(1) tangible personal property shall include aircraft and aircraft parts;

(2) property imported into this State shall include property brought into this State;

(3) property forwarded outside this State shall include property transported outside this State or to be affixed to an aircraft to be transported outside this State; and

(4) property detained in this State for assembling, storing, manufacturing, processing, or fabricating purposes shall include property, aircraft, or aircraft parts brought into this State or acquired in this State and used by the person who acquired the property, aircraft, or aircraft parts in or who brought the property, aircraft, or aircraft parts into this State for the purpose of repair or maintenance of aircraft operated by a certificated air carrier.

(d) The governing body of a political subdivision, in the manner provided by law for official action, may extend the date by which aircraft parts exempted from ad valorem taxation under this section must be transported outside the State to a date not later than the 730th day after the date the person acquired or imported the aircraft parts in this State. An extension adopted by official action under this subsection applies only to the exemption from ad valorem taxation by the political subdivision adopting the extension. The legislature by general law may provide the manner by which the governing body may extend the period of time as authorized by this subsection.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election; amendment proposed by Acts 2013, 83rd Leg., H.J.R. No. 133, § 1, approved by electorate (Prop. 3) at the November 5, 2013 election.

Sec. 1-k. Exemption from Ad Valorem taxation of Property Owned by Nonprofit Corporations Supplying Water or Providing Wastewater Services.

The legislature by general law may exempt from ad valorem taxation property owned by a nonprofit corporation organized to supply water or provide wastewater service that provides in the bylaws of the corporation that on dissolution of the corporation, the assets of the corporation remaining after discharge of the corporation's indebtedness shall be transferred to an entity that provides a water supply or wastewater service, or both, that is exempt from ad valorem taxation, if the property is reasonably necessary for and used in the acquisition, treatment, storage, transportation, sale, or distribution of water or the provision of wastewater service.

Sec. 1-*l*. Exception from Ad Valorem Taxation of Property Used for Control or Air, Water, or Land Pollution.

(a) The legislature by general law may exempt from ad valorem taxation all or part of real and personal property used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution.

(b) This section applies to real and personal property used as a facility, device, or method for the control of air, water, or land pollution that would otherwise be taxable for the first time on or after January 1, 1994.

(c) This section does not authorize the exemption from ad valorem taxation of real or personal property that was subject to a tax abatement agreement executed before January 1, 1994.

Sec. 1-m. Property on which Water Conservation Initiative has been Implemented; Ad Valorem Tax relief.

The legislature by general law may authorize a taxing unit to grant an exemption or other relief from ad valorem taxes on property on which a water conservation initiative has been implemented.

Sec. 1-n. [2 Versions: As added by Acts 2001, 77th Leg., S.J.R. No. 6] Exemption from Ad Valorem Taxation of Tangible Personal Property Held Temporarily for Certain Commercial Purposes.

(a) To promote economic development in this state, the legislature by general law may exempt from ad valorem taxation goods, wares, merchandise, other tangible personal property, and ores, other than oil, natural gas, and other petroleum products, if:

(1) the property is acquired in or imported into this state to be forwarded to another location in this state or outside this state, whether or not the intention to forward the property to another location in this state or outside this state is formed or the destination to which the property is forwarded is specified when the property is acquired in or imported into this state;

(2) the property is detained at a location in this state that is not owned or under the control of the property owner for assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property; and

(3) the property is transported to another location in this state or outside this state not later than 270 days after the date the person acquired the property in or imported the property into this state.

(b) For purposes of this section:

(1) tangible personal property includes aircraft and aircraft parts;

(2) property imported into this state includes property brought into this state;

(3) property forwarded to another location in this state or outside this state includes property transported to another location in this state or outside this state or to be affixed to an aircraft to be transported to another location in this state or outside this state; and

(4) property detained at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes includes property, aircraft, or aircraft parts brought into this state or acquired in this state and used by the person who acquired the property, aircraft, or aircraft parts in this state or who brought the property, aircraft, or aircraft parts into this state for the purpose of repair or maintenance of aircraft operated by a certificated air carrier.

(c) A property owner who is eligible to receive the exemption authorized by Section 1-j of this article may apply for the exemption authorized by the legislature under this section in the manner provided by general law, subject to the provisions of Subsection (d) of this section. A property owner who receives the exemption authorized by the legislature under this section is not entitled to receive the exemption authorized by Section 1-j of this article for the same property.

(d) The governing body of a political subdivision that imposes ad valorem taxes may provide for the taxation of property exempt under a law adopted under Subsection (a) of this section and not exempt from ad valorem taxation by any other law. Before acting to tax the exempt property, the governing body of the political subdivision must conduct a public hearing at which members of the public are permitted to speak for or against the taxation of the property.

(e) [Expired purusant to Acts 2001, 77th Leg., S.J.R. No. 6, § 1, effective January 1, 2003.]

Adoption proposed by Acts 2001, 77th Leg., S.J.R. No. 6, approved by electorate at the November 6, 2001 general election.

Sec. 1-n. [2 Versions: As added by Acts 2001, 77th Leg., S.J.R. No. 47] Exemption from Ad Valorem Taxation of Raw Cocoa and Green Coffee.

(a) The legislature by general law may exempt from ad valorem taxation raw cocoa and green coffee that is held in Harris County.

(b) The legislature may impose additional requirements for qualification for an exemption under this section.

Amendment proposed by Acts 2001, 77th Leg., S.J.R. No. 47, approved by the electorate (Prop. 3) at the November 6, 2001 general election.

Sec. 1-o. Rural Economic Development; Limitation on Ad Valorem Tax Increase.

To aid in the elimination of slum and blighted conditions in less populated communities in this state, to promote rural economic development in this state, and to improve the economy of this state, the legislature by general law may authorize the governing body of a municipality having a population of less than 10,000, in the manner required by law, to call an election to permit the voters to determine by majority vote whether to authorize the governing body of the municipality to enter into an agreement with an owner of real property that is located in or adjacent to a designated area of the municipality that has been approved for funding under the Downtown Revitalization Program or the Main Street Improvements Program administered by the Department of Agriculture, or a successor program administered by that agency, under which the parties agree that the ad valorem taxes imposed by any political subdivision on the owner's real property may not be increased for the first five tax years after the tax year in which the agreement is entered into, subject to the terms and conditions provided by the agreement. A general law enacted under this section must provide that, if authorized by the voters, an agreement to limit ad valorem tax increases authorized by this section:

(1) must be entered into by the governing body of the municipality and a property owner before December 31 of the tax year in which the election was held;

(2) takes effect as to a parcel of real property on January 1 of the tax year following the tax year in which the governing body and the property owner enter into the agreement;

(3) applies to ad valorem taxes imposed by any political subdivision on the real property covered by the agreement; and

(4) expires on the earlier of:

(A) January 1 of the sixth tax year following the tax year in which the governing body and the property owner enter into the agreement; or

(B) January 1 of the first tax year in which the owner of the property when the agreement was entered into ceases to own the property.

Adoption proposed by Acts 2007, 80th Leg., S.J.R. No. 44, approved by the electorate (Prop. 5) at the November 6, 2007 election.

Sec. 1-p. [Proposed enactment by Proposition No. 9, November 5, 2019]; [Precious Metals in Depositories Exempt from Property Tax]; [See Editor's Note for contingency information]

The legislature by general law may exempt from ad valorem taxation precious metal held in a precious metal depository located in this state. The legislature by general law may define "precious metal" and "precious metal depository" for purposes of this section.

Adoption proposed by Acts 2019, 86th Leg., H.J.R. No. 95, § 1, to be submitted to the electorate (Prop. 9) at the November 5, 2019 election.

Sec. 2. Equality and Uniformity of Occupation Taxes; Additional Exemptions from Ad Valorem Taxation.

(a) All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the legislature may, by general laws, exempt from taxation public property used for public purposes; actual places of religious worship, also any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society, and which yields no revenue whatever to such church or religious society; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; any property owned by a church or by a strictly religious society that owns an actual place of religious worship if the property is owned for the purpose of expansion of the place of religious worship or construction of a new place of religious worship and the property yields no revenue whatever to the church or religious society, provided that the legislature by general law may provide eligibility limitations for the exemption and may impose sanctions related to the exemption in furtherance of the taxation policy of this subsection; any property that is owned by a church or by a strictly religious society and is leased by that church or strictly religious society to a person for use as a school, as defined by Section 11.21, Tax Code, or a successor statute, for educational purposes; places of burial not held for private or corporate profit; solar or wind-powered energy devices; all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture of all schools and property used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a State or National organization of like character; also the endowment funds of such institutions of learning and religion not used with a view to profit; and when the same are invested in bonds or mortgages, or in land or other property which has been and shall hereafter be bought in by such institutions under foreclosure sales made to satisfy or protect such bonds or mortgages, that such exemption of such land and property shall continue only for two years after the purchase of the same at such sale by such institutions and no longer, and institutions engaged primarily in public charitable functions, which may conduct auxiliary activities to support those charitable functions; and all laws exempting property from taxation other than the property mentioned in this Section shall be null and void.

(b) The Legislature may, by general law, exempt property owned by a disabled veteran or by the surviving spouse and surviving minor children of a disabled veteran. A disabled veteran is a veteran of the armed services of the United States who is classified as disabled by the Veterans' Administration or by a successor to that agency or by the military service in which the veteran served. A veteran who is certified as having a disability of less than 10 percent is not entitled to an exemption. A veteran having a disability rating of not less than 10 percent but less than 30 percent may be granted an exemption from taxation for property valued at up to $5,000. A veteran having a disability rating of not less than 30 percent but less than 50 percent may be granted an exemption from taxation for property valued at up to $7,500. A veteran having a disability rating of not less than 50 percent but less than 70 percent may be granted an exemption from taxation for property valued at up to $10,000. A veteran who has a disability rating of 70 percent or more, or a veteran who has a disability rating of not less than 10 percent and has attained the age of 65, or a disabled veteran whose disability consists of the loss or loss of use of one or more limbs, total blindness in one or both eyes, or paraplegia, may be granted an exemption from taxation for property valued at up to $12,000. The spouse and children of any member of the United States Armed Forces who dies while on active duty may be granted an exemption from taxation for property valued at up to $5,000. A deceased disabled veteran's surviving spouse and children may be granted an exemption which in the aggregate is equal to the exemption to which the veteran was entitled when the veteran died.

(c) The Legislature by general law may exempt from ad valorem taxation property that is owned by a nonprofit organization composed primarily of members or former members of the armed forces of the United States or its allies and chartered or incorporated by the United States Congress.

(d) Unless otherwise provided by general law enacted after January 1, 1995, the amounts of the exemptions from ad valorem taxation to which a person is entitled under Section 11.22, Tax Code, for a tax year that begins on or after the date this subsection takes effect are the maximum amounts permitted under Subsection (b) of this section instead of the amounts specified by Section 11.22, Tax Code. This subsection may be repealed by the Legislature by general law.

(e) **[Proposed enactment by Acts 2019, 86th Leg., H.J.R. No. 34, Prop. No. 3 contingent on Voter Approval – See Editor's Note]** The Legislature by general law may provide that a person who owns property located in an area declared by the governor to be a disaster area following a disaster is entitled to a temporary exemption from ad valorem taxation by a political subdivision of a portion of the appraised value of that property. The general law may provide that if the governor first declares territory in the political subdivision to be a disaster area as a result of a disaster on or after the date the political subdivision adopts a tax rate for the tax year in which the declaration is issued, a person is entitled to the exemption authorized by this subsection for that tax year only if the exemption is adopted by the governing body of the political subdivision. The Legislature by general law may prescribe the method of determining the amount of the exemption authorized by this subsection and the duration of the exemption and may provide additional eligibility requirements for the exemption.

Amendment proposed by Acts 1995, 74th Leg., H.J.R. No. 68, approved by electorate (Prop. 14) at the November 7, 1995 election; amendment effective January 1, 2000, proposed by Acts 1999, 76th Leg., H.J.R. No. 4, approved by electorate (Prop. 4) at the November 2, 1999 election; amendment proposed by Acts 2003, H.J.R. No. 55, approved by electorate (Prop. 3) at the September 13, 2003 election; amendment proposed by Acts 2007, 80th Leg., S.J.R. 29, approved by the electorate (Prop. 9) at the November 6, 2007 election; amendment proposed by Acts 2019, 86th Leg., H.J.R. No. 34, § 1, (Prop. 3) at the November 5, 2019 election.

Sec. 3. Taxation by General Law for Public Purposes.

Taxes shall be levied and collected by general laws and for public purposes only.

Sec. 4. Surrender or Suspension of Taxing Power Prohibited.

The power to tax corporations and corporate property shall not be surrendered or suspended by act of the Legislature, by any contract or grant to which the State shall be a party.

Sec. 5. Railroad Property; Liability to Municipal Taxation [Repealed].

Repeal proposed by Acts 1999, 76th Leg., H.J.R. No. 62, § 55(2), approved by the electorate (Prop. 3) at the November 2, 1999 election.

Sec. 6. Withdrawal of Money from Treasury; Duration of Appropriation.

No money shall be drawn from the Treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 7. Borrowing, Withholding, or Diverting Special Funds Prohibited.

The Legislature shall not have power to borrow, or in any manner divert from its purpose, any special fund that may, or ought to, come into the Treasury; and shall make it penal for any person or persons to borrow, withhold or in any manner to divert from its purpose any special fund, or any part thereof.

Sec. 7-a. Use of Revenues from Motor Vehicle Registration Fees and Taxes on Motor Fuels and Lubricants.

Subject to legislative appropriation, allocation and direction, all net revenues remaining after payment of all refunds allowed by law and expenses of collection derived from motor vehicle registration fees, and all taxes, except gross production and ad valorem taxes, on motor fuels and lubricants used to propel motor vehicles over public roadways, shall be used for the sole purpose of acquiring rights-of-way, constructing, maintaining, and policing such public roadways, and for the administration of such laws as may be prescribed by the Legislature pertaining to the supervision of traffic and safety on such roads; and for the payment of the principal and interest on county and road district bonds or warrants voted or issued prior to January 2, 1939, and declared eligible prior to January 2, 1945, for payment out of the County and Road District Highway Fund under existing law; provided, however, that one-fourth (¼) of such net revenue from the motor fuel tax shall be allocated to the Available School Fund; and, provided, however, that the net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each County and the percentage allowed to be retained by each County under the laws in effect on January 1, 1945. Nothing contained herein shall be construed as authorizing the pledging of the State's credit for any purpose.

Sec. 7-b. Use of Revenues from Federal Reimbursement.

All revenues received from the federal government as reimbursement for state expenditures of funds that are themselves dedicated for acquiring rights-of-way and constructing, maintaining, and policing public roadways are also constitutionally dedicated and shall be used only for those purposes.

Sec. 7-c. Dedication of Revenue From State Sales and Use Tax and Taxes Imposed on Sale, Use, or Rental of Motor Vehicle to State Highway Fund.

(a) Subject to Subsections (d) and (e) of this section, in each state fiscal year, the comptroller of public accounts shall deposit to the credit of the state highway fund $2.5 billion of the net revenue derived from the imposition of the state sales and use tax on the sale, storage, use, or other consumption in this state of taxable items under Chapter 151, Tax Code, or its successor, that exceeds the first $28 billion of that revenue coming into the treasury in that state fiscal year.

(b) Subject to Subsections (d) and (e) of this section, in each state fiscal year, the comptroller of public accounts shall deposit to the credit of the state highway fund an amount equal to 35 percent of the net revenue derived from the tax authorized by Chapter 152, Tax Code, or its successor, and imposed on the sale, use, or rental of a motor vehicle that exceeds the first $5 billion of that revenue coming into the treasury in that state fiscal year.

(c) Money deposited to the credit of the state highway fund under this section may be appropriated only to:

(1) construct, maintain, or acquire rights-of-way for public roadways other than toll roads; or

(2) repay the principal of and interest on general obligation bonds issued as authorized by Section 49-p, Article III, of this constitution.

(d) The legislature by adoption of a resolution approved by a record vote of two-thirds of the members of each house of the legislature may direct the comptroller of public accounts to reduce the amount of money deposited to the credit of the state highway fund under Subsection (a) or (b) of this section. The comptroller may be directed to make that reduction only:

(1) in the state fiscal year in which the resolution is adopted, or in either of the following two state fiscal years; and

(2) by an amount or percentage that does not result in a reduction of more than 50 percent of the amount that would otherwise be deposited to the fund in the affected state fiscal year under the applicable subsection of this section.

(e) Subject to Subsection (f) of this section, the duty of the comptroller of public accounts to make a deposit under this section expires:

(1) August 31, 2032, for a deposit required by Subsection (a) of this section; and

(2) August 31, 2029, for a deposit required by Subsection (b) of this section.

(f) The legislature by adoption of a resolution approved by a record vote of a majority of the members of each house of the legislature may extend, in 10-year increments, the duty of the comptroller of public accounts to make a deposit under Subsection (a) or (b) of this section beyond the applicable date prescribed by Subsection (e) of this section.

HISTORY: Adoption proposed by Acts 2015, 84th Leg., S.J.R. No. 5, § 1, approved by the electorate (Prop. 7) at the November 3, 2015 election.

Sec. 7-d. [Proposed enactment by Proposition No. 5, November 5, 2019]; [Sales Tax on Sporting Goods Dedicated to Parks, Wildlife and Historical Agencies]; [See Editor's Note for contingency information]

(a) Subject to Subsection (b) of this section, for each state fiscal year, the net revenue received from the collection of any state taxes imposed on the sale, storage, use, or other consumption in this state of sporting goods that were subject to taxation on January 1, 2019, under Chapter 151, Tax Code, is automatically appropriated when received to the Parks and Wildlife Department and the Texas Historical Commission, or their successors in function, and is allocated between those agencies as provided by general law. The legislature by general law may provide limitations on the use of money appropriated under this subsection.

(b) The legislature by adoption of a resolution approved by a record vote of two-thirds of the members of each house of the legislature may direct the comptroller of public accounts to reduce the amount of money appropriated to the Parks and Wildlife Department and the Texas Historical Commission, or their successors in function, under Subsection (a) of this section. The comptroller may be directed to make that reduction only:

(1) in the state fiscal year in which the resolution is adopted, or in either of the following two state fiscal years; and

(2) by an amount that does not result in a reduction of more than 50 percent of the amount that would otherwise be appropriated to the Parks and Wildlife Department and the Texas Historical Commission, or their successors in function, in the affected state fiscal year under Subsection (a) of this section.

(c) Money appropriated to the Parks and Wildlife Department and the Texas Historical Commission, or their successors in function, under Subsection (a) of this section may not be considered available for certification by the comptroller of public accounts under Section 49a(b), Article III, of this constitution.

(d) In this section, "sporting goods" means an item of tangible personal property designed and sold for use in a sport or sporting activity, excluding apparel and footwear except that which is suitable only for use in a sport or sporting activity, and excluding board games, electronic games and similar devices, aircraft and powered vehicles, and replacement parts and accessories for any excluded item.

Adoption proposed by Acts 2019, 86th Leg., S.J.R. No. 24, § 1, to be submitted to the electorate (Prop. 5) at the November 5, 2019 election.

Sec. 8. Assessment and Collection of Taxes on Property of Railroad Companies.

All property of railroad companies shall be assessed, and the taxes collected in the several counties in which said property is situated, including so much of the roadbed and fixtures as shall be in each county. The rolling stock may be assessed in gross in the county where the principal office of the company is located, and the county tax paid upon it shall be apportioned as provided by general law in proportion to the distance such road may run through any such county, among the several counties through which the road passes, as a part of their tax assets.

Sec. 9. Maximum County, City, and Town Tax Rates; County Funds; Local Road Laws.

(a) No county, city or town shall levy a tax rate in excess of Eighty Cents (80¢) on the One Hundred Dollars ($100) valuation in any one (1) year for general fund, permanent improvement fund, road and bridge fund and jury fund purposes.

(b) At the time the Commissioners Court meets to levy the annual tax rate for each county it shall levy whatever tax rate may be needed for the four (4) constitutional purposes; namely, general fund, permanent improvement fund, road and bridge fund and jury fund so long as the Court does not impair any outstanding bonds or other obligations and so long as the total of the foregoing tax levies does not exceed Eighty Cents (80¢) on the One Hundred Dollars ($100) valuation in any one (1) year. Once the Court has levied the annual tax rate, the same shall remain in force and effect during that taxable year.

(c) The Legislature may authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads; provided, that a majority of the qualified voters of the county voting at an election to be held for that purpose shall approve the tax, not to exceed Fifteen Cents (15) on the One Hundred Dollars ($100) valuation of the property subject to taxation in such county.

(d) Any county may put all tax money collected by the county into one general fund, without regard to the purpose or source of each tax.

(e) The Legislature may pass local laws for the maintenance of the public roads and highways, without the local notice required for special or local laws.

(f) This Section shall not be construed as a limitation of powers delegated to counties, cities or towns by any other Section or Sections of this Constitution.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 10. Release from Payment of Taxes Restricted.

The Legislature shall have no power to release the inhabitants of, or property in, any county, city or town from the payment of taxes levied for State or county purposes, unless in case of great public calamity in any such county, city or town, when such release may be made by a vote of two-thirds of each House of the Legislature.

Sec. 11. Place of Assessment of Property for Taxation; Value of Property Not Rendered by Owner for Taxation.

All property, whether owned by persons or corporations shall be assessed for taxation, and the taxes paid in the county where situated, but the Legislature may, by a two-thirds vote, authorize the payment of taxes of non-residents of counties to be made at the office of the Comptroller of Public Accounts. And all lands and other property not rendered for taxation by the owner thereof shall be assessed at its fair value by the proper officer.

Sec. 12. [Repealed].

Repeal proposed by Acts 1969, 61st Leg., H.J.R. No. 3, § 1, approved by the electorate (Prop. 1) at the August 5, 1969 election.

Sec. 13. Sales of Lands and Other Property for Unpaid Taxes; Redemption.

(a) Provision shall be made by the Legislature for the sale of a sufficient portion of all lands and other property for the taxes due thereon that have not been paid.

(b) The deed of conveyance to the purchaser for all lands and other property thus sold shall be held to vest a good and perfect title in the purchaser thereof, subject only to redemption as provided by this section or impeachment for actual fraud.

(c) The former owner of a residence homestead, land designated for agricultural use, or a mineral interest sold for unpaid taxes shall within two years from date of the filing for record of the Purchaser's Deed have the right to redeem the property on the following basis:

(1) Within the first year of the redemption period, upon the payment of the amount of money paid for the property, including the Tax Deed Recording Fee and all taxes, penalties, interest, and costs paid plus an amount not exceeding 25 percent of the aggregate total; and

(2) Within the last year of the redemption period, upon the payment of the amount of money paid for the property, including the Tax Deed Recording Fee and all taxes, penalties, interest, and costs paid plus an amount not exceeding 50 percent of the aggregate total.

(d) If the residence homestead or land designated for agricultural use is sold pursuant to a suit to enforce the collection of the unpaid taxes, the Legislature may limit the application of Subsection (c) of this section to property used as a residence homestead when the suit was filed and to land designated for agricultural use when the suit was filed.

(e) The former owner of real property not covered by Subsection (c) of this section sold for unpaid taxes shall within six months from the date of filing for record of the Purchaser's Deed have the right to redeem the property upon the payment of the amount of money paid for the property, including the Tax Deed Recording Fee and all taxes, penalties, interest, and costs paid plus an amount not exceeding 25 percent of the aggregate total.

Amendment proposed by Acts 2003, 78th Leg., H.J.R. No. 51, approved by electorate at the September 13, 2003 election.

Sec. 14. Assessor and Collector of Taxes.

(a) The qualified voters of each county shall elect an assessor-collector of taxes for the county, except as otherwise provided by this section.

(b) In any county having a population of less than 10,000 inhabitants, as determined by the most recent decennial census of the United States, the sheriff of the county, in addition to that officer's other duties, shall be the assessor-collector of taxes, except that the commissioners court of such a county may submit to the qualified voters of the county at an election the question of electing an assessor-collector of taxes as a county officer separate from the office of sheriff. If a majority of the voters voting in such an election approve of electing an assessor-collector of taxes for the county, then such official shall be elected at the next general election for the constitutional term of office as is provided for other tax assessor-collectors in this state.

(c) An assessor-collector of taxes shall hold office for four years; and shall perform all the duties with respect to assessing property for the purpose of taxation and of collecting taxes, as may be prescribed by the Legislature.

Amendment proposed by 2001 77th Leg., H.J.R. No. 75, approved by electorate at the November 6, 2001 election.

Sec. 15. Lien of Assessment; Seizure and Sale of Property of Delinquent Taxpayer.

The annual assessment made upon landed property shall be a special lien thereon; and all property, both real and personal, belonging to any delinquent taxpayer shall be liable to seizure and sale for the payment of all the taxes and penalties due by such delinquent; and such property may be sold for the payment of the taxes and penalties due by such delinquent, under such regulations as the Legislature may provide.

Sec. 16. Tax Assessor in Counties Having 10,000 or More Inhabitants [Repealed].

Repeal proposed by Acts 2001, 77th Leg., H.J.R. No. 75, approved by the electorate (Prop. 12) at the November 6, 2001 election.

Sec. 16a. Tax Assessor in Counties Having Less Than 10,000 Inhabitants [Repealed].

Repeal proposed by Acts 2001, 77th Leg., H.J.R. No. 75, approved by the electorate (Prop. 12) at the November 6, 2001 election.

Sec. 17. Specification of Subjects Not Limitation of Legislature's Power of Taxation.

The specification of the objects and subjects of taxation shall not deprive the Legislature of the power to require other subjects or objects to be taxed in such manner as may be consistent with the principles of taxation fixed in this Constitution.

Sec. 18. Equalization of Property Valuations for Taxation; Single Appraisal and Single Board of Equalization.

(a) The Legislature shall provide for equalizing, as near as may be, the valuation of all property subject to or rendered for taxation, and may also provide for the classification of all lands with reference to their value in the several counties.

(b) A single appraisal within each county of all property subject to ad valorem taxation by the county and all other taxing units located therein shall be provided by general law. The Legislature, by general law, may authorize appraisals outside a county when political subdivisions are situated in more than one county or when two or more counties elect to consolidate appraisal services.

(c) The Legislature, by general law, shall provide for a single board of equalization for each appraisal entity consisting of qualified persons residing within the territory appraised by that entity. The Legislature, by general law, may authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations. Members of a board of equalization may not be elected officials of a county or of the governing body of a taxing unit.

(d) The Legislature shall prescribe by general law the methods, timing, and administrative process for implementing the requirements of this section.

Amendment proposed by Acts 2009, 81st Leg., H.J.R. No. 36, § 2.01, approved by the electorate (Prop. 5) at the November 3, 2009 election.

Sec. 19. Exemption from Taxation of Farm Products, Livestock, Poultry, and Family Supplies.

Farm products, livestock, and poultry in the hands of the producer, and family supplies for home and farm use, are exempt from all taxation until otherwise directed by a two-thirds vote of all the members elect to both houses of the Legislature.

Sec. 19a. Exemption from Ad Valorem Taxation of Implements of Husbandry.

Implements of husbandry that are used in the production of farm or ranch products are exempt from ad valorem taxation.

Sec. 20. Ad Valorem Taxation of Property at Value Exceeding Fair Cash Market Value Prohibited; Discounts for Advance Payment.

No property of any kind in this State shall ever be assessed for ad valorem taxes at a greater value than its fair cash market value nor shall any Board of Equalization of any governmental or political subdivision or taxing district within this State fix the value of any property for tax purposes at more than its fair cash market value; provided that in order to encourage the prompt payment of taxes, the Legislature shall have the power to provide that the taxpayer shall be allowed by the State and all governmental and political subdivisions and taxing districts of the State a three per cent (3%) discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State if such taxes are paid ninety (90) days before the date when they would otherwise become delinquent; and the taxpayer shall be allowed a two per cent (2%) discount on said taxes if paid sixty (60) days before said taxes would become delinquent; and the taxpayer shall be allowed a one per cent (1%) discount if said taxes are paid thirty (30) days before they would otherwise become delinquent. The Legislature shall pass necessary laws for the proper administration of this Section.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 21. Increase in Total Amount of Property Taxes Imposed Prohibited Without Notice and Hearing; Calculation and Notice to Property Owners.

(a) Subject to any exceptions prescribed by general law, the total amount of property taxes imposed by a political subdivision in any year may not exceed the total amount of property taxes imposed by that subdivision in the preceding year unless the governing body of the subdivision gives notice of its intent to consider an increase in taxes and holds a public hearing on the proposed increase before it increases those total taxes. The legislature shall prescribe by law the form, content, timing, and methods of giving the notice and the rules for the conduct of the hearing.

(b) In calculating the total amount of taxes imposed in the current year for the purposes of Subsection (a) of this section, the taxes on property in territory added to the political subdivision since the preceding year and on new improvements that were not taxable in the preceding year are excluded. In calculating the total amount of taxes imposed in the preceding year for the purposes of Subsection (a) of this section, the taxes imposed on real property that is not taxable by the subdivision in the current year are excluded.

(c) The legislature by general law shall require that, subject to reasonable exceptions, a property owner be given notice of a revaluation of his property and a reasonable estimate of the amount of taxes that would be imposed on his property if the total amount of property taxes for the subdivision were not increased according to any law enacted pursuant to Subsection (a) of this section. The notice must be given before the procedures required in Subsection (a) are instituted.

Sec. 22. Restriction on Rate of Growth of Appropriations.

(a) In no biennium shall the rate of growth of appropriations from state tax revenues not dedicated by this constitution exceed the estimated rate of growth of the state's economy. The legislature shall provide by general law procedures to implement this subsection.

(b) If the legislature by adoption of a resolution approved by a record vote of a majority of the members of each house finds that an emergency exists and identifies the nature of the emergency, the legislature may provide for appropriations in excess of the amount authorized by Subsection (a) of this section. The excess authorized under this subsection may not exceed the amount specified in the resolution.

(c) In no case shall appropriations exceed revenues as provided in Article III, Section 49a, of this constitution. Nothing in this section shall be construed to alter, amend, or repeal Article III, Section 49a, of this constitution.

Sec. 23. Statewide Appraisal of Real Property for Ad Valorem Tax Purposes Prohibited; Enforcement of Appraisal Standards and Procedures.

(a) There shall be no statewide appraisal of real property for ad valorem tax purposes; however, this shall not preclude formula distribution of tax revenues to political subdivisions of the state.

(b) Administrative and judicial enforcement of uniform standards and procedures for appraisal of property for ad valorem tax purposes shall be prescribed by general law.

Amendment proposed by Acts 2009, 81st Leg., H.J.R. No. 36, § 3.01, approved by the electorate (Prop. 3) at the November 3, 2009 election.

Sec. 24. [Contingently repealed effective November 5, 2019, see Editor's note] Personal Income Tax; Dedication of Proceeds.

(a) A general law enacted by the legislature that imposes a tax on the net incomes of natural persons, including a

person's share of partnership and unincorporated association income, must provide that the portion of the law imposing the tax not take effect until approved by a majority of the registered voters voting in a statewide referendum held on the question of imposing the tax. The referendum must specify the rate of the tax that will apply to taxable income as defined by law.

(b) A general law enacted by the legislature that increases the rate of the tax, or changes the tax, in a manner that results in an increase in the combined income tax liability of all persons subject to the tax may not take effect until approved by a majority of the registered voters voting in a statewide referendum held on the question of increasing the income tax. A determination of whether a bill proposing a change in the tax would increase the combined income tax liability of all persons subject to the tax must be made by comparing the provisions of the proposed change in law with the provisions of the law for the most recent year in which actual tax collections have been made. A referendum held under this subsection must specify the manner in which the proposed law would increase the combined income tax liability of all persons subject to the tax.

(c) Except as provided by Subsection (b) of this section, the legislature may amend or repeal a tax approved by the voters under this section without submitting the amendment or the repeal to the voters as provided by Subsection (a) of this section.

(d) If the legislature repeals a tax approved by the voters under this section, the legislature may reenact the tax without submitting the reenactment to the voters as provided by Subsection (a) of this section only if the effective date of the reenactment of the tax is before the first anniversary of the effective date of the repeal.

(e) The legislature may provide for the taxation of income in a manner which is consistent with federal law.

(f) In the first year in which a tax described by Subsection (a) is imposed and during the first year of any increase in the tax that is subject to Subsection (b) of this section, not less than two-thirds of all net revenues remaining after payment of all refunds allowed by law and expenses of collection from the tax shall be used to reduce the rate of ad valorem maintenance and operation taxes levied for the support of primary and secondary public education. In subsequent years, not less than two-thirds of all net revenues from the tax shall be used to continue such ad valorem tax relief.

(g) The net revenues remaining after the dedication of money from the tax under Subsection (f) of this section shall be used for support of education, subject to legislative appropriation, allocation, and direction.

(h) The maximum rate at which a school district may impose ad valorem maintenance and operation taxes is reduced by an amount equal to one cent per $100 valuation for each one cent per $100 valuation that the school district's ad valorem maintenance and operation tax is reduced by the minimum amount of money dedicated under Subsection (f) of this section, provided that a school district may subsequently increase the maximum ad valorem maintenance and operation tax rate if the increased maximum rate is approved by a majority of the voters of the school district voting at an election called and held for that purpose. The legislature by general law shall provide for the tax relief that is required by Subsection (f) and this subsection.

(i) Subsections (f) and (h) of this section apply to ad valorem maintenance and operation taxes levied by a school district on or after the first January 1 after the date on which a tax on the net incomes of natural persons, including a person's share of partnership and unincorporated association income, begins to apply to that income, except that if the income tax begins to apply on a January 1, Subsections (f) and (h) of this section apply to ad valorem maintenance and operation taxes levied on or after that date.

(j) A provision of this section prevails over a conflicting provision of Article VII, Section 3, of this Constitution to the extent of the conflict.

Repealed proposed by Acts 2019, 86th Leg., H.J.R. 38, § 3, (Prop. 4) at the November 5, 2019 election.

Sec. 24. [Proposed Enactment by Proposition No. 4, November 5, 2019] [Prohibition of Legislature Imposing Tax on Individual's Income]; [See Editor's Note for contingency information]

The legislature may not impose a tax on the net incomes of individuals, including an individual's share of partnership and unincorporated association income.

Adoption proposed by Acts 2019, 86th Leg., H.J.R. No. 38, § 2, (Prop. 4) at the November 5, 2019 election.

Sec. 29. Transfer Tax on Transaction Conveying Fee Simple Title to Real Property Prohibited.

(a) After January 1, 2016, no law may be enacted that imposes a transfer tax on a transaction that conveys fee simple title to real property.

(b) This section does not prohibit:

(1) the imposition of a general business tax measured by business activity;

(2) the imposition of a tax on the production of minerals;

(3) the imposition of a tax on the issuance of title insurance; or

(4) the change of a rate of a tax in existence on January 1, 2016.

HISTORY: Adoption proposed by Acts 2015, 84th Leg., S.J.R. No. 1, § 2, approved by the electorate (Prop. 1) at the November 3, 2015 election.

ARTICLE IX

Counties

Sec. 1. Creation and Modification of Counties.

The Legislature shall have power to create counties for the convenience of the people subject to the following provisions:

(1) Within the territory of any county or counties, no new county shall be created with a less area than seven hundred square miles, nor shall any such county now existing be reduced to a less area than seven hundred square miles. No new counties shall be created so as to approach nearer than twelve miles of the county seat of any county from which it may in whole or in part be taken. Counties of a less area than nine hundred, but of seven hundred or more square miles, within counties now existing, may be created by a two-thirds vote of each House of the Legislature, taken by yeas and nays and entered on the journals. Any county now existing may be reduced to an area of not less than seven hundred square miles by a like two-thirds vote. When any part of a county is stricken off and attached to, or created into another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing, of the county from which it was taken, in such manner as may be prescribed by law.

(2) No part of any existing county shall be detached from it and attached to another existing county until the proposition for such change shall have been submitted, in such manner as may be provided by law, to a vote of the voters of both counties, and shall have received a majority of those voting on the question in each.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 1-A. Authority of Coastal Counties to Regulate Motor Vehicles and Littering on Beaches.

The Legislature may authorize the governing body of any county bordering on the Gulf of Mexico or the tidewater limits thereof to regulate and restrict the speed, parking and travel of motor vehicles on beaches available to the public by virtue of public right and the littering of such beaches.

Nothing in this amendment shall increase the rights of any riparian or littoral landowner with regard to beaches available to the public by virtue of public right or submerged lands.

The Legislature may enact any laws not inconsistent with this Section which it may deem necessary to permit said counties to implement, enforce and administer the provisions contained herein.

Should the Legislature enact legislation in anticipation of the adoption of this amendment, such legislation shall not be invalid by reason of its anticipatory character.

Sec. 2. Removal of County Seats.

The Legislature shall pass laws regulating the manner of removing county seats, but no county seat situated within five miles of the geographical centre of the county shall be removed, except by a vote of two-thirds of all the voters voting on the subject. A majority of such voters, however, voting at such election, may remove a county seat from a point more than five miles from the geographical centre of the county to a point within five miles of such centre, in either case the centre to be determined by a certificate from the Commissioner of the General Land Office.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 3. [Repealed].

Repeal proposed by Acts 1969, 61st Leg., H.J.R. No. 3, § 1, approved by the electorate (Prop. 1) at the August 5, 1969 election.

Sec. 4. County - Wide Hospital Districts in Certain Large Counties.

The Legislature may by law authorize the creation of county-wide Hospital Districts in counties having a population

in excess of 190,000 and in Galveston County, with power to issue bonds for the purchase, acquisition, construction, maintenance and operation of any county owned hospital, or where the hospital system is jointly operated by a county and city within the county, and to provide for the transfer to the county-wide Hospital District of the title to any land, buildings or equipment, jointly or separately owned, and for the assumption by the district of any outstanding bonded indebtedness theretofore issued by any county or city for the establishment of hospitals or hospital facilities; to levy a tax not to exceed seventy-five ($.75) cents on the One Hundred ($100.00) Dollars valuation of all taxable property within such district, provided, however, that such district shall be approved at an election held for that purpose, and that only qualified voters in such county shall vote therein; provided further, that such Hospital District shall assume full responsibility for providing medical and hospital care to needy inhabitants of the county, and thereafter such county and cities therein shall not levy any other tax for hospital purposes; and provided further that should such Hospital District construct, maintain and support a hospital or hospital system, that the same shall never become a charge against the State of Texas, nor shall any direct appropriation ever be made by the Legislature for the construction, maintenance or improvement of the said hospital or hospitals.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 5. Creation and Funding of Hospital Districts in City of Amarillo, Wichita County, and Jefferson County.

(a) The Legislature may by law authorize the creation of two hospital districts, one to be coextensive with and have the same boundaries as the incorporated City of Amarillo, as such boundaries now exist or as they may hereafter be lawfully extended, and the other to be coextensive with Wichita County.

If such district or districts are created, they may be authorized to levy a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars ($100.00) valuation of taxable property within the district; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified voters. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of Seventy-five Cents (75¢) per One Hundred Dollars ($100.00) valuation, and no election shall be required by subsequent changes in the boundaries of the City of Amarillo.

If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the district may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the district shall by resolution assume all such responsibilities and shall assume all of the liabilities and obligations (including bonds and warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge such obligations, liabilities, and responsibilities, and to maintain and operate the hospital system, and the Legislature may authorize the district to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said Seventy-five Cents (75¢) tax. The Legislature shall provide for transfer of title to properties to the district.

(b) The Legislature may by law permit the County of Potter (in which the City of Amarillo is partially located) to render financial aid to that district by paying a part of the expenses of operating and maintaining the system and paying a part of the debts of the district (whether assumed or created by the district) and may authorize the levy of a tax not to exceed Ten Cents (10¢) per One Hundred Dollars ($100.00) valuation (in addition to other taxes permitted by this Constitution) upon all property within the county but without the City of Amarillo at the time such levy is made for such purposes. If such tax is authorized, the district shall by resolution assume the responsibilities, obligations, and liabilities of the county in the manner and to the extent hereinabove provided for political subdivisions having boundaries coextensive with the district, and the county shall not thereafter levy taxes (other than herein provided) for hospital purposes nor for providing hospital care for needy individuals of the county.

(c) The Legislature may by law authorize the creation of a hospital district within Jefferson County, the boundaries of which shall include only the area comprising the Jefferson County Drainage District No. 7 and the Port Arthur Independent School District, as such boundaries existed on the first day of January, 1957, with the power to issue bonds for the sole purpose of purchasing a site for, and the construction and initial equipping of, a hospital system, and with the power to levy a tax of not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars ($100.00) valuation of property therein for the purpose of paying the principal and interest on such bonds.

The bonds may not be issued or such tax be levied until approved by such voters.

The district shall not have the power to levy any tax for maintenance or operation of the hospital or facilities, but shall contract with other political subdivisions of the state or private individuals, associations, or corporations for such purposes.

If the district hereinabove authorized is finally created, no other hospital district may be created embracing any part of the territory within its boundaries, but the Legislature by law may authorize the creation of a hospital district incorporating therein the remainder of Jefferson County, having the powers and duties and with the limitations presently provided by Article IX, Section 4, of the Constitution of Texas. A majority of those participating in the election voting in favor of the district shall be necessary for bonds to be issued.

(d) Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be invalid because of their anticipatory character.

(e) The legislature by law may authorize Randall County to render financial assistance to the Amarillo Hospital District by paying part of the district's operating and maintenance expenses and the debts assumed or created by the

district and to levy a tax for that purpose in an amount not to exceed seventy-five cents (75¢) on the One Hundred Dollars ($100.00) valuation on all property in Randall County that is not within the boundaries of the City of Amarillo or the South Randall County Hospital District. This tax is in addition to any other tax authorized by this constitution. If the tax is authorized by the legislature and approved by the voters of the area to be taxed, the Amarillo Hospital District shall, by resolution, assume the responsibilities, obligations, and liabilities of Randall County in accordance with Subsection (a) of this section and, except as provided by this subsection, Randall County may not levy taxes or issue bonds for hospital purposes or for providing hospital care for needy inhabitants of the county.

(f) Notwithstanding the provisions of Article IX of this constitution, if a hospital district was created or authorized under a constitutional provision that includes a description of the district's boundaries or jurisdiction, the legislature by law may authorize the district to change its boundaries or jurisdiction. The change must be approved by a majority of the qualified voters of the district voting at an election called and held for that purpose.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 6. Lamar County Hospital District; Abolition; Transfer of Assets [Repealed].

Repeal proposed by Acts 1999, 76th Leg., H.J.R. No. 62, § 55(3), approved by the electorate (Prop. 3) at the November 2, 1999 election.

Sec. 7. Hidalgo County Hospital District; Creation; Tax Rate [Repealed].

Repealed by Acts 2013, 83rd Leg., H.J.R. No. 147 and by Acts 2013, 83rd Leg., S.J.R. No. 54, effective November 5, 2013.

Proposed repeal by Acts 2013, 83rd Leg., H.J.R. No. 147; proposed repeal by Acts 2013, 83rd Leg., S.J.R. No. 54, approved by the electorate (Prop. 8) at the November 5, 2013 election.

Sec. 8. Creation of Funding of Hospital District in County Commissioners Precinct No. 4 of Comanche County.

(a) The Legislature may by law authorize the creation of a Hospital District to be co-extensive with the limits of County Commissioners Precinct No. 4 of Comanche County, Texas.

If such District is created, it may be authorized to levy a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar ($100) valuation of taxable property within the District; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified voters. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of seventy-five cents (75¢) per One Hundred Dollar ($100) valuation, and no election shall be required by subsequent changes in the boundaries of the Commissioners Precinct No. 4 of Comanche County.

If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the District may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the District shall by resolution assume all such responsibilities and shall assume all of the liabilities and obligations (including bonds and warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge such obligations, liabilities, and responsibilities, and to maintain and operate the hospital system, and the Legislature may authorize the District to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said seventy-five cent (75¢) tax. The Legislature shall provide for transfer of title to properties to the District.

(b) The Legislature may by law permit the County of Comanche to render financial aid to that District by paying a part of the expenses of operating and maintaining the system and paying a part of the debts of the District (whether assumed or created by the District) and may authorize the levy of a tax not to exceed ten cents (10¢) per One Hundred Dollar ($100) valuation (in addition to other taxes permitted by this Constitution) upon all property within the County but without the County Commissioners Precinct No. 4 of Comanche County at the time such levy is made for such purposes. If such tax is authorized, the District shall by resolution assume the responsibilities, obligations, and liabilities of the County in the manner and to the extent hereinabove provided for political subdivisions having boundaries co-extensive with the District, and the County shall not thereafter levy taxes (other than herein provided) for hospital purposes nor for providing hospital care for needy individuals of the County.

(c) Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be invalid because of their anticipatory character.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 9. Creation, Operation and Dissolution of Hospital Districts.

The Legislature may by general or special law provide for the creation, establishment, maintenance and operation of hospital districts composed of one or more counties or all or any part of one or more counties with power to issue bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same, for hospital purposes; providing for the transfer to the hospital district of the title to any land, buildings, improvements and

equipment located wholly within the district which may be jointly or separately owned by any city, town or county, providing that any district so created shall assume full responsibility for providing medical and hospital care for its needy inhabitants and assume the outstanding indebtedness incurred by cities, towns and counties for hospital purposes prior to the creation of the district, if same are located wholly within its boundaries, and a pro rata portion of such indebtedness based upon the then last approved tax assessment rolls of the included cities, towns and counties if less than all the territory thereof is included within the district boundaries; providing that after its creation no other municipality or political subdivision shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of the district; providing for the levy of annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such district for the purpose of meeting the requirements of the district's bonds, the indebtedness assumed by it and its maintenance and operating expenses, providing that such district shall not be created or such tax authorized unless approved by a majority of the qualified voters thereof voting at an election called for the purpose; and providing further that the support and maintenance of the district's hospital system shall never become a charge against or obligation of the State of Texas nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such district.

Provided, however, that no district shall be created by special law except after thirty (30) days' public notice to the district affected, and in no event may the Legislature provide for a district to be created without the affirmative vote of a majority of the qualified voters in the district concerned.

The Legislature may also provide for the dissolution of hospital districts provided that a process is afforded by statute for:

(1) determining the desire of a majority of the qualified voters within the district to dissolve it;

(2) disposing of or transferring the assets, if any, of the district; and

(3) satisfying the debts and bond obligations, if any, of the district, in such manner as to protect the interests of the citizens within the district, including their collective property rights in the assets and property of the district, provided, however, that any grant from federal funds, however dispensed, shall be considered an obligation to be repaid in satisfaction and provided that no election to dissolve shall be held more often than once each year. In such connection, the statute shall provide against disposal or transfer of the assets of the district except for due compensation unless such assets are transferred to another governmental agency, such as a county, embracing such district and using such transferred assets in such a way as to benefit citizens formerly within the district.

Sec. 9A. Hospital Districts: Regulation of Health Care Services.

The legislature by law may determine the health care services a hospital district is required to provide, the requirements a resident must meet to qualify for services, and any other relevant provisions necessary to regulate the provision of health care to residents.

Sec. 9B. Hospital Districts in Counties with Population of 75,000 or Less.

The legislature by general or special law may provide for the creation, establishment, maintenance, and operation of hospital districts located wholly in a county with a population of 75,000 or less, according to the most recent federal decennial census, and may authorize the commissioners court to levy a tax on the ad valorem property located in the district for the support and maintenance of the district. A district may not be created or a tax levied unless the creation and tax are approved by a majority of the registered voters who reside in the district. The legislature shall set the maximum tax rate a district may levy. The legislature may provide that the county in which the district is located may issue general obligation bonds for the district and provide other services to the district. The district may provide hospital care, medical care, and other services authorized by the legislature.

Sec. 10. (Blank).

Sec. 11. Creation and Funding of Hospital Districts in Ochiltree, Castro, Hansford, and Hopkins Counties.

(a) The Legislature may by law authorize the creation of hospital districts in Ochiltree, Castro, Hansford and Hopkins Counties, each district to be coextensive with the limits of such county.

(b) If any such district is created, it may be authorized to levy a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollar ($100) valuation of taxable property within the district; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified voters. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of Seventy-five Cents (75¢) per One Hundred Dollar ($100) valuation.

(c) If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the district may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the district shall by resolution assume all such responsibilities and shall assume all of the liabilities and obligations (including bonds and warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge obligations, liabilities, and responsibilities, and to maintain and operate the

hospital system, and the Legislature may authorize the district to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said Seventy-five Cent (75¢) tax. The Legislature shall provide for transfer of title to properties to the district.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 12. Airport Authorities.

(a) The Legislature may by law provide for the creation, establishment, maintenance and operation of Airport Authorities composed of one or more counties, with power to issue general obligation bonds, revenue bonds, either or both of them, for the purchase, acquisition by the exercise of the power of eminent domain or otherwise, construction, reconstruction, repair or renovation of any airport or airports, landing fields and runways, airport buildings, hangars, facilities, equipment, fixtures, and any and all property, real or personal, necessary to operate, equip and maintain an airport.

(b) The Legislature shall provide for the option by the governing body of the city or cities whose airport facilities are served by certificated airlines and whose facility or some interest therein, is proposed to be or has been acquired by the Authority, to either appoint or elect a Board of Directors of said Authority. If the Directors are appointed such appointment shall be made by the County Commissioners Court after consultation with and consent of the governing body or bodies of such city or cities. If the Board of Directors is elected they shall be elected by the qualified voters of the county which chooses to elect the Directors to represent that county. Directors shall serve without compensation for a term fixed by the Legislature not to exceed six (6) years, shall be selected on the basis of the proportionate population of each county based upon the last preceding Federal Census, and shall be residents of such county. No county shall have less than one (1) member on the Board of Directors.

(c) The Legislature shall provide for the holding of an election in each county proposing the creation of an Authority to be called by the Commissioners Court or Commissioners Courts, as the case may be, upon petition of five per cent (5%) of the qualified voters within the county or counties. The elections must be held on the same day if more than one county is included. No more than one (1) such election may be called in a county until after the expiration of one (1) year in the event such an election has failed, and thereafter only upon a petition of ten per cent (10%) of the qualified voters being presented to the Commissioners Court or Commissioners Courts of the county or counties in which such an election has failed. In the event that two or more counties vote on the proposition of the creation of an Authority therein, the proposition shall not be deemed to carry unless the majority of the qualified voters in each county voting thereon vote in favor thereof. An Airport Authority may be created and be composed of the county or counties that vote in favor of its creation if separate propositions are submitted to the voters of each county so that they may vote for a two or more county Authority or a single county Authority.

(d) The Legislature shall provide for the appointment by the Board of Directors of an Assessor and Collector of Taxes in the Authority, whether constituted of one or more counties, whose duty it shall be to assess all taxable property, both real and personal, and collect the taxes thereon, based upon the tax rolls approved by the Board of Directors, the tax to be levied not to exceed Seventy-Five Cents (75¢) per One Hundred Dollars ($100) assessed valuation of the property. The property of state regulated common carriers required by law to pay a tax upon intangible assets shall not be subject to taxation by the Authority. The taxable property shall be assessed on a valuation not to exceed the market value and shall be equal and uniform throughout the Authority as is otherwise provided by the Constitution.

(e) The Legislature shall authorize the purchase or acquisition by the Authority of any existing airport facility publicly owned and financed and served by certificated airlines, in fee or of any interest therein, or to enter into any lease agreement therefor, upon such terms and conditions as may be mutually agreeable to the Authority and the owner of such facilities, or authorize the acquisition of same through the exercise of the power of eminent domain. In the event of such acquisition, if there are any general obligation bonds that the owner of the publicly owned airport facility has outstanding, the same shall be fully assumed by the Authority and sufficient taxes levied by the Authority to discharge said outstanding indebtedness. If any city or owner has outstanding revenue bonds where the revenues of the airport have been pledged or said bonds constitute a lien against the airport facilities, the Authority shall assume and discharge all the obligations of the city under the ordinances and bond indentures under which said revenue bonds have been issued and sold.

(f) Any city which owns airport facilities not serving certificated airlines which are not purchased or acquired or taken over as herein provided by such Authority shall have the power to operate the same under the existing laws or as the same may hereafter be amended.

(g) Any such Authority when created may be granted the power and authority to promulgate, adopt and enforce appropriate zoning regulations to protect the airport from hazards and obstructions which would interfere with the use of the airport and its facilities for landing and take-off.

(h) An additional county or counties may be added to an existing Authority if a petition of five per cent (5%) of the qualified voters is filed with and an election is called by the Commissioners Court of the county or counties seeking admission to an Authority. If the vote is favorable, then admission may be granted to such county or counties by the Board of Directors of the then existing Authority upon such terms and conditions as they may agree upon and evidenced by a resolution approved by two-thirds (2/3rds) of the then existing Board of Directors. The county or counties that may

be so added to the then existing Authority shall be given representation on the Board of Directors by adding additional directors in proportion to their population according to the last preceding Federal Census.

Amendment proposed by Acts 1999, 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 13. Participation of Municipalities and other Political Subdivisions in Establishment and Operation of Mental Health, Mental Retardation, or Public Health Services.

Notwithstanding any other section of this article, the Legislature in providing for the creation, establishment, maintenance and operation of a hospital district, shall not be required to provide that such district shall assume full responsibility for the establishment, maintenance, support, or operation of mental health services or mental retardation services including the operation of any community mental health centers, community mental retardation centers or community mental health and mental retardation centers which may exist or be thereafter established within the boundaries of such district, nor shall the Legislature be required to provide that such district shall assume full responsibility of public health department units and clinics and related public health activities or services, and the Legislature shall not be required to restrict the power of any municipality or political subdivision to levy taxes or issue bonds or other obligations or to expend public moneys for the establishment, maintenance, support, or operation of mental health services, mental retardation services, public health units or clinics or related public health activities or services or the operation of such community mental health or mental retardation centers within the boundaries of the hospital districts; and unless a statute creating a hospital district shall expressly prohibit participation by any entity other than the hospital district in the establishment, maintenance, or support of mental health services, mental retardation services, public health units or clinics or related public health activities within or partly within the boundaries of any hospital district, any municipality or any other political subdivision or state-supported entity within the hospital district may participate in the establishment, maintenance, and support of mental health services, mental retardation services, public health units and clinics and related public health activities and may levy taxes, issue bonds or other obligations, and expend public moneys for such purposes as provided by law.

Sec. 14. County Facilities for Indigent Inhabitants.

Each county in the State may provide, in such manner as may be prescribed by law, a Manual Labor Poor House and Farm, for taking care of, managing, employing and supplying the wants of its indigent and poor inhabitants.

Amendment proposed by Acts 2001 77th Leg., H.J.R. No. 75, § 6.01, approved by electorate (Prop 12) at the November 6, 2001 election (renumbered from Art. XVI, § 8).

ARTICLE XI

Municipal Corporations

Sec. 1. Counties As Legal Subdivisions.

The several counties of this State are hereby recognized as legal subdivisions of the State.

Sec. 2. Jails, Courthouses, Bridges, and Roads.

The construction of jails, court-houses and bridges and the laying out, construction and repairing of county roads shall be provided for by general laws.

Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election.

Sec. 3. County or Municipal Investment in or Donation or Loan to Private Corporation or Association Prohibited.

No county, city, or other municipal corporation shall hereafter become a subscriber to the capital of any private corporation or association, or make any appropriation or donation to the same, or in anywise loan its credit; but this

shall not be construed to in any way affect any obligation heretofore undertaken pursuant to law or to prevent a county, city, or other municipal corporation from investing its funds as authorized by law.

Sec. 4. Cities and towns with Population of 5,000 or Less: Chartered by General Law; Taxes; Fines, Forfeitures, and Penalties.

Cities and towns having a population of five thousand or less may be chartered alone by general law. They may levy, assess and collect such taxes as may be authorized by law, but no tax for any purpose shall ever be lawful for any one year which shall exceed one and one-half per cent of the taxable property of such city; and all taxes shall be collectible only in current money, and all licenses and occupation taxes levied, and all fines, forfeitures and penalties accruing to said cities and towns shall be collectible only in current money.

Sec. 5. Cities of More than 5,000 Population: Adoption or Amendment of Charters; Taxes; Debt Restrictions.

(a) Cities having more than five thousand (5000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters. If the number of inhabitants of cities that have adopted or amended their charters under this section is reduced to five thousand (5000) or fewer, the cities still may amend their charters by a majority vote of the qualified voters of said city at an election held for that purpose. The adoption or amendment of charters is subject to such limitations as may be prescribed by the Legislature, and no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State. Said cities may levy, assess and collect such taxes as may be authorized by law or by their charters; but no tax for any purpose shall ever be lawful for any one year, which shall exceed two and one-half per cent. of the taxable property of such city, and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and creating a sinking fund of at least two per cent. thereon, except as provided by Subsection (b). Furthermore, no city charter shall be altered, amended or repealed oftener than every two years.

(b) To increase efficiency and effectiveness to the greatest extent possible, the legislature may by general law authorize cities to enter into interlocal contracts with other cities or counties without meeting the assessment and sinking fund requirements under Subsection (a).

Amendment proposed by Acts 2011, 82nd Leg., S.J.R. No. 26, approved by the electorate (Prop. 5) at the November 8, 2011 election.

Sec. 6. Taxes to Pay Indebtedness [Repealed].

Repeal of section proposed by Acts 1999, 76th Leg., H.J.R. No. 62, approved by the electorate (Prop. 3) at the November 2, 1999 election.

Sec. 7. Counties and Cities on Gulf of Mexico; Tax for Sea Walls, Breakwaters, and Sanitation; Bonds; Condemnation of Right of Way.

(a) All counties and cities bordering on the coast of the Gulf of Mexico are hereby authorized upon a vote of the majority of the qualified voters voting thereon at an election called for such purpose to levy and collect such tax for construction of sea walls, breakwaters, or sanitary purposes, as may now or may hereafter be authorized by law, and may create a debt for such works and issue bonds in evidence thereof. But no debt for any purpose shall ever be incurred in any manner by any city or county unless provision is made, at the time of creating the same, for levying and collecting a sufficient tax to pay the interest thereon and provide at least two per cent (2%) as a sinking fund, except as provided by Subsection (b); and the condemnation of the right of way for the erection of such works shall be fully provided for.

(b) To increase efficiency and effectiveness to the greatest extent possible, the legislature may by general law authorize cities or counties to enter into interlocal contracts with other cities or counties without meeting the tax and sinking fund requirements under Subsection (a).

Amendment approved by electorate at the November 6, 2001 election; amendment proposed by Acts 2011, 82nd Leg., S.J.R. No. 26, approved by the electorate (Prop. 5) at the November 8, 2011 election.

Sec. 8. Donation of Public Domain to Aid in Construction of Sea Walls or Breakwaters.

The counties and cities on the Gulf Coast being subject to calamitous overflows, and a very large proportion of the general revenue being derived from those otherwise prosperous localities, the Legislature is especially authorized to aid by donation of such portion of the public domain as may be deemed proper, and in such mode as may be provided by law, the construction of sea walls, or breakwaters, such aid to be proportioned to the extent and value of the works constructed, or to be constructed, in any locality.

Sec. 9. County or Municipal Property Held for Public Purpose Exempt from Forced Sale and Taxation.

The property of counties, cities and towns, owned and held only for public purposes, such as public buildings and the sites therefor, fire engines and the furniture thereof, and all property used, or intended for extinguishing fires, public

grounds and all other property devoted exclusively to the use and benefit of the public shall be exempt from forced sale and from taxation, provided, nothing herein shall prevent the enforcement of the vendors lien, the mechanics or builders lien, or other liens now existing.

Sec. 10. [Repealed].

Repeal proposed by Acts 1969, 61st Leg., H.J.R. No. 3, § 1, approved by the electorate (Prop. 1) at the August 5, 1969 election.

Sec. 11. Term of Office Exceeding Two Years in Home Rule and General Law Cities; Vacancies.

(a) A Home Rule City may provide by charter or charter amendment, and a city, town or village operating under the general laws may provide by majority vote of the qualified voters voting at an election called for that purpose, for a longer term of office than two (2) years for its officers, either elective or appointive, or both, but not to exceed four (4) years; provided, however, that tenure under Civil Service shall not be affected hereby; provided, however, that such officers, elective or appointive, are subject to Section 65(b), Article XVI, of this Constitution, providing for automatic resignation in certain circumstances, in the same manner as a county or district officer to which that section applies.

(b) A municipality so providing a term exceeding two (2) years but not exceeding four (4) years for any of its non-civil service officers must elect all of the members of its governing body by majority vote of the qualified voters in such municipality.

(c) Any vacancy or vacancies occurring on such governing body shall not be filled by appointment but must be filled by majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur except that the municipality may provide by charter or charter amendment the procedure for filling a vacancy occurring on its governing body for an unexpired term of 12 months or less.

Amendment proposed by Acts 2001, 77th Leg., H.J.R. No. 75, approved by the electorate (Prop. 12) at the November 6, 2001 election; amendment proposed by Acts 2013, 83rd Leg., H.J.R. No. 87, approved by the electorate (Prop. 7) at the November 5, 2013 election.

Sec. 12. Expenditures for Relocation or Replacement of Sanitation Sewer or Water Laterals on Private Property.

The legislature by general law may authorize a city or town to expend public funds for the relocation or replacement of sanitation sewer laterals or water laterals on private property if the relocation or replacement is done in conjunction with or immediately following the replacement or relocation of sanitation sewer mains or water mains serving the property. The law must authorize the city or town to affix, with the consent of the owner of the private property, a lien on the property for the cost of relocating or replacing the laterals on the property and must provide that the cost shall be assessed against the property with repayment by the property owner to be amortized over a period not to exceed five years at a rate of interest to be set as provided by the law. The lien may not be enforced until after five years have expired since the date the lien was affixed.

Sec. 13. Classification of Municipal Functions.

(a) Notwithstanding any other provision of this constitution, the legislature may by law define for all purposes those functions of a municipality that are to be considered governmental and those that are proprietary, including reclassifying a function's classification assigned under prior statute or common law.

(b) This section applies to laws enacted by the 70th Legislature, Regular Session, 1987, and to all subsequent regular or special sessions of the legislature.

ARTICLE XVI

General Provisions

Sec. 15. Separate and Community Property of Spouses.

All property, both real and personal, of a spouse owned or claimed before marriage, and that acquired afterward by gift, devise or descent, shall be the separate property of that spouse; and laws shall be passed more clearly defining the rights of the spouses, in relation to separate and community property; provided that persons about to marry and spouses, without the intention to defraud pre-existing creditors, may by written instrument from time to time partition between themselves all or part of their property, then existing or to be acquired, or exchange between themselves the

community interest of one spouse or future spouse in any property for the community interest of the other spouse or future spouse in other community property then existing or to be acquired, whereupon the portion or interest set aside to each spouse shall be and constitute a part of the separate property and estate of such spouse or future spouse; spouses also may from time to time, by written instrument, agree between themselves that the income or property from all or part of the separate property then owned or which thereafter might be acquired by only one of them, shall be the separate property of that spouse; if one spouse makes a gift of property to the other that gift is presumed to include all the income or property which might arise from that gift of property; spouses may agree in writing that all or part of their community property becomes the property of the surviving spouse on the death of a spouse; and spouses may agree in writing that all or part of the separate property owned by either or both of them shall be the spouses' community property.

HISTORY: Amendment proposed by Acts 1999, 76th Leg., H.J.R. No. 36, approved by electorate (Prop. 15) at the November 2, 1999 Constitutional Amendment Election.

Sec. 40. Holding More Than One Public Office; Exceptions; Right of Officeholder to Vote.

(a) No person shall hold or exercise at the same time, more than one civil office of emolument, except that of Justice of the Peace, County Commissioner, Notary Public and Postmaster, Officer of the National Guard, the National Guard Reserve, and the Officers Reserve Corps of the United States and enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, and retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers and enlisted members of the Texas State Guard and any other active militia or military force organized under state law, and the officers and directors of soil and water conservation districts, unless otherwise specially provided herein. Provided, that nothing in this Constitution shall be construed to prohibit an officer or enlisted man of the National Guard, the National Guard Reserve, the Texas State Guard, and any other active militia or military force organized under state law, or an officer in the Officers Reserve Corps of the United States, or an enlisted man in the Organized Reserves of the United States, or retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers of the State soil and water conservation districts, from holding at the same time any other office or position of honor, trust or profit, under this State or the United States, or from voting at any election, general, special or primary in this State when otherwise qualified.

(b) State employees or other individuals who receive all or part of their compensation either directly or indirectly from funds of the State of Texas and who are not State officers, shall not be barred from serving as members of the governing bodies of school districts, cities, towns, or other local governmental districts. Such State employees or other individuals may not receive a salary for serving as members of such governing bodies, except that:

(1) a schoolteacher, retired schoolteacher, or retired school administrator may receive compensation for serving as a member of a governing body of a school district, city, town, or local governmental district, including a water district created under Section 59, Article XVI, or Section 52, Article III; and

(2) a faculty member or retired faculty member of a public institution of higher education may receive compensation for serving as a member of a governing body of a water district created under Section 59 of this article or under Section 52, Article III, of this constitution.

(c) It is further provided that a nonelective State officer may hold other nonelective offices under the State or the United States, if the other office is of benefit to the State of Texas or is required by the State or Federal law, and there is no conflict with the original office for which he receives salary or compensation.

(d) No member of the Legislature of this State may hold any other office or position of profit under this State, or the United States, except as a notary public if qualified by law.

(e) **[Proposed enactment by Acts 2019, 86th Leg., H.J.R. No. 34, Prop. No. 3 contingent on Voter Approval – See Editor's Note]** Notwithstanding Subsections (a) and (c) of this section, a person may hold more than one office as an elected or appointed municipal judge in more than one municipality at the same time.

Amendment proposed by 1997 75th Leg., S.J.R. No. 36, approved by electorate at the November 4, 1997 election; amendment proposed by 1999 76th Leg., S.J.R. No. 26, was not approved by electorate (Prop. 5) at the November 2, 1999 election; amendment proposed by 2001 77th Leg., H.J.R. No. 85, approved by electorate at the November 6, 2001 election; amendment proposed by 2003 78th Leg., S.J.R. No. 19, approved by electorate at the September 13, 2003 election; amendment proposed by Acts 2009, 81st Leg., H.J.R. No. 127, § 1, approved by the electorate (Prop. 7) at the November 3, 2009 election; amendment proposed by Acts 2019 86th Leg., H.J.R. No. 72, § 1 at the November 5, 2019 election.

Sec. 50. Protection of Homestead from Forced or Unauthorized Sale; Exceptions; Requirements for Mortgage Loans and Other Obligations Secured by Homestead

(a) The homestead of a family, or of a single adult person, shall be, and is hereby protected from forced sale, for the payment of all debts except for:

(1) the purchase money thereof, or a part of such purchase money;

(2) the taxes due thereon;

(3) an owelty of partition imposed against the entirety of the property by a court order or by a written agreement of the parties to the partition, including a debt of one spouse in favor of the other spouse resulting from a division or an award of a family homestead in a divorce proceeding;

(4) the refinance of a lien against a homestead, including a federal tax lien resulting from the tax debt of both spouses, if the homestead is a family homestead, or from the tax debt of the owner;

(5) work and material used in constructing new improvements thereon, if contracted for in writing, or work and material used to repair or renovate existing improvements thereon if:

(A) the work and material are contracted for in writing, with the consent of both spouses, in the case of a family homestead, given in the same manner as is required in making a sale and conveyance of the homestead;

(B) the contract for the work and material is not executed by the owner or the owner's spouse before the fifth day after the owner makes written application for any extension of credit for the work and material, unless the work and material are necessary to complete immediate repairs to conditions on the homestead property that materially affect the health or safety of the owner or person residing in the homestead and the owner of the homestead acknowledges such in writing;

(C) the contract for the work and material expressly provides that the owner may rescind the contract without penalty or charge within three days after the execution of the contract by all parties, unless the work and material are necessary to complete immediate repairs to conditions on the homestead property that materially affect the health or safety of the owner or person residing in the homestead and the owner of the homestead acknowledges such in writing; and

(D) the contract for the work and material is executed by the owner and the owner's spouse only at the office of a third-party lender making an extension of credit for the work and material, an attorney at law, or a title company;

(6) an extension of credit that:

(A) is secured by a voluntary lien on the homestead created under a written agreement with the consent of each owner and each owner's spouse;

(B) is of a principal amount that when added to the aggregate total of the outstanding principal balances of all other indebtedness secured by valid encumbrances of record against the homestead does not exceed 80 percent of the fair market value of the homestead on the date the extension of credit is made;

(C) is without recourse for personal liability against each owner and the spouse of each owner, unless the owner or spouse obtained the extension of credit by actual fraud;

(D) is secured by a lien that may be foreclosed upon only by a court order;

(E) does not require the owner or the owner's spouse to pay, in addition to any interest or any bona fide discount points used to buy down the interest rate, any fees to any person that are necessary to originate, evaluate, maintain, record, insure, or service the extension of credit that exceed, in the aggregate, two percent of the original principal amount of the extension of credit, excluding fees for:

(i) an appraisal performed by a third party appraiser;

(ii) a property survey performed by a state registered or licensed surveyor;

(iii) a state base premium for a mortgagee policy of title insurance with endorsements established in accordance with state law; or

(iv) a title examination report if its cost is less than the state base premium for a mortgagee policy of title insurance without endorsements established in accordance with state law;

(F) is not a form of open-end account that may be debited from time to time or under which credit may be extended from time to time unless the open-end account is a home equity line of credit;

(G) is payable in advance without penalty or other charge;

(H) is not secured by any additional real or personal property other than the homestead;

(I) [Repealed]

(J) may not be accelerated because of a decrease in the market value of the homestead or because of the owner's default under other indebtedness not secured by a prior valid encumbrance against the homestead;

(K) is the only debt secured by the homestead at the time the extension of credit is made unless the other debt was made for a purpose described by Subsections (a)(1)—(a)(5) or Subsection (a)(8) of this section;

(L) is scheduled to be repaid:

(i) in substantially equal successive periodic installments, not more often than every 14 days and not less often than monthly, beginning no later than two months from the date the extension of credit is made, each of which equals or exceeds the amount of accrued interest as of the date of the scheduled installment; or

(ii) if the extension of credit is a home equity line of credit, in periodic payments described under Subsection (t)(8) of this section;

(M) is closed not before:

(i) the 12th day after the later of the date that the owner of the homestead submits a loan application to the lender for the extension of credit or the date that the lender provides the owner a copy of the notice prescribed by Subsection (g) of this section;

(ii) one business day after the date that the owner of the homestead receives a copy of the loan application if not previously provided and a final itemized disclosure of the actual fees, points, interest, costs, and charges that will be charged at closing. If a bona fide emergency or another good cause exists and the lender obtains the

written consent of the owner, the lender may provide the documentation to the owner or the lender may modify previously provided documentation on the date of closing; and

(iii) the first anniversary of the closing date of any other extension of credit described by Subsection (a)(6) of this section secured by the same homestead property, except a refinance described by Paragraph (Q)(x)(f) of this subdivision, unless the owner on oath requests an earlier closing due to a state of emergency that:

(a) has been declared by the president of the United States or the governor as provided by law; and

(b) applies to the area where the homestead is located;

(N) is closed only at the office of the lender, an attorney at law, or a title company;

(O) permits a lender to contract for and receive any fixed or variable rate of interest authorized under statute;

(P) is made by one of the following that has not been found by a federal regulatory agency to have engaged in the practice of refusing to make loans because the applicants for the loans reside or the property proposed to secure the loans is located in a certain area:

(i) a bank, savings and loan association, savings bank, or credit union doing business under the laws of this state or the United States, including a subsidiary of a bank, savings and loan association, savings bank, or credit union described by this subparagraph;

(ii) a federally chartered lending instrumentality or a person approved as a mortgagee by the United States government to make federally insured loans;

(iii) a person licensed to make regulated loans, as provided by statute of this state;

(iv) a person who sold the homestead property to the current owner and who provided all or part of the financing for the purchase;

(v) a person who is related to the homestead property owner within the second degree of affinity or consanguinity; or

(vi) a person regulated by this state as a mortgage banker or mortgage company; and

(Q) is made on the condition that:

(i) the owner of the homestead is not required to apply the proceeds of the extension of credit to repay another debt except debt secured by the homestead or debt to another lender;

(ii) the owner of the homestead not assign wages as security for the extension of credit;

(iii) the owner of the homestead not sign any instrument in which blanks relating to substantive terms of agreement are left to be filled in;

(iv) the owner of the homestead not sign a confession of judgment or power of attorney to the lender or to a third person to confess judgment or to appear for the owner in a judicial proceeding;

(v) at the time the extension of credit is made, the owner of the homestead shall receive a copy of the final loan application and all executed documents signed by the owner at closing related to the extension of credit;

(vi) the security instruments securing the extension of credit contain a disclosure that the extension of credit is the type of credit defined by Subsection (a)(6) of this section;

(vii) within a reasonable time after termination and full payment of the extension of credit, the lender cancel and return the promissory note to the owner of the homestead and give the owner, in recordable form, a release of the lien securing the extension of credit or a copy of an endorsement and assignment of the lien to a lender that is refinancing the extension of credit;

(viii) the owner of the homestead and any spouse of the owner may, within three days after the extension of credit is made, rescind the extension of credit without penalty or charge;

(ix) the owner of the homestead and the lender sign a written acknowledgment as to the fair market value of the homestead property on the date the extension of credit is made;

(x) except as provided by Subparagraph (xi) of this paragraph, the lender or any holder of the note for the extension of credit shall forfeit all principal and interest of the extension of credit if the lender or holder fails to comply with the lender's or holder's obligations under the extension of credit and fails to correct the failure to comply not later than the 60th day after the date the lender or holder is notified by the borrower of the lender's failure to comply by:

(a) paying to the owner an amount equal to any overcharge paid by the owner under or related to the extension of credit if the owner has paid an amount that exceeds an amount stated in the applicable Paragraph (E), (G), or (O) of this subdivision;

(b) sending the owner a written acknowledgement that the lien is valid only in the amount that the extension of credit does not exceed the percentage described by Paragraph (B) of this subdivision, if applicable, or is not secured by property described under Paragraph (H) of this subdivision, if applicable;

(c) sending the owner a written notice modifying any other amount, percentage, term, or other provision prohibited by this section to a permitted amount, percentage, term, or other provision and adjusting the account of the borrower to ensure that the borrower is not required to pay more than an amount permitted by this section and is not subject to any other term or provision prohibited by this section;

(d) delivering the required documents to the borrower if the lender fails to comply with Subparagraph (v) of this paragraph or obtaining the appropriate signatures if the lender fails to comply with Subparagraph (ix) of this paragraph;

(e) sending the owner a written acknowledgement, if the failure to comply is prohibited by Paragraph (K) of this subdivision, that the accrual of interest and all of the owner's obligations under the extension of credit are abated while any prior lien prohibited under Paragraph (K) remains secured by the homestead; or

(f) if the failure to comply cannot be cured under Subparagraphs (x)(a)—(e) of this paragraph, curing the failure to comply by a refund or credit to the owner of $1,000 and offering the owner the right to refinance the extension of credit with the lender or holder for the remaining term of the loan at no cost to the owner on the same terms, including interest, as the original extension of credit with any modifications necessary to comply with this section or on terms on which the owner and the lender or holder otherwise agree that comply with this section; and

(xi) the lender or any holder of the note for the extension of credit shall forfeit all principal and interest of the extension of credit if the extension of credit is made by a person other than a person described under Paragraph (P) of this subdivision or if the lien was not created under a written agreement with the consent of each owner and each owner's spouse, unless each owner and each owner's spouse who did not initially consent subsequently consents;

(7) a reverse mortgage; or

(8) the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property, including the refinance of the purchase price of the manufactured home, the cost of installing the manufactured home on the real property, and the refinance of the purchase price of the real property.

(b) An owner or claimant of the property claimed as homestead may not sell or abandon the homestead without the consent of each owner and the spouse of each owner, given in such manner as may be prescribed by law.

(c) No mortgage, trust deed, or other lien on the homestead shall ever be valid unless it secures a debt described by this section, whether such mortgage, trust deed, or other lien, shall have been created by the owner alone, or together with his or her spouse, in case the owner is married. All pretended sales of the homestead involving any condition of defeasance shall be void.

(d) A purchaser or lender for value without actual knowledge may conclusively rely on an affidavit that designates other property as the homestead of the affiant and that states that the property to be conveyed or encumbered is not the homestead of the affiant.

(e) A refinance of debt secured by a homestead and described by any subsection under Subsections (a)(1)—(a)(5) that includes the advance of additional funds may not be secured by a valid lien against the homestead unless:

(1) the refinance of the debt is an extension of credit described by Subsection (a)(6) of this section; or

(2) the advance of all the additional funds is for reasonable costs necessary to refinance such debt or for a purpose described by Subsection (a)(2), (a)(3), or (a)(5) of this section.

(f) A refinance of debt secured by the homestead, any portion of which is an extension of credit described by Subsection (a)(6) of this section, may not be secured by a valid lien against the homestead unless either:

(1) the refinance of the debt is an extension of credit described by Subsection (a)(6) or (a)(7) of this section; or

(2) all of the following conditions are met:

(A) the refinance is not closed before the first anniversary of the date the extension of credit was closed;

(B) the refinanced extension of credit does not include the advance of any additional funds other than:

(i) funds advanced to refinance a debt described by Subsections (a)(1) through (a)(7) of this section; or

(ii) actual costs and reserves required by the lender to refinance the debt;

(C) the refinance of the extension of credit is of a principal amount that when added to the aggregate total of the outstanding principal balances of all other indebtedness secured by valid encumbrances of record against the homestead does not exceed 80 percent of the fair market value of the homestead on the date the refinance of the extension of credit is made; and

(D) the lender provides the owner the following written notice on a separate document not later than the third business day after the date the owner submits the loan application to the lender and at least 12 days before the date the refinance of the extension of credit is closed:

"YOUR EXISTING LOAN THAT YOU DESIRE TO REFINANCE IS A HOME EQUITY LOAN. YOU MAY HAVE THE OPTION TO REFINANCE YOUR HOME EQUITY LOAN AS EITHER A HOME EQUITY LOAN OR AS A NON-HOME EQUITY LOAN, IF OFFERED BY YOUR LENDER.

"HOME EQUITY LOANS HAVE IMPORTANT CONSUMER PROTECTIONS. A LENDER MAY ONLY FORECLOSE A HOME EQUITY LOAN BASED ON A COURT ORDER. A HOME EQUITY LOAN MUST BE WITHOUT RECOURSE FOR PERSONAL LIABILITY AGAINST YOU AND YOUR SPOUSE.

"IF YOU HAVE APPLIED TO REFINANCE YOUR EXISTING HOME EQUITY LOAN AS A NON-HOME EQUITY LOAN, YOU WILL LOSE CERTAIN CONSUMER PROTECTIONS. A NON-HOME EQUITY REFINANCED LOAN:

"(1) WILL PERMIT THE LENDER TO FORECLOSE WITHOUT A COURT ORDER;

"(2) WILL BE WITH RECOURSE FOR PERSONAL LIABILITY AGAINST YOU AND YOUR SPOUSE; AND

"(3) MAY ALSO CONTAIN OTHER TERMS OR CONDITIONS THAT MAY NOT BE PERMITTED IN A TRADITIONAL HOME EQUITY LOAN.

"BEFORE YOU REFINANCE YOUR EXISTING HOME EQUITY LOAN TO MAKE IT A NON-HOME EQUITY LOAN, YOU SHOULD MAKE SURE YOU UNDERSTAND THAT YOU ARE WAIVING IMPORTANT PROTECTIONS THAT HOME EQUITY LOANS PROVIDE UNDER THE LAW AND SHOULD CONSIDER CONSULTING WITH AN ATTORNEY OF YOUR CHOOSING REGARDING THESE PROTECTIONS.

"YOU MAY WISH TO ASK YOUR LENDER TO REFINANCE YOUR LOAN AS A HOME EQUITY LOAN. HOWEVER, A HOME EQUITY LOAN MAY HAVE A HIGHER INTEREST RATE AND CLOSING COSTS THAN A NON-HOME EQUITY LOAN."

(f-1) A lien securing a refinance of debt under Subsection (f)(2) of this section is deemed to be a lien described by Subsection (a)(4) of this section. An affidavit executed by the owner or the owner 's spouse acknowledging that the requirements of Subsection (f)(2) of this section have been met conclusively establishes that the requirements of Subsection (a)(4) of this section have been met.

(g) An extension of credit described by Subsection (a)(6) of this section may be secured by a valid lien against homestead property if the extension of credit is not closed before the 12th day after the lender provides the owner with the following written notice on a separate instrument:

"NOTICE CONCERNING EXTENSIONS OF CREDIT DEFINED BY SECTION 50(a)(6), ARTICLE XVI, TEXAS CONSTITUTION:

SECTION 50(a)(6), ARTICLE XVI, OF THE TEXAS CONSTITUTION ALLOWS CERTAIN LOANS TO BE SECURED AGAINST THE EQUITY IN YOUR HOME. SUCH LOANS ARE COMMONLY KNOWN AS EQUITY LOANS. IF YOU DO NOT REPAY THE LOAN OR IF YOU FAIL TO MEET THE TERMS OF THE LOAN, THE LENDER MAY FORECLOSE AND SELL YOUR HOME. THE CONSTITUTION PROVIDES THAT:

"(A) THE LOAN MUST BE VOLUNTARILY CREATED WITH THE CONSENT OF EACH OWNER OF YOUR HOME AND EACH OWNER'S SPOUSE;

"(B) THE PRINCIPAL LOAN AMOUNT AT THE TIME THE LOAN IS MADE MUST NOT EXCEED AN AMOUNT THAT, WHEN ADDED TO THE PRINCIPAL BALANCES OF ALL OTHER LIENS AGAINST YOUR HOME, IS MORE THAN 80 PERCENT OF THE FAIR MARKET VALUE OF YOUR HOME;

"(C) THE LOAN MUST BE WITHOUT RECOURSE FOR PERSONAL LIABILITY AGAINST YOU AND YOUR SPOUSE UNLESS YOU OR YOUR SPOUSE OBTAINED THIS EXTENSION OF CREDIT BY ACTUAL FRAUD;

"(D) THE LIEN SECURING THE LOAN MAY BE FORECLOSED UPON ONLY WITH A COURT ORDER;

"(E) FEES AND CHARGES TO MAKE THE LOAN MAY NOT EXCEED 2 PERCENT OF THE LOAN AMOUNT, EXCEPT FOR A FEE OR CHARGE FOR AN APPRAISAL PERFORMED BY A THIRD PARTY APPRAISER, A PROPERTY SURVEY PERFORMED BY A STATE REGISTERED OR LICENSED SURVEYOR, A STATE BASE PREMIUM FOR A MORTGAGEE POLICY OF TITLE INSURANCE WITH ENDORSEMENTS, OR A TITLE EXAMINATION REPORT;

"(F) THE LOAN MAY NOT BE AN OPEN-END ACCOUNT THAT MAY BE DEBITED FROM TIME TO TIME OR UNDER WHICH CREDIT MAY BE EXTENDED FROM TIME TO TIME UNLESS IT IS A HOME EQUITY LINE OF CREDIT;

"(G) YOU MAY PREPAY THE LOAN WITHOUT PENALTY OR CHARGE;

"(H) NO ADDITIONAL COLLATERAL MAY BE SECURITY FOR THE LOAN;

"(I) [Repealed]

"(J) YOU ARE NOT REQUIRED TO REPAY THE LOAN EARLIER THAN AGREED SOLELY BECAUSE THE FAIR MARKET VALUE OF YOUR HOME DECREASES OR BECAUSE YOU DEFAULT ON ANOTHER LOAN THAT IS NOT SECURED BY YOUR HOME;

"(K) ONLY ONE LOAN DESCRIBED BY SECTION 50(a)(6), ARTICLE XVI, OF THE TEXAS CONSTITUTION MAY BE SECURED WITH YOUR HOME AT ANY GIVEN TIME;

"(L) THE LOAN MUST BE SCHEDULED TO BE REPAID IN PAYMENTS THAT EQUAL OR EXCEED THE AMOUNT OF ACCRUED INTEREST FOR EACH PAYMENT PERIOD;

"(M) THE LOAN MAY NOT CLOSE BEFORE 12 DAYS AFTER YOU SUBMIT A LOAN APPLICATION TO THE LENDER OR BEFORE 12 DAYS AFTER YOU RECEIVE THIS NOTICE, WHICHEVER DATE IS LATER; AND MAY NOT WITHOUT YOUR CONSENT CLOSE BEFORE ONE BUSINESS DAY AFTER THE DATE ON WHICH YOU RECEIVE A COPY OF YOUR LOAN APPLICATION IF NOT PREVIOUSLY PROVIDED AND A FINAL ITEMIZED DISCLOSURE OF THE ACTUAL FEES, POINTS, INTEREST, COSTS, AND CHARGES THAT WILL BE CHARGED AT CLOSING; AND IF YOUR HOME WAS SECURITY FOR THE SAME TYPE OF LOAN WITHIN THE PAST YEAR, A NEW LOAN SECURED BY THE SAME PROPERTY MAY NOT CLOSE BEFORE ONE YEAR HAS PASSED FROM THE CLOSING DATE OF THE OTHER LOAN, UNLESS ON OATH YOU REQUEST AN EARLIER CLOSING DUE TO A DECLARED STATE OF EMERGENCY;

"(N) THE LOAN MAY CLOSE ONLY AT THE OFFICE OF THE LENDER, TITLE COMPANY, OR AN ATTORNEY AT LAW;

"(O) THE LENDER MAY CHARGE ANY FIXED OR VARIABLE RATE OF INTEREST AUTHORIZED BY STATUTE;

"(P) ONLY A LAWFULLY AUTHORIZED LENDER MAY MAKE LOANS DESCRIBED BY SECTION 50(a)(6), ARTICLE XVI, OF THE TEXAS CONSTITUTION

"(Q) LOANS DESCRIBED BY SECTION 50(a)(6), ARTICLE XVI, OF THE TEXAS CONSTITUTION MUST:

"(1) NOT REQUIRE YOU TO APPLY THE PROCEEDS TO ANOTHER DEBT EXCEPT A DEBT THAT IS SECURED BY YOUR HOME OR OWED TO ANOTHER LENDER;

"(2) NOT REQUIRE THAT YOU ASSIGN WAGES AS SECURITY;

"(3) NOT REQUIRE THAT YOU EXECUTE INSTRUMENTS WHICH HAVE BLANKS FOR SUBSTANTIVE TERMS OF AGREEMENT LEFT TO BE FILLED IN;

"(4) NOT REQUIRE THAT YOU SIGN A CONFESSION OF JUDGMENT OR POWER OF ATTORNEY TO ANOTHER PERSON TO CONFESS JUDGMENT OR APPEAR IN A LEGAL PROCEEDING ON YOUR BEHALF;

"(5) PROVIDE THAT YOU RECEIVE A COPY OF YOUR FINAL LOAN APPLICATION AND ALL EXECUTED DOCUMENTS YOU SIGN AT CLOSING;

"(6) PROVIDE THAT THE SECURITY INSTRUMENTS CONTAIN A DISCLOSURE THAT THIS LOAN IS A LOAN DEFINED BY SECTION 50(a)(6), ARTICLE XVI, OF THE TEXAS CONSTITUTION;

"(7) PROVIDE THAT WHEN THE LOAN IS PAID IN FULL, THE LENDER WILL SIGN AND GIVE YOU A RELEASE OF LIEN OR AN ASSIGNMENT OF THE LIEN, WHICHEVER IS APPROPRIATE;

"(8) PROVIDE THAT YOU MAY, WITHIN 3 DAYS AFTER CLOSING, RESCIND THE LOAN WITHOUT PENALTY OR CHARGE;

"(9) PROVIDE THAT YOU AND THE LENDER ACKNOWLEDGE THE FAIR MARKET VALUE OF YOUR HOME ON THE DATE THE LOAN CLOSES; AND

"(10) PROVIDE THAT THE LENDER WILL FORFEIT ALL PRINCIPAL AND INTEREST IF THE LENDER FAILS TO COMPLY WITH THE LENDER'S OBLIGATIONS UNLESS THE LENDER CURES THE FAILURE TO COMPLY AS PROVIDED BY SECTION 50(a)(6)(Q)(x), ARTICLE XVI, OF THE TEXAS CONSTITUTION; AND

"(R) IF THE LOAN IS A HOME EQUITY LINE OF CREDIT:

"(1) YOU MAY REQUEST ADVANCES, REPAY MONEY, AND REBORROW MONEY UNDER THE LINE OF CREDIT;

"(2) EACH ADVANCE UNDER THE LINE OF CREDIT MUST BE IN AN AMOUNT OF AT LEAST $4,000;

"(3) YOU MAY NOT USE A CREDIT CARD, DEBIT CARD, OR SIMILAR DEVICE, OR PREPRINTED CHECK THAT YOU DID NOT SOLICIT, TO OBTAIN ADVANCES UNDER THE LINE OF CREDIT;

"(4) ANY FEES THE LENDER CHARGES MAY BE CHARGED AND COLLECTED ONLY AT THE TIME THE LINE OF CREDIT IS ESTABLISHED AND THE LENDER MAY NOT CHARGE A FEE IN CONNECTION WITH ANY ADVANCE;

"(5) THE MAXIMUM PRINCIPAL AMOUNT THAT MAY BE EXTENDED, WHEN ADDED TO ALL OTHER DEBTS SECURED BY YOUR HOME, MAY NOT EXCEED 80 PERCENT OF THE FAIR MARKET VALUE OF YOUR HOME ON THE DATE THE LINE OF CREDIT IS ESTABLISHED;

"(6) IF THE PRINCIPAL BALANCE UNDER THE LINE OF CREDIT AT ANY TIME EXCEEDS 80 PERCENT OF THE FAIR MARKET VALUE OF YOUR HOME, AS DETERMINED ON THE DATE THE LINE OF CREDIT IS ESTABLISHED, YOU MAY NOT CONTINUE TO REQUEST ADVANCES UNDER THE LINE OF CREDIT UNTIL THE BALANCE IS LESS THAN 80 PERCENT OF THE FAIR MARKET VALUE; AND

"(7) THE LENDER MAY NOT UNILATERALLY AMEND THE TERMS OF THE LINE OF CREDIT.

"THIS NOTICE IS ONLY A SUMMARY OF YOUR RIGHTS UNDER THE TEXAS CONSTITUTION. YOUR RIGHTS ARE GOVERNED BY SECTION 50, ARTICLE XVI, OF THE TEXAS CONSTITUTION, AND NOT BY THIS NOTICE."

If the discussions with the borrower are conducted primarily in a language other than English, the lender shall, before closing, provide an additional copy of the notice translated into the written language in which the discussions were conducted.

(h) A lender or assignee for value may conclusively rely on the written acknowledgment as to the fair market value of the homestead property made in accordance with Subsection (a)(6)(Q)(ix) of this section if:

(1) the value acknowledged to is the value estimate in an appraisal or evaluation prepared in accordance with a state or federal requirement applicable to an extension of credit under Subsection (a)(6); and

(2) the lender or assignee does not have actual knowledge at the time of the payment of value or advance of funds by the lender or assignee that the fair market value stated in the written acknowledgment was incorrect.

(i) This subsection shall not affect or impair any right of the borrower to recover damages from the lender or assignee under applicable law for wrongful foreclosure. A purchaser for value without actual knowledge may conclusively presume that a lien securing an extension of credit described by Subsection (a)(6) of this section was a valid lien securing the extension of credit with homestead property if:

(1) the security instruments securing the extension of credit contain a disclosure that the extension of credit secured by the lien was the type of credit defined by Section 50(a)(6), Article XVI, Texas Constitution;

(2) the purchaser acquires the title to the property pursuant to or after the foreclosure of the voluntary lien; and

(3) the purchaser is not the lender or assignee under the extension of credit.

(j) Subsection (a)(6) and Subsections (e)—(i) of this section are not severable, and none of those provisions would have been enacted without the others. If any of those provisions are held to be preempted by the laws of the United States, all of those provisions are invalid. This subsection shall not apply to any lien or extension of credit made after January 1, 1998, and before the date any provision under Subsection (a)(6) or Subsections (e)—(i) is held to be preempted.

(k) "Reverse mortgage" means an extension of credit:

(1) that is secured by a voluntary lien on homestead property created by a written agreement with the consent of each owner and each owner's spouse;

(2) that is made to a person who is or whose spouse is 62 years or older;

(3) that is made without recourse for personal liability against each owner and the spouse of each owner;

(4) under which advances are provided to a borrower:

(A) based on the equity in a borrower's homestead; or

(B) for the purchase of homestead property that the borrower will occupy as a principal residence;

(5) that does not permit the lender to reduce the amount or number of advances because of an adjustment in the interest rate if periodic advances are to be made;

(6) that requires no payment of principal or interest until:

(A) all borrowers have died;

(B) the homestead property securing the loan is sold or otherwise transferred;

(C) all borrowers cease occupying the homestead property for a period of longer than 12 consecutive months without prior written approval from the lender;

(C-1) if the extension of credit is used for the purchase of homestead property, the borrower fails to timely occupy the homestead property as the borrower's principal residence within a specified period after the date the extension of credit is made that is stipulated in the written agreement creating the lien on the property; or

(D) the borrower:

(i) defaults on an obligation specified in the loan documents to repair and maintain, pay taxes and assessments on, or insure the homestead property;

(ii) commits actual fraud in connection with the loan; or

(iii) fails to maintain the priority of the lender's lien on the homestead property, after the lender gives notice to the borrower, by promptly discharging any lien that has priority or may obtain priority over the lender's lien within 10 days after the date the borrower receives the notice, unless the borrower:

(a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to the lender;

(b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings so as to prevent the enforcement of the lien or forfeiture of any part of the homestead property; or

(c) secures from the holder of the lien an agreement satisfactory to the lender subordinating the lien to all amounts secured by the lender's lien on the homestead property;

(7) that provides that if the lender fails to make loan advances as required in the loan documents and if the lender fails to cure the default as required in the loan documents after notice from the borrower, the lender forfeits all principal and interest of the reverse mortgage, provided, however, that this subdivision does not apply when a governmental agency or instrumentality takes an assignment of the loan in order to cure the default;

(8) that is not made unless the prospective borrower and the spouse of the prospective borrower attest in writing that the prospective borrower and the prospective borrower's spouse received counseling regarding the advisability and availability of reverse mortgages and other financial alternatives that was completed not earlier than the 180th day nor later than the 5th day before the date the extension of credit is closed;

(9) that is not closed before the 12th day after the date the lender provides to the prospective borrower the following written notice on a separate instrument, which the lender or originator and the borrower must sign for the notice to take effect:

"IMPORTANT NOTICE TO BORROWERS RELATED TO YOUR REVERSE MORTGAGE

"UNDER THE TEXAS TAX CODE, CERTAIN ELDERLY PERSONS MAY DEFER THE COLLECTION OF PROPERTY TAXES ON THEIR RESIDENCE HOMESTEAD. BY RECEIVING THIS REVERSE MORTGAGE YOU MAY BE REQUIRED TO FORGO ANY PREVIOUSLY APPROVED DEFERRAL OF PROPERTY TAX COLLECTION AND YOU MAY BE REQUIRED TO PAY PROPERTY TAXES ON AN ANNUAL BASIS ON THIS PROPERTY.

"THE LENDER MAY FORECLOSE THE REVERSE MORTGAGE AND YOU MAY LOSE YOUR HOME IF:

"(A) YOU DO NOT PAY THE TAXES OR OTHER ASSESSMENTS ON THE HOME EVEN IF YOU ARE ELIGIBLE TO DEFER PAYMENT OF PROPERTY TAXES;

"(B) YOU DO NOT MAINTAIN AND PAY FOR PROPERTY INSURANCE ON THE HOME AS REQUIRED BY THE LOAN DOCUMENTS;

"(C) YOU FAIL TO MAINTAIN THE HOME IN A STATE OF GOOD CONDITION AND REPAIR;

"(D) YOU CEASE OCCUPYING THE HOME FOR A PERIOD LONGER THAN 12 CONSECUTIVE MONTHS WITHOUT THE PRIOR WRITTEN APPROVAL FROM THE LENDER OR, IF THE EXTENSION OF CREDIT IS USED FOR THE PURCHASE OF THE HOME, YOU FAIL TO TIMELY OCCUPY THE HOME AS YOUR PRINCIPAL RESIDENCE WITHIN A PERIOD OF TIME AFTER THE EXTENSION OF CREDIT IS MADE THAT IS STIPULATED IN THE WRITTEN AGREEMENT CREATING THE LIEN ON THE HOME;

"(E) YOU SELL THE HOME OR OTHERWISE TRANSFER THE HOME WITHOUT PAYING OFF THE LOAN;

"(F) ALL BORROWERS HAVE DIED AND THE LOAN IS NOT REPAID;

"(G) YOU COMMIT ACTUAL FRAUD IN CONNECTION WITH THE LOAN; OR

"(H) YOU FAIL TO MAINTAIN THE PRIORITY OF THE LENDER'S LIEN ON THE HOME, AFTER THE LENDER GIVES NOTICE TO YOU, BY PROMPTLY DISCHARGING ANY LIEN THAT HAS PRIORITY OR MAY OBTAIN PRIORITY OVER THE LENDER'S LIEN WITHIN 10 DAYS AFTER THE DATE YOU RECEIVE THE NOTICE, UNLESS YOU:

"(1) AGREE IN WRITING TO THE PAYMENT OF THE OBLIGATION SECURED BY THE LIEN IN A MANNER ACCEPTABLE TO THE LENDER;

"(2) CONTEST IN GOOD FAITH THE LIEN BY, OR DEFEND AGAINST ENFORCEMENT OF THE LIEN IN, LEGAL PROCEEDINGS SO AS TO PREVENT THE ENFORCEMENT OF THE LIEN OR FORFEITURE OF ANY PART OF THE HOME; OR

"(3) SECURE FROM THE HOLDER OF THE LIEN AN AGREEMENT SATISFACTORY TO THE LENDER SUBORDINATING THE LIEN TO ALL AMOUNTS SECURED BY THE LENDER'S LIEN ON THE HOME.

"IF A GROUND FOR FORECLOSURE EXISTS, THE LENDER MAY NOT COMMENCE FORECLOSURE UNTIL THE LENDER GIVES YOU WRITTEN NOTICE BY MAIL THAT A GROUND FOR FORECLOSURE EXISTS AND GIVES YOU AN OPPORTUNITY TO REMEDY THE CONDITION CREATING THE GROUND FOR FORECLOSURE OR TO PAY THE REVERSE MORTGAGE DEBT WITHIN THE TIME PERMITTED BY SECTION 50(k)(10), ARTICLE XVI, OF THE TEXAS CONSTITUTION. THE LENDER MUST OBTAIN A COURT ORDER FOR FORECLOSURE EXCEPT THAT A COURT ORDER IS NOT REQUIRED IF THE FORECLOSURE OCCURS BECAUSE:

"(1) ALL BORROWERS HAVE DIED; OR

"(2) THE HOMESTEAD PROPERTY SECURING THE LOAN IS SOLD OR OTHERWISE TRANSFERRED."

"YOU SHOULD CONSULT WITH YOUR HOME COUNSELOR OR AN ATTORNEY IF YOU HAVE ANY CONCERNS ABOUT THESE OBLIGATIONS BEFORE YOU CLOSE YOUR REVERSE MORTGAGE LOAN. TO LOCATE AN ATTORNEY IN YOUR AREA, YOU MAY WISH TO CONTACT THE STATE BAR OF TEXAS."

"THIS NOTICE IS ONLY A SUMMARY OF YOUR RIGHTS UNDER THE TEXAS CONSTITUTION. YOUR RIGHTS ARE GOVERNED IN PART BY SECTION 50, ARTICLE XVI, OF THE TEXAS CONSTITUTION, AND NOT BY THIS NOTICE."

(10) that does not permit the lender to commence foreclosure until the lender gives notice to the borrower, in the manner provided for a notice by mail related to the foreclosure of liens under Subsection (a)(6) of this section, that a ground for foreclosure exists and gives the borrower at least 30 days, or at least 20 days in the event of a default under Subdivision (6)(D)(iii) of this subsection, to:

(A) remedy the condition creating the ground for foreclosure;

(B) pay the debt secured by the homestead property from proceeds of the sale of the homestead property by the borrower or from any other sources; or

(C) convey the homestead property to the lender by a deed in lieu of foreclosure; and

(11) that is secured by a lien that may be foreclosed upon only by a court order, if the foreclosure is for a ground other than a ground stated by Subdivision (6)(A) or (B) of this subsection.

(*l*) Advances made under a reverse mortgage and interest on those advances have priority over a lien filed for record in the real property records in the county where the homestead property is located after the reverse mortgage is filed for record in the real property records of that county.

(m) A reverse mortgage may provide for an interest rate that is fixed or adjustable and may also provide for interest that is contingent on appreciation in the fair market value of the homestead property. Although payment of principal or interest shall not be required under a reverse mortgage until the entire loan becomes due and payable, interest may accrue and be compounded during the term of the loan as provided by the reverse mortgage loan agreement.

(n) A reverse mortgage that is secured by a valid lien against homestead property may be made or acquired without regard to the following provisions of any other law of this state:

(1) a limitation on the purpose and use of future advances or other mortgage proceeds;

(2) a limitation on future advances to a term of years or a limitation on the term of open-end account advances;

(3) a limitation on the term during which future advances take priority over intervening advances;

(4) a requirement that a maximum loan amount be stated in the reverse mortgage loan documents;

(5) a prohibition on balloon payments;

(6) a prohibition on compound interest and interest on interest;

(7) a prohibition on contracting for, charging, or receiving any rate of interest authorized by any law of this state authorizing a lender to contract for a rate of interest; and

(8) a requirement that a percentage of the reverse mortgage proceeds be advanced before the assignment of the reverse mortgage.

(*o*) For the purposes of determining eligibility under any statute relating to payments, allowances, benefits, or services provided on a means-tested basis by this state, including supplemental security income, low-income energy assistance, property tax relief, medical assistance, and general assistance:

(1) reverse mortgage loan advances made to a borrower are considered proceeds from a loan and not income; and

(2) undisbursed funds under a reverse mortgage loan are considered equity in a borrower's home and not proceeds from a loan.

(p) The advances made on a reverse mortgage loan under which more than one advance is made must be made according to the terms established by the loan documents by one or more of the following methods:

(1) an initial advance at any time and future advances at regular intervals;

(2) an initial advance at any time and future advances at regular intervals in which the amounts advanced may be reduced, for one or more advances, at the request of the borrower;

(3) an initial advance at any time and future advances at times and in amounts requested by the borrower until the credit limit established by the loan documents is reached;

(4) an initial advance at any time, future advances at times and in amounts requested by the borrower until the credit limit established by the loan documents is reached, and subsequent advances at times and in amounts requested by the borrower according to the terms established by the loan documents to the extent that the outstanding balance is repaid; or

(5) at any time by the lender, on behalf of the borrower, if the borrower fails to timely pay any of the following that the borrower is obligated to pay under the loan documents to the extent necessary to protect the lender's interest in or the value of the homestead property:

(A) taxes;

(B) insurance;

(C) costs of repairs or maintenance performed by a person or company that is not an employee of the lender or a person or company that directly or indirectly controls, is controlled by, or is under common control with the lender;

(D) assessments levied against the homestead property; and

(E) any lien that has, or may obtain, priority over the lender's lien as it is established in the loan documents.

(q) To the extent that any statutes of this state, including without limitation, Section 41.001 of the Texas Property Code, purport to limit encumbrances that may properly be fixed on homestead property in a manner that does not permit encumbrances for extensions of credit described in Subsection (a)(6) or (a)(7) of this section, the same shall be superseded to the extent that such encumbrances shall be permitted to be fixed upon homestead property in the manner provided for by this amendment.

(r) The supreme court shall promulgate rules of civil procedure for expedited foreclosure proceedings related to the foreclosure of liens under Subsection (a)(6) of this section and to foreclosure of a reverse mortgage lien that requires a court order.

(s) The Finance Commission of Texas shall appoint a director to conduct research on the availability, quality, and prices of financial services and research the practices of business entities in the state that provide financial services under this section. The director shall collect information and produce reports on lending activity of those making loans under this section. The director shall report his or her findings to the legislature not later than December 1 of each year.

(t) A home equity line of credit is a form of an open-end account that may be debited from time to time, under which credit may be extended from time to time and under which:

(1) the owner requests advances, repays money, and reborrows money;

(2) any single debit or advance is not less than $4,000;

(3) the owner does not use a credit card, debit card, or similar device, or preprinted check unsolicited by the borrower, to obtain an advance;

(4) any fees described by Subsection (a)(6)(E) of this section are charged and collected only at the time the extension of credit is established and no fee is charged or collected in connection with any debit or advance;

(5) the maximum principal amount that may be extended under the account, when added to the aggregate total of the outstanding principal balances of all indebtedness secured by the homestead on the date the extension of credit is established, does not exceed an amount described under Subsection (a)(6)(B) of this section;

(6) [Repealed]

(7) the lender or holder may not unilaterally amend the extension of credit; and

(8) repayment is to be made in regular periodic installments, not more often than every 14 days and not less often than monthly, beginning not later than two months from the date the extension of credit is established, and:

(A) during the period during which the owner may request advances, each installment equals or exceeds the amount of accrued interest; and

(B) after the period during which the owner may request advances, installments are substantially equal.

(u) The legislature may by statute delegate one or more state agencies the power to interpret Subsections (a)(5)—(a)(7), (e)—(p), and (t), of this section. An act or omission does not violate a provision included in those subsections if the act or omission conforms to an interpretation of the provision that is:

(1) in effect at the time of the act or omission; and

(2) made by a state agency to which the power of interpretation is delegated as provided by this subsection or by an appellate court of this state or the United States.

(v) A reverse mortgage must provide that:

(1) the owner does not use a credit card, debit card, preprinted solicitation check, or similar device to obtain an advance;

(2) after the time the extension of credit is established, no transaction fee is charged or collected solely in connection with any debit or advance; and

(3) the lender or holder may not unilaterally amend the extension of credit.

HISTORY: Amendment proposed by Acts 1995, 74th Leg., S.J.R. No. 46, approved by electorate (Prop. 4) at the November 7, 1995 election; amendment proposed by Acts 1997, 75th Leg., H.J.R. No. 31, approved by electorate at the November 4, 1997 election; amendment proposed by Acts 1999, 76th Leg., S.J.R. No. 12, approved by electorate (Prop. 2) at the November 2, 1999 constitutional amendment election; amendment proposed by Acts 2001, 77th Leg., H.J.R. No. 75, approved by electorate at the November 6, 2001 general election; amendment proposed by Acts 2003, 78th Leg., H.J.R. No. 23 and S.J.R. No. 42, approved by electorate at the September 13, 2003 election; amendment proposed by Acts 2005, 79th Leg., S.J.R. No. 7, approved by the electorate (Prop. 7) at the November 8, 2005 election; amendment proposed by Acts 2007, 80th Leg., H.J.R. No. 72, approved by the electorate (Prop. 8) at the November 6, 2007 election; amendment proposed by Acts 2013, 83rd Leg., S.J.R. No. 18, approved by the electorate (Prop. 5) at the November 5, 2013 election; amendment proposed by Acts 2017, 85th Leg., S.J.R. No. 60 (Prop. 2), approved by electorate at the November 7, 2017 election.

Sec. 59. Conservation and Development of Natural Resources; Development of Parks and recreational Facilities; Conservation and Reclamation Districts; Indebtedness and Taxation Authorized.

(a) The conservation and development of all of the natural resources of this State, and development of parks and recreational facilities, including the control, storing, preservation and distribution of its storm and flood waters, the

waters of its rivers and streams, for irrigation, power and all other useful purposes, the reclamation and irrigation of its arid, semi-arid and other lands needing irrigation, the reclamation and drainage of its overflowed lands, and other lands needing drainage, the conservation and development of its forests, water and hydro-electric power, the navigation of its inland and coastal waters, and the preservation and conservation of all such natural resources of the State are each and all hereby declared public rights and duties; and the Legislature shall pass all such laws as may be appropriate thereto.

(b) There may be created within the State of Texas, or the State may be divided into, such number of conservation and reclamation districts as may be determined to be essential to the accomplishment of the purposes of this amendment to the constitution, which districts shall be governmental agencies and bodies politic and corporate with such powers of government and with the authority to exercise such rights, privileges and functions concerning the subject matter of this amendment as may be conferred by law.

(c) The Legislature shall authorize all such indebtedness as may be necessary to provide all improvements and the maintenance thereof requisite to the achievement of the purposes of this amendment. All such indebtedness may be evidenced by bonds of such conservation and reclamation districts, to be issued under such regulations as may be prescribed by law. The Legislature shall also authorize the levy and collection within such districts of all such taxes, equitably distributed, as may be necessary for the payment of the interest and the creation of a sinking fund for the payment of such bonds and for the maintenance of such districts and improvements. Such indebtedness shall be a lien upon the property assessed for the payment thereof. The Legislature shall not authorize the issuance of any bonds or provide for any indebtedness against any reclamation district unless such proposition shall first be submitted to the qualified voters of such district and the proposition adopted.

(c-1) In addition and only as provided by this subsection, the Legislature may authorize conservation and reclamation districts to develop and finance with taxes those types and categories of parks and recreational facilities that were not authorized by this section to be developed and financed with taxes before September 13, 2003. For development of such parks and recreational facilities, the Legislature may authorize indebtedness payable from taxes as may be necessary to provide for improvements and maintenance only for a conservation and reclamation district all or part of which is located in Bexar County, Bastrop County, Waller County, Travis County, Williamson County, Harris County, Galveston County, Brazoria County, Fort Bend County, or Montgomery County, or for the Tarrant Regional Water District, a water control and improvement district located in whole or in part in Tarrant County. All the indebtedness may be evidenced by bonds of the conservation and reclamation district, to be issued under regulations as may be prescribed by law. The Legislature may also authorize the levy and collection within such district of all taxes, equitably distributed, as may be necessary for the payment of the interest and the creation of a sinking fund for the payment of the bonds and for maintenance of and improvements to such parks and recreational facilities. The indebtedness shall be a lien on the property assessed for the payment of the bonds. The Legislature may not authorize the issuance of bonds or provide for indebtedness under this subsection against a conservation and reclamation district unless a proposition is first submitted to the qualified voters of the district and the proposition is adopted. This subsection expands the authority of the Legislature with respect to certain conservation and reclamation districts and is not a limitation on the authority of the Legislature with respect to conservation and reclamation districts and parks and recreational facilities pursuant to this section as that authority existed before September 13, 2003.

(d) No law creating a conservation and reclamation district shall be passed unless notice of the intention to introduce such a bill setting forth the general substance of the contemplated law shall have been published at least thirty (30) days and not more than ninety (90) days prior to the introduction thereof in a newspaper or newspapers having general circulation in the county or counties in which said district or any part thereof is or will be located and by delivering a copy of such notice and such bill to the Governor who shall submit such notice and bill to the Texas Water Commission, or its successor, which shall file its recommendation as to such bill with the Governor, Lieutenant Governor and Speaker of the House of Representatives within thirty (30) days from date notice was received by the Texas Water Commission. Such notice and copy of bill shall also be given of the introduction of any bill amending a law creating or governing a particular conservation and reclamation district if such bill (1) adds additional land to the district, (2) alters the taxing authority of the district, (3) alters the authority of the district with respect to the issuance of bonds, or (4) alters the qualifications or terms of office of the members of the governing body of the district.

(e) No law creating a conservation and reclamation district shall be passed unless, at the time notice of the intention to introduce a bill is published as provided in Subsection (d) of this section, a copy of the proposed bill is delivered to the commissioners court of each county in which said district or any part thereof is or will be located and to the governing body of each incorporated city or town in whose jurisdiction said district or any part thereof is or will be located. Each such commissioners court and governing body may file its written consent or opposition to the creation of the proposed district with the governor, lieutenant governor, and speaker of the house of representatives. Each special law creating a conservation and reclamation district shall comply with the provisions of the general laws then in effect relating to consent by political subdivisions to the creation of conservation and reclamation districts and to the inclusion of land within the district.

(f) A conservation and reclamation district created under this section to perform any or all of the purposes of this section may engage in fire-fighting activities and may issue bonds or other indebtedness for fire-fighting purposes as provided by law and this constitution.

Amendment proposed by Acts 1999, 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 constitutional amendment election; amendment proposed by Acts 2003 78th Leg., S.J.R. No. 30, approved by electorate at the September 13, 2003

election; amendment proposed by Acts 2011, 82nd Leg., S.J.R. No. 28 was not approved by the electorate (Prop. 7) at the November 8, 2011.

BUSINESS AND COMMERCE CODE

TITLE 5

REGULATION OF BUSINESSES AND SERVICES

SUBTITLE C

BUSINESS OPERATIONS

CHAPTER 112

Facilitating Business Rapid Response to State Declared Disasters Act

Sec. 112.004. Exemption of Out-Of-State Business Entity From Certain Obligations During Disaster Response Period.

Notwithstanding any other law and except as provided by Section 112.006, an out-of-state business entity whose transaction of business in this state is limited to the performance of disaster- or emergency-related work during a disaster response period is not required to:

(1) register with the secretary of state;

(2) file a tax report with or pay taxes or fees to this state or a political subdivision of this state;

(3) pay an ad valorem tax or use tax on equipment that is brought into the state by the entity, used only by the entity to perform disaster- or emergency-related work during the disaster response period, and removed from the state by the entity following the disaster response period;

(4) comply with state or local business licensing or registration requirements; or

(5) comply with state or local occupational licensing requirements or related fees.

HISTORY: Enacted by Acts 2015, 84th Leg., ch. 559 (H.B. 2358), § 1, effective June 16, 2015.

CIVIL PRACTICE AND REMEDIES CODE

TITLE 7

ALTERNATE METHODS OF DISPUTE RESOLUTION

CHAPTER 171

General Arbitration

Subchapter A. General Provisions

Subchapter B. Proceedings to Compel or Stay Arbitrations

Subchapter C. Arbitration

Subchapter D. Court Proceedings

Subchapter A

General Provisions

Sec. 171.001. Arbitration Agreements Valid.

(a) A written agreement to arbitrate is valid and enforceable if the agreement is to arbitrate a controversy that:
  (1) exists at the time of the agreement; or
  (2) arises between the parties after the date of the agreement.
(b) A party may revoke the agreement only on a ground that exists at law or in equity for the revocation of a contract.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.002. Scope of Chapter.

(a) This chapter does not apply to:
(1) a collective bargaining agreement between an employer and a labor union;
(2) an agreement for the acquisition by one or more individuals of property, services, money, or credit in which the total consideration to be furnished by the individual is not more than $50,000, except as provided by Subsection (b);
(3) a claim for personal injury, except as provided by Subsection (c);
(4) a claim for workers' compensation benefits; or
(5) an agreement made before January 1, 1966.
(b) An agreement described by Subsection (a)(2) is subject to this chapter if:
(1) the parties to the agreement agree in writing to arbitrate; and
(2) the agreement is signed by each party and each party's attorney.
(c) A claim described by Subsection (a)(3) is subject to this chapter if:
(1) each party to the claim, on the advice of counsel, agrees in writing to arbitrate; and
(2) the agreement is signed by each party and each party's attorney.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.003. Uniform Interpretation.

This chapter shall be construed to effect its purpose and make uniform the construction of other states' law applicable to an arbitration.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.004. Majority Action by Arbitrators [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code § 171.042 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.005. Hearings Before Arbitrators and Notices Thereof [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code §§ 171.043, 171.044, 171.045, 171.046, and 171.047 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.006. Representation by Attorneys [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code § 171.048 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.007. Testimony at Hearings Before Arbitrators by Witnesses; Subpoenas and Dispositions Therefor [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code §§ 171.049, 171.050, 171.051, and 171.052 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.008. Awards by Arbitrators [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code § 171.053 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.009. Changes of Awards by Arbitrators [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code § 171.054 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.010. Fees and Expenses of Arbitrators As Awarded by Arbitrators [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code §§ 171.048 and 171.055 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.011. Courts with Jurisdiction in Arbitration Proceedings [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code § 171.081 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.012. Applications to Courts and the Effect Thereof; Court Proceedings on Applications to Courts; Venue Thereof; Stay of Proceedings in Another Court Pursuant to a Later Application; What the Court May Require That an Application Contain; When Applications May Be Filed in Advance of or Pending or at or After the Conclusion of Arbitration Proceedings; Acquisition of Jurisdiction over Adverse Parties by Service of Process or In Rem by Ancillary Proceedings; Court Relief in Aid of Pending or Prospective Arbitration Proceedings or the Enforcement of Court Orders or Decrees or Satisfaction of Court Judgments; Court Hearings on Applications [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code §§ 171.082, 171.083, 171.084, 171.085, 171.086, 171.094, 171.095, 171.096, and 171.097 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.013. Confirmation of an Award [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code § 171.087 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.014. Vacating an Award [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code §§ 171.088, 171.089, and 171.090 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.015. Modification or Correction of Award [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code § 171.091 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.016. Judgment or Decree upon an Award; The Enforcement Thereof [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code § 171.092 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.017. Appeals [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code § 171.098 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.018. Effective Date of Chapter [Deleted].

Deleted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 588 (S.B. 1439), § 1, effective September 1, 1995.

Sec. 171.019. Uniformity of Interpretation [Renumbered].

Renumbered to Tex. Civ. Prac. & Rem. Code § 171.003 by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.020. Severability [Deleted].

Deleted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 588 (S.B. 1439), § 1, effective September 1, 1995.

Subchapter B

Proceedings to Compel or Stay Arbitrations

Sec. 171.021. Proceeding to Compel Arbitration.

(a) A court shall order the parties to arbitrate on application of a party showing:
(1) an agreement to arbitrate; and
(2) the opposing party's refusal to arbitrate.

(b) If a party opposing an application made under Subsection (a) denies the existence of the agreement, the court shall summarily determine that issue. The court shall order the arbitration if it finds for the party that made the application. If the court does not find for that party, the court shall deny the application.

(c) An order compelling arbitration must include a stay of any proceeding subject to Section 171.025.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.022. Unconscionable Agreements Unenforceable.

A court may not enforce an agreement to arbitrate if the court finds the agreement was unconscionable at the time the agreement was made.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.023. Proceeding to Stay Arbitration.

(a) A court may stay an arbitration commenced or threatened on application and a showing that there is not an agreement to arbitrate.

(b) If there is a substantial bona fide dispute as to whether an agreement to arbitrate exists, the court shall try the issue promptly and summarily.

(c) The court shall stay the arbitration if the court finds for the party moving for the stay. If the court finds for the party opposing the stay, the court shall order the parties to arbitrate.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.024. Place for Making Application.

(a) If there is a proceeding pending in a court involving an issue referable to arbitration under an alleged agreement to arbitrate, a party may make an application under this subchapter only in that court.

(b) If Subsection (a) does not apply, a party may make an application in any court, subject to Section 171.096.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.025. Stay of Related Proceeding.

(a) The court shall stay a proceeding that involves an issue subject to arbitration if an order for arbitration or an application for that order is made under this subchapter.

(b) The stay applies only to the issue subject to arbitration if that issue is severable from the remainder of the proceeding.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.026. Validity of Underlying Claim.

A court may not refuse to order arbitration because:

(1) the claim lacks merit or bona fides; or

(2) the fault or ground for the claim is not shown.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Secs. 171.027 to 171.040. [Reserved for expansion].

Subchapter C

Arbitration

Sec. 171.041. Appointment of Arbitrators.

(a) The method of appointment of arbitrators is as specified in the agreement to arbitrate.

(b) The court, on application of a party stating the nature of the issues to be arbitrated and the qualifications of the proposed arbitrators, shall appoint one or more qualified arbitrators if:

(1) the agreement to arbitrate does not specify a method of appointment;

(2) the agreed method fails or cannot be followed; or

(3) an appointed arbitrator fails or is unable to act and a successor has not been appointed.

(c) An arbitrator appointed under Subsection (b) has the powers of an arbitrator named in the agreement to arbitrate.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.042. Majority Action by Arbitrators.

The powers of the arbitrators are exercised by a majority unless otherwise provided by the agreement to arbitrate or this chapter.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.043. Hearing Conducted by Arbitrators.

(a) Unless otherwise provided by the agreement to arbitrate, all the arbitrators shall conduct the hearing. A majority of the arbitrators may determine a question and render a final award.

(b) If, during the course of the hearing, an arbitrator ceases to act, one or more remaining arbitrators appointed to act as neutral arbitrators may hear and determine the controversy.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.044. Time and Place of Hearing; Notice.

(a) Unless otherwise provided by the agreement to arbitrate, the arbitrators shall set a time and place for the hearing and notify each party.

(b) The notice must be served not later than the fifth day before the hearing either personally or by registered or certified mail with return receipt requested. Appearance at the hearing waives the notice.

(c) The court on application may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.045. Adjournment or Postponement.

Unless otherwise provided by the agreement to arbitrate, the arbitrators may:

(1) adjourn the hearing as necessary; and

(2) on request of a party and for good cause, or on their own motion, postpone the hearing to a time not later than:

(A) the date set by the agreement for making the award; or

(B) a later date agreed to by the parties.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.046. Failure of Party to Appear.

Unless otherwise provided by the agreement to arbitrate, the arbitrators may hear and determine the controversy on the evidence produced without regard to whether a party who has been notified as provided by Section 171.044 fails to appear.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.047. Rights of Party at Hearing.

Unless otherwise provided by the agreement to arbitrate, a party at the hearing is entitled to:

(1) be heard;

(2) present evidence material to the controversy; and

(3) cross-examine any witness.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.048. Representation by Attorney; Fees.

(a) A party is entitled to representation by an attorney at a proceeding under this chapter.

(b) A waiver of the right described by Subsection (a) before the proceeding is ineffective.

(c) The arbitrators shall award attorney's fees as additional sums required to be paid under the award only if the fees are provided for:

(1) in the agreement to arbitrate; or

(2) by law for a recovery in a civil action in the district court on a cause of action on which any part of the award is based.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.049. Oath.

The arbitrators, or an arbitrator at the direction of the arbitrators, may administer to each witness testifying before them the oath required of a witness in a civil action pending in a district court.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.050. Depositions.

(a) The arbitrators may authorize a deposition:

(1) for use as evidence to be taken of a witness who cannot be required by subpoena to appear before the arbitrators or who is unable to attend the hearing; or

(2) for discovery or evidentiary purposes to be taken of an adverse witness.

(b) A deposition under this section shall be taken in the manner provided by law for a deposition in a civil action pending in a district court.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.051. Subpoenas.

(a) The arbitrators, or an arbitrator at the direction of the arbitrators, may issue a subpoena for:
(1) attendance of a witness; or
(2) production of books, records, documents, or other evidence.
(b) A witness required to appear by subpoena under this section may appear at the hearing before the arbitrators or at a deposition.
(c) A subpoena issued under this section shall be served in the manner provided by law for the service of a subpoena issued in a civil action pending in a district court.
(d) Each provision of law requiring a witness to appear, produce evidence, and testify under a subpoena issued in a civil action pending in a district court applies to a subpoena issued under this section.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.052. Witness Fee.

The fee for a witness attending a hearing or a deposition under this subchapter is the same as the fee for a witness in a civil action in a district court.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.053. Arbitrators' Award.

(a) The arbitrators' award must be in writing and signed by each arbitrator joining in the award.
(b) The arbitrators shall deliver a copy of the award to each party personally, by registered or certified mail, or as provided in the agreement.
(c) The arbitrators shall make the award:
(1) within the time established by the agreement to arbitrate; or
(2) if a time is not established by the agreement, within the time ordered by the court on application of a party.
(d) The parties may extend the time for making the award either before or after the time expires. The extension must be in writing.
(e) A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of the objection before the delivery of the award to that party.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.054. Modification or Correction to Award.

(a) The arbitrators may modify or correct an award:
(1) on the grounds stated in Section 171.091; or
(2) to clarify the award.
(b) A modification or correction under Subsection (a) may be made only:
(1) on application of a party; or
(2) on submission to the arbitrators by a court, if an application to the court is pending under Sections 171.087, 171.088, 171.089, and 171.091, subject to any condition ordered by the court.
(c) A party may make an application under this section not later than the 20th day after the date the award is delivered to the applicant.
(d) An applicant shall give written notice of the application promptly to the opposing party. The notice must state that the opposing party must serve any objection to the application not later than the 10th day after the date of notice.
(e) An award modified or corrected under this section is subject to Sections 171.087, 171.088, 171.089, 171.090, and 171.091.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.055. Arbitrator's Fees and Expenses.

Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, with other expenses incurred in conducting the arbitration, shall be paid as provided in the award.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Secs. 171.056 to 171.080. [Reserved for expansion].

Subchapter D

Court Proceedings

Sec. 171.081. Jurisdiction.

The making of an agreement described by Section 171.001 that provides for or authorizes an arbitration in this state and to which that section applies confers jurisdiction on the court to enforce the agreement and to render judgment on an award under this chapter.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.082. Application to Court; Fees.

(a) The filing with the clerk of the court of an application for an order under this chapter, including a judgment or decree, invokes the jurisdiction of the court.

(b) On the filing of the initial application and the payment to the clerk of the fees of court required to be paid on the filing of a civil action in the court, the clerk shall docket the proceeding as a civil action pending in that court.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.083. Time for Filing.

An applicant for a court order under this chapter may file the application:

(1) before arbitration proceedings begin in support of those proceedings;

(2) during the period the arbitration is pending before the arbitrators; or

(3) subject to this chapter, at or after the conclusion of the arbitration.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.084. Stay of Certain Proceedings.

(a) After an initial application is filed, the court may stay:

(1) a proceeding under a later filed application in another court to:

(A) invoke the jurisdiction of that court; or

(B) obtain an order under this chapter; or

(2) a proceeding instituted after the initial application has been filed.

(b) A stay under this section affects only an issue subject to arbitration under an agreement in accordance with the terms of the initial application.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.085. Contents of Application.

(a) A court may require that an application filed under this chapter:

(1) show the jurisdiction of the court;

(2) have attached a copy of the agreement to arbitrate;

(3) define the issue subject to arbitration between the parties under the agreement;

(4) specify the status of the arbitration before the arbitrators; and

(5) show the need for the court order sought by the applicant.

(b) A court may not find an application inadequate because of the absence of a requirement listed in Subsection (a) unless the court, in its discretion:

(1) requires that the applicant amend the application to meet the requirements of the court; and

(2) grants the applicant a 10-day period to comply.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.086. Orders That May Be Rendered.

(a) Before arbitration proceedings begin, in support of arbitration a party may file an application for a court order, including an order to:

(1) invoke the jurisdiction of the court over the adverse party and to effect that jurisdiction by service of process on the party before arbitration proceedings begin;

(2) invoke the jurisdiction of the court over an ancillary proceeding in rem, including by attachment, garnishment, or sequestration, in the manner and subject to the conditions under which the proceeding may be instituted and conducted ancillary to a civil action in a district court;

(3) restrain or enjoin:

(A) the destruction of all or an essential part of the subject matter of the controversy; or

(B) the destruction or alteration of books, records, documents, or other evidence needed for the arbitration;

(4) obtain from the court in its discretion an order for a deposition for discovery, perpetuation of testimony, or evidence needed before the arbitration proceedings begin;

(5) appoint one or more arbitrators so that an arbitration under the agreement to arbitrate may proceed; or

(6) obtain other relief, which the court can grant in its discretion, needed to permit the arbitration to be conducted in an orderly manner and to prevent improper interference or delay of the arbitration.

(b) During the period an arbitration is pending before the arbitrators or at or after the conclusion of the arbitration, a party may file an application for a court order, including an order:

(1) that was referred to or that would serve a purpose referred to in Subsection (a);

(2) to require compliance by an adverse party or any witness with an order made under this chapter by the arbitrators during the arbitration;

(3) to require the issuance and service under court order, rather than under the arbitrators' order, of a subpoena, notice, or other court process:

(A) in support of the arbitration; or

(B) in an ancillary proceeding in rem, including by attachment, garnishment, or sequestration, in the manner of and subject to the conditions under which the proceeding may be conducted ancillary to a civil action in a district court;

(4) to require security for the satisfaction of a court judgment that may be later entered under an award;

(5) to support the enforcement of a court order entered under this chapter; or

(6) to obtain relief under Section 171.087, 171.088, 171.089, or 171.091.

(c) A court may not require an applicant for an order under Subsection (a)(1) to show that the adverse party is about to, or may, leave the state if jurisdiction over that party is not effected by service of process before the arbitration proceedings begin.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.087. Confirmation of Award.

Unless grounds are offered for vacating, modifying, or correcting an award under Section 171.088 or 171.091, the court, on application of a party, shall confirm the award.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.088. Vacating Award.

(a) On application of a party, the court shall vacate an award if:

(1) the award was obtained by corruption, fraud, or other undue means;

(2) the rights of a party were prejudiced by:

(A) evident partiality by an arbitrator appointed as a neutral arbitrator;

(B) corruption in an arbitrator; or

(C) misconduct or wilful misbehavior of an arbitrator;

(3) the arbitrators:

(A) exceeded their powers;

(B) refused to postpone the hearing after a showing of sufficient cause for the postponement;

(C) refused to hear evidence material to the controversy; or

(D) conducted the hearing, contrary to Section 171.043, 171.044, 171.045, 171.046, or 171.047, in a manner that substantially prejudiced the rights of a party; or

(4) there was no agreement to arbitrate, the issue was not adversely determined in a proceeding under Subchapter B, and the party did not participate in the arbitration hearing without raising the objection.

(b) A party must make an application under this section not later than the 90th day after the date of delivery of a copy of the award to the applicant. A party must make an application under Subsection (a)(1) not later than the 90th day after the date the grounds for the application are known or should have been known.

(c) If the application to vacate is denied and a motion to modify or correct the award is not pending, the court shall confirm the award.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.089. Rehearing After Award Vacated.

(a) On vacating an award on grounds other than the grounds stated in Section 171.088(a)(4), the court may order a rehearing before new arbitrators chosen:

(1) as provided in the agreement to arbitrate; or

(2) by the court under Section 171.041, if the agreement does not provide the manner for choosing the arbitrators.

(b) If the award is vacated under Section 171.088(a)(3), the court may order a rehearing before the arbitrators who made the award or their successors appointed under Section 171.041.

(c) The period within which the agreement to arbitrate requires the award to be made applies to a rehearing under this section and commences from the date of the order.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.090. Type of Relief Not Factor.

The fact that the relief granted by the arbitrators could not or would not be granted by a court of law or equity is not a ground for vacating or refusing to confirm the award.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.091. Modifying or Correcting Award.

(a) On application, the court shall modify or correct an award if:
(1) the award contains:
(A) an evident miscalculation of numbers; or
(B) an evident mistake in the description of a person, thing, or property referred to in the award;
(2) the arbitrators have made an award with respect to a matter not submitted to them and the award may be corrected without affecting the merits of the decision made with respect to the issues that were submitted; or
(3) the form of the award is imperfect in a manner not affecting the merits of the controversy.
(b) A party must make an application under this section not later than the 90th day after the date of delivery of a copy of the award to the applicant.
(c) If the application is granted, the court shall modify or correct the award to effect its intent and shall confirm the award as modified or corrected. If the application is not granted, the court shall confirm the award.
(d) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.092. Judgment on Award.

(a) On granting an order that confirms, modifies, or corrects an award, the court shall enter a judgment or decree conforming to the order. The judgment or decree may be enforced in the same manner as any other judgment or decree.
(b) The court may award:
(1) costs of the application and of the proceedings subsequent to the application; and
(2) disbursements.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.093. Hearing; Notice.

The court shall hear each initial and subsequent application under this subchapter in the manner and with the notice required by law or court rule for making and hearing a motion filed in a pending civil action in a district court.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.094. Service of Process for Initial Application.

(a) On the filing of an initial application under this subchapter, the clerk of the court shall:
(1) issue process for service on each adverse party named in the application; and
(2) attach a copy of the application to the process.
(b) To the extent applicable, the process and service and the return of service must be in the form and include the substance required for process and service on a defendant in a civil action in a district court.
(c) An authorized official may effect the service of process.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.095. Service of Process for Subsequent Applications.

(a) After an initial application has been made, notice to an adverse party for each subsequent application shall be made in the same manner as is required for a motion filed in a pending civil action in a district court. This subsection applies only if:
(1) jurisdiction over the adverse party has been established by service of process on the party or in rem for the initial application; and
(2) the subsequent application relates to:
(A) the same arbitration or a prospective arbitration under the same agreement to arbitrate; and
(B) the same controversy or controversies.

(b) If Subsection (a) does not apply, service of process shall be made on the adverse party in the manner provided by Section 171.094.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.096. Place of Filing.

(a) Except as otherwise provided by this section, a party must file the initial application:
(1) in the county in which an adverse party resides or has a place of business; or
(2) if an adverse party does not have a residence or place of business in this state, in any county.
(b) If the agreement to arbitrate provides that the hearing before the arbitrators is to be held in a county in this state, a party must file the initial application with the clerk of the court of that county.
(c) If a hearing before the arbitrators has been held, a party must file the initial application with the clerk of the court of the county in which the hearing was held.
(d) Consistent with Section 171.024, if a proceeding is pending in a court relating to arbitration of an issue subject to arbitration under an agreement before the filing of the initial application, a party must file the initial application and any subsequent application relating to the arbitration in that court.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.097. Transfer.

(a) On application of a party adverse to the party who filed the initial application, a court that has jurisdiction but that is located in a county other than as described by Section 171.096 shall transfer the application to a court of a county described by that section.
(b) The court shall transfer the application by an order comparable to an order sustaining a plea of privilege to be sued in a civil action in a district court of a county other than the county in which an action is filed.
(c) The party must file the application under this section:
(1) not later than the 20th day after the date of service of process on the adverse party; and
(2) before any other appearance in the court by that adverse party, other than an appearance to challenge the jurisdiction of the court.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

Sec. 171.098. Appeal.

(a) A party may appeal a judgment or decree entered under this chapter or an order:
(1) denying an application to compel arbitration made under Section 171.021;
(2) granting an application to stay arbitration made under Section 171.023;
(3) confirming or denying confirmation of an award;
(4) modifying or correcting an award; or
(5) vacating an award without directing a rehearing.
(b) The appeal shall be taken in the manner and to the same extent as an appeal from an order or judgment in a civil action.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 5.01, effective September 1, 1997.

EDUCATION CODE

TITLE 2

PUBLIC EDUCATION

SUBTITLE I

SCHOOL FINANCE AND FISCAL MANAGEMENT

CHAPTER 44

Fiscal Management

Subchapter A

School District Fiscal Management

Sec. 44.001. Fiscal Guidelines.

(a) The commissioner shall establish advisory guidelines relating to the fiscal management of a school district.

(b) The commissioner shall report annually to the State Board of Education the status of school district fiscal management as reflected by the advisory guidelines and by statutory requirements.

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

Sec. 44.0011. Fiscal Year.

The fiscal year of a school district begins on July 1 or September 1 of each year, as determined by the board of trustees of the district. The commissioner may adopt rules concerning the submission of information by a district under Chapter 39, 39A, or 48 based on the fiscal year of the district.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 643 (H.B. 98), § 1, effective September 1, 2001; am. Acts 2017, 85th Leg., ch. 324 (S.B. 1488), § 21.003(29), effective September 1, 2017; am. Acts 2019, 86th Leg., ch. 943 (H.B. 3), § 3.049, effective September 1, 2019.

Sec. 44.002. Preparation of Budget.

(a) On or before a date set by the State Board of Education, the superintendent shall prepare, or cause to be prepared, a proposed budget covering all estimated revenue and proposed expenditures of the district for the following fiscal year.

(b) The budget must be prepared according to generally accepted accounting principles, rules adopted by the State Board of Education, and adopted policies of the board of trustees.

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

Sec. 44.003. Records and Reports.

The superintendent shall ensure that records are kept and that copies of all budgets, all forms, and all other reports are filed on behalf of the school district at the proper times and in the proper offices as required by this code.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 881 (H.B. 2021), § 2, effective June 18, 1999; am. Acts 2005, 79th Leg., ch. 1205 (H.B. 664), § 3, effective September 1, 2005.

Sec. 44.004. Notice of Budget and Tax Rate Meeting; Budget Adoption.

(a) When the budget has been prepared under Section 44.002, the president shall call a meeting of the board of trustees for the purpose of adopting a budget for the succeeding fiscal year.

(b) The president shall provide for the publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or biweekly newspaper published in the district. If no daily, weekly, or biweekly newspaper is published in the district, the president shall provide for the publication of notice in at least one newspaper of general circulation in the county in which the district's central administrative office is located. Notice under this subsection shall be published not earlier than the 30th day or later than the 10th day before the date of the hearing.

(c) The notice of public meeting to discuss and adopt the budget and the proposed tax rate may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type. Subject to Subsection (d), the notice must:

(1) contain a statement in the following form:

NOTICE OF PUBLIC MEETING TO DISCUSS BUDGET AND PROPOSED TAX RATE

"The (name of school district) will hold a public meeting at (time, date, year) in (name of room, building, physical location, city, state). The purpose of this meeting is to discuss the school district's budget that will determine the tax rate that will be adopted. Public participation in the discussion is invited." The statement of the purpose of the meeting must be in bold type. In reduced type, the notice must state: "The tax rate that is ultimately adopted at this meeting or at a separate meeting at a later date may not exceed the proposed rate shown below unless the district publishes a revised notice containing the same information and comparisons set out below and holds another public meeting to discuss the revised notice.";

(2) contain a section entitled "Comparison of Proposed Budget with Last Year's Budget," which must show the difference, expressed as a percent increase or decrease, as applicable, in the amounts budgeted for the preceding fiscal year and the amount budgeted for the fiscal year that begins in the current tax year for each of the following:

(A) maintenance and operations;

(B) debt service; and

(C) total expenditures;

(3) contain a section entitled "Total Appraised Value and Total Taxable Value," which must show the total appraised value and the total taxable value of all property and the total appraised value and the total taxable value of new property taxable by the district in the preceding tax year and the current tax year as calculated under Section 26.04, Tax Code;

(4) contain a statement of the total amount of the outstanding and unpaid bonded indebtedness of the school district;

(5) contain a section entitled "Comparison of Proposed Rates with Last Year's Rates," which must:

(A) show in rows the tax rates described by Subparagraphs (i)-(iii), expressed as amounts per $100 valuation of property, for columns entitled "Maintenance & Operations," "Interest & Sinking Fund," and "Total," which is the sum of "Maintenance & Operations" and "Interest & Sinking Fund":

(i) the school district's "Last Year's Rate";

(ii) the "Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service," which:

(a) in the case of "Maintenance & Operations," is the tax rate that, when applied to the current taxable value for the district, as certified by the chief appraiser under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapter 48, would provide the same amount of maintenance and operations taxes and state funds distributed under Chapter 48 per student in average daily attendance for the applicable school year that was available to the district in the preceding school year; and

(b) in the case of "Interest & Sinking Fund," is the tax rate that, when applied to the current taxable value for the district, as certified by the chief appraiser under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, and when multiplied by the district's anticipated collection rate, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapter 46 and any excess taxes collected to service the district's debt during the preceding tax year but not used for that purpose during that year, would provide the amount required to service the district's debt; and

(iii) the "Proposed Rate";

(B) contain fourth and fifth columns aligned with the columns required by Paragraph (A) that show, for each row required by Paragraph (A):

(i) the "Local Revenue per Student," which is computed by multiplying the district's total taxable value of property, as certified by the chief appraiser for the applicable school year under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, by the total tax rate, and dividing the product by the number of students in average daily attendance in the district for the applicable school year; and

(ii) the "State Revenue per Student," which is computed by determining the amount of state aid received or to be received by the district under Chapters 43, 46, and 48 and dividing that amount by the number of students in average daily attendance in the district for the applicable school year; and

(C) contain an asterisk after each calculation for "Interest & Sinking Fund" and a footnote to the section that, in reduced type, states "The Interest & Sinking Fund tax revenue is used to pay for bonded indebtedness on

construction, equipment, or both. The bonds, and the tax rate necessary to pay those bonds, were approved by the voters of this district.";

(6) contain a section entitled "Comparison of Proposed Levy with Last Year's Levy on Average Residence," which must:

(A) show in rows the information described by Subparagraphs (i)-(iv), rounded to the nearest dollar, for columns entitled "Last Year" and "This Year":

(i) "Average Market Value of Residences," determined using the same group of residences for each year;

(ii) "Average Taxable Value of Residences," determined after taking into account the limitation on the appraised value of residences under Section 23.23, Tax Code, and after subtracting all homestead exemptions applicable in each year, other than exemptions available only to disabled persons or persons 65 years of age or older or their surviving spouses, and using the same group of residences for each year;

(iii) "Last Year's Rate Versus Proposed Rate per $100 Value"; and

(iv) "Taxes Due on Average Residence," determined using the same group of residences for each year; and

(B) contain the following information: "Increase (Decrease) in Taxes" expressed in dollars and cents, which is computed by subtracting the "Taxes Due on Average Residence" for the preceding tax year from the "Taxes Due on Average Residence" for the current tax year;

(7) contain the following statement in bold print: "Under state law, the dollar amount of school taxes imposed on the residence of a person 65 years of age or older or of the surviving spouse of such a person, if the surviving spouse was 55 years of age or older when the person died, may not be increased above the amount paid in the first year after the person turned 65, regardless of changes in tax rate or property value.";

(8) contain the following statement in bold print: "Notice of Voter-Approval Rate: The highest tax rate the district can adopt before requiring voter approval at an election is (the school district voter-approval rate determined under Section 26.08, Tax Code). This election will be automatically held if the district adopts a rate in excess of the voter-approval rate of (the school district voter-approval rate)."; and

(9) contain a section entitled "Fund Balances," which must include the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding debt obligation, less estimated funds necessary for the operation of the district before the receipt of the first payment under Chapter 48 in the succeeding school year.

(c-1) The notice described by Subsection (c) must state in a distinct row or on a separate or individual line for each of the following taxes:

(1) the proposed rate of the school district's maintenance tax described by Section 45.003, under the heading "Maintenance Tax"; and

(2) if the school district has issued ad valorem tax bonds under Section 45.001, the proposed rate of the tax to pay for the bonds, under the heading "School Debt Service Tax Approved by Local Voters."

(c-2) The notice described by Subsection (c) must include a statement that a school district may not increase the district's maintenance and operations tax rate to create a surplus in maintenance and operations tax revenue for the purpose of paying the district's debt service.

(d) The comptroller shall prescribe the language and format to be used in the part of the notice required by Subsection (c). A notice under Subsection (c) is not valid if it does not substantially conform to the language and format prescribed by the comptroller under this subsection.

(e) A person who owns taxable property in a school district is entitled to an injunction restraining the collection of taxes by the district if the district has not complied with the requirements of Subsections (b), (c), (c-1), (c-2), and (d), and, if applicable, Subsection (i), and the failure to comply was not in good faith. An action to enjoin the collection of taxes must be filed before the date the district delivers substantially all of its tax bills.

(f) The board of trustees, at the meeting called for that purpose, shall adopt a budget to cover all expenditures for the school district for the next succeeding fiscal year. Any taxpayer of the district may be present and participate in the meeting.

(g) The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins.

(g-1) If the rate calculated under Subsection (c)(5)(A)(ii)(b) decreases after the publication of the notice required by this section, the president is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate.

(h) Notwithstanding any other provision of this section, a school district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of district property required by Section 26.01(e), Tax Code, in preparing the notice required by this section if the district does not receive on or before June 7 the certified appraisal roll for the district required by Section 26.01(a), Tax Code.

(i) A school district that uses a certified estimate, as authorized by Subsection (h), may adopt a budget at the public meeting designated in the notice prepared using the estimate, but the district may not adopt a tax rate before the district receives the certified appraisal roll for the district required by Section 26.01(a), Tax Code. After receipt of the certified appraisal roll, the district must publish a revised notice and hold another public meeting before the district may adopt a tax rate that exceeds:

(1) the rate proposed in the notice prepared using the estimate; or

(2) the district's voter-approval rate determined under Section 26.08, Tax Code, using the certified appraisal roll.

(j) Notwithstanding Subsections (g), (h), and (i), a school district may adopt a budget after the district adopts a tax rate for the tax year in which the fiscal year covered by the budget begins if the district elects to adopt a tax rate before receiving the certified appraisal roll for the district as provided by Section 26.05(g), Tax Code. If a school district elects to adopt a tax rate before adopting a budget, the district must publish notice and hold a meeting for the purpose of discussing the proposed tax rate as provided by this section. Following adoption of the tax rate, the district must publish notice and hold another public meeting before the district may adopt a budget. The comptroller shall prescribe the language and format to be used in the notices. The school district may use the certified estimate of taxable value in preparing a notice under this subsection.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 398 (H.B. 2075), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 898 (H.B. 3526), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 807 (S.B. 567), § 2, effective June 17, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 1, § 1.11, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 66, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.27, effective September 28, 2011; am. Acts 2019, 86th Leg., ch. 943 (H.B. 3), § 1.006, effective September 1, 2019.

Sec. 44.0041. Publication of Summary of Proposed Budget.

(a) Concurrently with the publication of notice of the budget under Section 44.004, a school district shall post a summary of the proposed budget:

(1) on the school district's Internet website; or

(2) if the district has no Internet website, in the district's central administrative office.

(b) The budget summary must include:

(1) information relating to per student and aggregate spending on:

(A) instruction;

(B) instructional support;

(C) central administration;

(D) district operations;

(E) debt service; and

(F) any other category designated by the commissioner; and

(2) a comparison to the previous year's actual spending.

HISTORY: Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.06, effective May 31, 2006.

Sec. 44.005. Filing of Adopted Budget.

On or before a date set by the State Board of Education, the budget must be filed with the agency according to the rules established by the State Board of Education.

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

Sec. 44.0051 Posting of Adopted Budget.

(a) On final approval of the budget by the board of trustees, the school district shall post on the district's Internet website a copy of the budget adopted by the board of trustees. The district's Internet website must prominently display the electronic link to the adopted budget.

(b) The district shall maintain the adopted budget on the district's Internet website until the third anniversary of the date the budget was adopted.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009; Acts 2015, 84th Leg., ch. 1236 (S.B. 1296), § 21.001(12), effective September 1, 2015 (renumbered from Sec. 39.084).

Sec. 44.006. Effect of Adopted Budget; Amendments.

(a) Public funds of the school district may not be spent in any manner other than as provided for in the budget adopted by the board of trustees, but the board may amend a budget or adopt a supplementary emergency budget to cover necessary unforeseen expenses.

(b) Any amendment or supplementary budget must be prepared and filed according to rules adopted by the State Board of Education.

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

Sec. 44.0061. Review of Accounting System [Expired].

Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.07, effective January 2, 2007.

HISTORY: Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.07, effective May 31, 2006.

Sec. 44.007. Accounting System; Report.

(a) A standard school fiscal accounting system must be adopted and installed by the board of trustees of each school district. The accounting system must conform with generally accepted accounting principles.

(b) The accounting system must meet at least the minimum requirements prescribed by the commissioner, subject to review and comment by the state auditor.

(c) A record must be kept of all revenues realized and of all expenditures made during the fiscal year for which a budget is adopted. A report of the revenues and expenditures for the preceding fiscal year shall be filed with the agency on or before the date set by the State Board of Education.

(d) The State Board of Education shall require each district, as part of the report required by this section, to include management, cost accounting, and financial information in a format prescribed by the board and in a manner sufficient to enable the board to monitor the funding process and determine educational system costs by district, campus, and program.

(e), (f) [Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.08, effective September 1, 2007.]

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 2, § 2.08, effective May 31, 2006.

Sec. 44.0071. Computation of Instructional Expenditures Ratio and Instructional Employees Ratio.

(a) Each fiscal year, a school district shall compute and report to the commissioner:

(1) the percentage of the district's total expenditures for the preceding fiscal year that were used to fund direct instructional activities; and

(2) the percentage of the district's full-time equivalent employees during the preceding fiscal year whose job function was to directly provide classroom instruction to students, determined by dividing the number of hours spent by employees in providing direct classroom instruction by the total number of hours worked by all district employees.

(b) At least annually a school district shall provide educators employed by the district with a list of district employees determined by the district for purposes of this section to be engaged in directly providing classroom instruction to students. The list must include the percentage of time spent by each employee in directly providing classroom instruction to students.

(c) For purposes of this section, the computation of a district's expenditures used to fund direct instructional activities shall include the salary, including any associated employment taxes, and value of any benefits provided to any district employee who directly provided classroom instruction to students, but only in proportion to the percentage of time spent by the employee in directly providing classroom instruction to students.

(d) The commissioner shall adopt rules as necessary to implement this section. To the extent possible, the rules must provide for development of the information required by this section using information otherwise compiled by school districts for reporting through the Public Education Information Management System (PEIMS).

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1269 (S.B. 900), § 1, effective September 1, 2003.

Sec. 44.008. Annual Audit; Report.

(a) The board of school trustees of each school district shall have its school district fiscal accounts audited annually at district expense by a certified or public accountant holding a permit from the Texas State Board of Public Accountancy. The audit must be completed following the close of each fiscal year.

(b) The independent audit must meet at least the minimum requirements and be in the format prescribed by the State Board of Education, subject to review and comment by the state auditor. The audit shall include an audit of the accuracy of the fiscal information provided by the district through the Public Education Information Management System (PEIMS).

(c) Each treasurer receiving or having control of any school fund of any school district shall keep a full and separate itemized account with each of the different classes of its school funds coming into the treasurer's hands. The treasurer's records of the district's itemized accounts and records shall be made available to audit.

(d) A copy of the annual audit report, approved by the board of trustees, shall be filed by the district with the agency not later than the 150th day after the end of the fiscal year for which the audit was made. If the board of trustees declines or refuses to approve its auditor's report, it shall nevertheless file with the agency a copy of the audit report with its statement detailing reasons for failure to approve the report.

(e) The audit reports shall be reviewed by the agency, and the commissioner shall notify the board of trustees of objections, violations of sound accounting practices or law and regulation requirements, or of recommendations concerning the audit reports that the commissioner wants to make. If the audit report reflects that penal laws have been violated, the commissioner shall notify the appropriate county or district attorney and the attorney general. The commissioner shall have access to all vouchers, receipts, district fiscal and financial records, and other school records as the commissioner considers necessary and appropriate for the review, analysis, and passing on audit reports.

(f) An open-enrollment charter school shall provide an accounting of each parcel of the school's real property, including identifying the amount of local, state, and federal funds used to purchase or improve each parcel of property.

(g) An open-enrollment charter school for which the charter has expired, been revoked, or been surrendered or an open-enrollment charter school that otherwise ceases to operate shall submit a final annual financial report to the agency. The report must verify that all state property held by the charter holder has been returned or disposed of in accordance with Section 12.128.

(h) The commissioner may adopt rules necessary to implement this section, including rules defining local funds.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 914 (S.B. 218), § 2, effective September 1, 2001; am. Acts 2019, 86th Leg., ch. 631 (S.B. 1454), § 13, effective June 10, 2019.

Sec. 44.009. Financial Reports to Commissioner or Agency; Forms.

(a) All financial reports made by or for school districts or by their officers, agents, or employees, to the commissioner or to the agency, shall be made on forms prescribed by the agency, subject to review and comment by the state auditor.

(b) The agency shall combine as many forms as possible to avoid multiplicity of reports. The forms shall provide for entry of all information required by law or by the commissioner and information considered necessary by the state auditor.

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

Sec. 44.010. Review by Agency.

The budgets, fiscal reports, and audit reports filed with the agency shall be reviewed and analyzed by the staff of the agency to determine whether all legal requirements have been met and to collect fiscal data needed in preparing school fiscal reports for the governor and the legislature.

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

Sec. 44.011. Financial Exigency.

(a) The board of trustees of a school district may adopt a resolution declaring a financial exigency for the district. The declaration expires at the end of the fiscal year during which the declaration is made unless the board adopts a resolution before the end of the fiscal year declaring continuation of the financial exigency for the following fiscal year.

(b) The board is not limited in the number of times the board may adopt a resolution declaring continuation of the financial exigency.

(c) A board may terminate a financial exigency declaration at any time if the board considers it appropriate.

(d) Each time the board adopts a resolution under this section, the board must notify the commissioner. The commissioner by rule shall prescribe the time and manner in which notice must be given to the commissioner under this subsection.

(e) The commissioner by rule shall adopt minimum standards concerning school district financial conditions that must exist for declaration of a financial exigency by the board of trustees of the district.

(f) [Expired pursuant to Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 19, effective September 1, 2013.]

HISTORY: Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 19, effective September 28, 2011.

Secs. 44.012 to 44.030. [Reserved for expansion].

GOVERNMENT CODE

TITLE 4

EXECUTIVE BRANCH

SUBTITLE A

EXECUTIVE OFFICERS

CHAPTER 403

Comptroller of Public Accounts

Subchapter A. General Provisions

Subchapter B. General Powers and Duties

Subchapter C. Accounting

Subchapter D. Warrants, Receipts, and Registers

Subchapter E. Claims

Subchapter A

General Provisions

Sec. 403.001. Definitions.

(a) In any state statute, "comptroller" means the comptroller of public accounts of the State of Texas.

(b) In this chapter:

(1) "Account" means a subdivision of a fund.

(2) "Dedicated revenue" means revenue set aside by law for a particular purpose or entity.

(3) "Fund" means a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources.

(4) "Special fund" means a fund, other than the general revenue fund, that is established by law for a particular purpose or entity.

(5) "Cash Management Improvement Act" means the federal Cash Management Improvement Act of 1990 (31 U.S.C. Section 6501 et seq.).

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 11.01, effective August 22, 1991; am. Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 21, effective September 1, 1993.

Sec. 403.002. Performance of Duty.

(a) [Repealed by Acts 2003, 78th Leg., ch. 285 (H.B. 2376), § 31(9), effective September 1, 2003.]

(b) If the comptroller intentionally neglects or refuses to perform a duty of the office of comptroller, the comptroller is liable to the state for a penalty of not less than $100 nor more than $1,000 for each day of the neglect or refusal.

(c) The attorney general, by suit in the name of the state, shall recover penalties provided by this chapter. Venue and jurisdiction of the suit are in a court of Travis County.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 2003, 78th Leg., ch. 285 (H.B. 2376), §§ 9, 31(9), effective September 1, 2003.

Sec. 403.003. Chief Clerk.

(a) The comptroller shall appoint a chief clerk who shall:

(1) perform the duties of the comptroller when the comptroller is unavoidably absent or is incapable of discharging those duties;

(2) act as comptroller if the office of comptroller becomes vacant until a comptroller is appointed and qualified; and

(3) under the comptroller's direction, supervise the keeping of the books, records, and accounts of the office and perform other duties required by law or the comptroller.

(b) The chief clerk shall take the official oath.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1997, 75th Leg., ch. 1035

(S.B. 645), § 73, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.01, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 285 (H.B. 2376), § 10, effective September 1, 2003.

Sec. 403.004. Chief of Claims Division.

The comptroller shall designate one person as chief of the claims division. The chief of the claims division shall prepare or have prepared all warrants and is accountable to the comptroller for warrants coming into the person's possession.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 641, § 3 (S.B. 1095), effective September 1, 1991.

Sec. 403.005. Approval of Accounts [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 90(a), effective June 19, 1997 and Acts 1997, 75th Leg., ch. 1201 (S.B. 1453), § 1, effective June 20, 1997.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 22, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(102), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.02, effective September 1, 1997.

Sec. 403.006. Inspection of Accounts.

On request of a house or committee of the legislature, the comptroller shall exhibit for the house's or committee's examination any book, paper, voucher, or other matter relating to the office.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.007. Divisions.

The comptroller may organize and maintain divisions within the comptroller's office as necessary for the efficient and orderly operation of the office.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.008. Bonds and Employees.

(a) The comptroller shall give any special bond required by an Act of Congress or a federal department or official to protect federal funds deposited with the comptroller. The state shall pay the expenses necessary and incidental to the execution of the bond.

(b) The comptroller shall appoint other employees that are authorized by law. The comptroller may require an employee to be insured in the manner and sum required by the comptroller.

(c) The state shall pay any expense incident to the execution of a bond authorized under Chapter 653 and any insurance of the chief clerk and other employees.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 75, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 285 (H.B. 2376), § 11, effective September 1, 2003.

Sec. 403.009. Review of Bonds [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 285 (H.B. 2376), § 31(10), effective September 1, 2003.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.42, effective September 1, 1997 (renumbered from Sec. 404.044).

Sec. 403.010. [Reserved for expansion].

Subchapter B

General Powers and Duties

Sec. 403.011. General Powers.

(a) The comptroller shall:

(1) obtain a seal with "Comptroller's Office, State of Texas" engraved around the margin and a five-pointed star in the center, to be used as the seal of the office to authenticate official acts, except warrants drawn on the state treasury;

(2) adopt regulations the comptroller considers essential to the speedy and proper assessment and collection of state revenues;

(3) supervise, as the sole accounting officer of the state, the state's fiscal concerns and manage those concerns as required by law;

(4) require all accounts presented to the comptroller for settlement not otherwise provided for by law to be made on forms that the comptroller prescribes;

(5) prescribe and furnish the form or electronic format to be used in the collection of public revenue;

(6) prescribe the mode and manner of keeping and stating of accounts of persons collecting state revenue;

(7) prescribe forms or electronic formats of the same class, kind, and purpose so that they are uniform in size, arrangement, matter, and form;

(8) require each person receiving money or managing or having disposition of state property of which an account is kept in the comptroller's office periodically to render statements of the money or property to the comptroller;

(9) require each person who has received and not accounted for state money to settle the person's account;

(10) keep and settle all accounts in which the state is interested;

(11) examine and settle the account of each person indebted to the state, verify the amount or balance, and direct and supervise the collection of the money;

(12) audit claims against the state the payment of which is provided for by law, unless the audit is otherwise specially provided for;

(13) determine the method for auditing claims against the state in a cost-effective manner, including the use of stratified and statistical sampling techniques in conjunction with automated edits;

(14) maintain the necessary records and data for each approved claim against the state so that an adequate audit can be performed and the comptroller can submit a report to each house of the legislature, upon request, stating the name and amount of each approved claim;

(15) keep and state each account between the state and the United States;

(16) keep journals through which all entries are made in the ledger;

(17) draw warrants on the treasury for payment of all money required by law to be paid from the treasury on warrants drawn by the comptroller;

(18) suggest plans for the improvement and management of the general revenue; and

(19) preserve the books, records, papers, and other property of the comptroller's office and deliver them in good condition to the successor to that office.

(b) The comptroller may solicit, accept, or refuse a gift or grant of money, services, or property on behalf of the state for any public purpose related to the office or duties of the comptroller.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 108 (S.B. 317), § 4, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.03, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1467 (H.B. 3211), § 1.12, effective June 19, 1999.

Sec. 403.0111. Distribution of Federal Tax Information.

(a) In addition to the distribution of state tax and fiscal information, the comptroller's office is authorized to take the lead in promoting awareness of federal earned income tax credits and to encourage other agencies to similarly promote awareness of the federal tax credit for working families and individuals who may qualify.

(b) State agencies that otherwise distribute information to the public may use existing resources to distribute information to persons likely to qualify for federal earned income tax credits and shall cooperate with the comptroller in information distribution efforts.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 418 (S.B. 255), § 1, effective September 1, 1995.

Sec. 403.0115. Reports Published on Internet.

The comptroller shall promptly publish on the comptroller's Internet site each report that is:

(1) published by the comptroller; and

(2) public information subject to disclosure under the open records law, Chapter 552.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1582 (S.B. 853), § 1, effective September 1, 1999.

Sec. 403.0116. Municipal and County Budgets on Internet.

The comptroller shall provide on its Internet website a link to the website of each municipality and county that provides budget information for the municipality or county, including budgets posted under Sections 102.008, 111.009, 111.040, and 111.069, Local Government Code.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 457 (S.B. 1692), § 2, effective September 1, 2011.

Sec. 403.012. Acceptance of Federal Money or Property.

(a) The comptroller may accept federal money for a state agency not otherwise restricted by statute or by rider or special provision in the General Appropriations Act, if the state agency has certified to the comptroller that the agency will be responsible for compliance with applicable federal and state law.

(b) The comptroller may accept money or property under a federal equitable sharing program. In accepting the money or property, the comptroller shall comply with federal program requirements, including those governing accounting and the permissible use of an award.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 2011, 82nd Leg., ch. 68 (S.B. 934), § 5, effective September 1, 2011.

Sec. 403.0121. Acceptance of Federal Money.

The comptroller shall execute instruments necessary to accept money, gifts, or assets authorized by federal statute to be paid to the state in lieu of taxes or as a gift by the Secretary of Housing and Urban Development or any federal agency. The comptroller shall deposit funds received under this section in the general revenue fund.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 18, effective September 1, 1993.

Sec. 403.0122. Deposit of American Recovery and Reinvestment Act Money.

(a) In this section:

(1) "Fund" means the American Recovery and Reinvestment Act fund.

(2) "Recovery act" means the federal American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).

(b) The American Recovery and Reinvestment Act fund is created as a special fund in the state treasury outside the general revenue fund.

(c) Notwithstanding any other law of this state and except as otherwise provided by federal law, state agencies that receive money under the recovery act shall deposit the money to the credit of the fund as the comptroller determines is necessary to hold and account for money received under the recovery act.

(d) Other money may be deposited to the credit of the fund as appropriated by the legislature, as required by federal law, or as necessary to account for money related to the recovery act. Money deposited to the credit of the fund may only be used for the purposes identified in the recovery act to stimulate the economy, including aid for unemployment, welfare, education, health, and infrastructure.

(e) Agencies shall transfer amounts between the fund and other accounts and funds in the treasury as necessary to properly account for money received under the recovery act as directed by the comptroller. This section does not affect the authority of the comptroller to establish and use accounts necessary to manage and account for revenues and expenditures.

(f) Interest earned on money deposited to the credit of the fund is exempt from Section 404.071. Interest earned on money in the fund shall be retained in the fund.

(g) The comptroller may issue guidelines for state agencies regarding the implementation of this section.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1051 (H.B. 4583), § 20(b), effective June 19, 2009.

Sec. 403.013. Report to Governor.

(a) In this section, "state agency" means:

(1) any department, commission, board, office, or other agency in the executive or legislative branch of state government created by the constitution or a statute of this state;

(2) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, the Texas Civil Judicial Council, the Office of Court Administration of the Texas Judicial System, the State Bar of Texas, or another state judicial agency created by the constitution or a statute of this state;

(3) a university system or an institution of higher education as defined by Section 61.003, Education Code; or

(4) another governmental organization that the comptroller determines to be a component unit of state government for purposes of financial reporting under the provisions of this section.

(b) On the first Monday of November of each year, and at other times the governor requires, the comptroller shall exhibit to the governor, in addition to the reports required by the constitution, an exact and complete statement showing:

(1) the funds and revenues of the state; and

(2) public expenditures during the preceding year or during another period required by the governor.

(c) On the last day of February of each year, in addition to the reports required by the constitution and this section, the comptroller shall exhibit to the governor an audited comprehensive annual financial report that includes all state agencies determined to be part of the statewide accounting entity and that is prepared in accordance with generally accepted accounting principles as prescribed or modified in pronouncements of the Governmental Accounting Standards Board.

(d) The report under Subsection (c) shall be compiled from the financial information requested by the comptroller under Subchapter B, Chapter 2101, until it can be prepared from information contained in a fully operational uniform automated statewide accounting and reporting system.

(e) The comptroller is not required to include in the report under Subsection (c) a state agency or other governmental organization that the comptroller finds is not a component unit of state government for purposes of financial reporting under this section.

(f) The Texas growth fund and Texas growth fund II, created as provided by Section 70, Article XVI, Texas Constitution, shall provide the financial information listed in Subchapter B, Chapter 2101, to the comptroller once each year, not later than the date established by the comptroller.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 4 (S.B. 223), § 2.02(a), effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 16, effective September 1, 1993; am. Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 23, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 9, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 10, effective June 15, 2001.

Sec. 403.0131. Appropriation Certification.

(a) 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, the comptroller shall complete the evaluation and certification of the appropriation required by Section 49a(b), Article III, Texas Constitution.

(b) As soon as practical after the comptroller certifies the appropriations made by the legislature in a regular or special session, the comptroller shall prepare a summary table that details the basis for the certification of all major funds. The table must be similar in format and detail to the summary tables of the major fund estimates published in the comptroller's biennial revenue estimate and must include the biennial appropriations from all major funds. The comptroller shall deliver a copy of each table prepared under this section to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, and the Legislative Budget Board.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 281 (S.B. 176), § 2, effective September 1, 1999; am. Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 24.01, effective January 11, 2004.

Sec. 403.014. Report on Effect of Certain Tax Provisions.

(a) Before each regular session of the legislature, the comptroller shall report to the legislature and the governor on the effect, if it is possible to assess, of exemptions, discounts, exclusions, special valuations, special accounting treatments, special rates, and special methods of reporting relating to:

(1) sales, excise, and use tax under Chapter 151, Tax Code;

(2) franchise tax under Chapter 171, Tax Code;

(3) school district property taxes under Title 1, Tax Code;

(4) motor vehicle tax under Section 152.090; and

(5) any other tax generating more than five percent of state tax revenue in the prior fiscal year.

(a-1) In preparing the report under Subsection (a), if actual data is not available, the comptroller shall use available statistical data to estimate the effect of an exemption, discount, exclusion, special valuation, special accounting treatment, special rate, or special method of reporting relating to a tax. If the report states that the effect of a particular tax preference cannot be determined, the comptroller must include in the report a complete explanation of why the comptroller reached that conclusion.

(b) The report must include:

(1) an analysis of each special provision that reduces the amount of tax payable, to include an estimate of the loss of revenue for a six-year period including the current fiscal biennium and a citation of the statutory or legal authority for the provision; and

(2) for provisions reducing revenue by more than one percent of total revenue for a tax covered by this section:

(A) the effect of each provision on the distribution of the tax burden by income class and industry or business class, as appropriate; and

(B) the effect of each provision on total income by income class.

(c) The report may include:

(1) an assessment of the intended purpose of the provision and whether the provision is achieving that objective; and

(2) a recommendation for retaining, eliminating, or amending the provision.

(d) The report may be included in any other report made by the comptroller.

(e) At the request of the chair of a committee of the senate or house of representatives to which has been referred a bill or resolution establishing, extending, or restricting an exemption, discount, exclusion, special valuation, special accounting treatment, special rate, or special method of reporting relating to any state tax, the Legislative Budget Board with the assistance, as requested, of the comptroller shall prepare a letter analysis of the effect on the state's tax revenues that would result from the passage of the bill or resolution. The letter analysis shall contain the same information as provided in Subsection (b), as appropriate.

(f) The comptroller and Legislative Budget Board may request from any state officer or agency information necessary to complete the report or letter analysis. Each state officer or agency shall cooperate with the comptroller and Legislative Budget Board in providing information or analysis for the report or letter analysis.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 47, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 1467 (H.B. 3211), § 2.02, effective October 1, 1999; am. Acts 2007, 80th Leg., ch. 1266 (H.B. 3319), § 14, effective September 1, 2007; am. Acts 2015, 84th Leg., ch. 393 (H.B. 1261), § 1, effective September 1, 2015.

Sec. 403.0141. Report on Incidence of Tax.

(a) Before each regular session of the legislature, the comptroller shall report to the legislature and the governor on the overall incidence of the school district property tax and any state tax generating more than 2.5 percent of state tax revenue in the prior fiscal year. The analysis shall report on the distribution of the tax burden for the taxes included in the report.

(b) At the request of the chair of a committee of the senate or house of representatives to which has been referred a bill or resolution to change the tax system that would increase, decrease, or redistribute tax by more than $20 million, the Legislative Budget Board with the assistance, as requested, of the comptroller shall prepare an incidence impact analysis of the bill or resolution. The analysis shall report on the incidence effects that would result if the bill or resolution were enacted.

(c) To the extent data is available, the incidence impact analysis under Subsections (a) and (b):

(1) shall evaluate the tax burden:

(A) on the overall income distribution, using a systemwide incidence measure or other appropriate measures of equality and inequality; and

(B) on income classes, including, at a minimum, quintiles of the income distribution, on renters and homeowners, on industry or business classes, as appropriate, and on various types of business organizations;

(2) may evaluate the tax burden:

(A) by other appropriate taxpayer characteristics, such as whether the taxpayer is a farmer, rancher, retired elderly, or resident or nonresident of the state; and

(B) by distribution of impact on consumers, labor, capital, and out-of-state persons and entities;

(3) shall evaluate the effect of each tax on total income by income group; and

(4) shall:

(A) use the broadest measure of economic income for which reliable data is available; and

(B) include a statement of the incidence assumptions that were used in making the analysis.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 48, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1467 (H.B. 3211), § 2.03, effective October 1, 1999.

Sec. 403.0142. Report on Origin of Tax Revenue.

(a) Before each regular session of the legislature, the comptroller shall report to the legislature and the governor on the amount of revenue remitted to the comptroller in each municipality and county for each tax collected by the comptroller if that information is available from tax returns. The report may be included in any other report made by the comptroller.

(b) The comptroller shall report the information under Subsection (a) as an aggregate total for each tax without disclosing individual tax payments or taxpayers.

(c) The comptroller shall publish the report required under Subsection (a) on the comptroller's Internet website not later than the 20th day after the date the report is provided to the legislature and the governor.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 713 (H.B. 654), § 1, effective September 1, 2011.

Sec. 403.0143. Report on Use of General Revenue-Dedicated Accounts.

After each regular session of the legislature, the comptroller shall issue a report that itemizes each general revenue-dedicated account and the estimated balance and revenue in each account that is considered available for the purposes of certification of appropriations as provided by Section 403.095. The comptroller shall publish the report on the comptroller's Internet website.

HISTORY: Enacted by Acts 2015, 84th Leg., ch. 448 (H.B. 7), § 12, effective September 1, 2015.

Sec. 403.0145. Publication of Fees Schedule.

As soon as practicable after the end of each state fiscal year, the comptroller shall publish online a schedule of all revenue to the state from fees authorized by statute. For each fee, the schedule must specify:

(1) the statutory authority for the fee;

(2) if the fee has been increased during the most recent legislative session, the amount of the increase;

(3) into which fund the fee revenue will be deposited; and

(4) the amount of the fee revenue that will be considered available for general governmental purposes and accordingly considered available for the purpose of certification under Section 403.121.

HISTORY: Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 34.04, effective September 28, 2011.

Sec. 403.0147. Report on State Programs not Funded by Appropriations.

(a) In this section, "state agency" means an agency, department, board, commission, or other entity in the executive, legislative, or judicial branch of state government.

(b) Not later than December 31 of each year, the comptroller shall submit a report to the legislature that identifies for each state agency:

(1) each program the state agency is statutorily required to implement for which no appropriation was made for the preceding state fiscal year, along with a citation to the law imposing the requirement; and

(2) the amount and source of money the state agency spent, if any, to implement any portion of the program described by Subdivision (1) during the preceding state fiscal year.

(c) A state agency shall provide to the comptroller not later than September 30 of each year information necessary for the comptroller to prepare the report required by this section. The comptroller may prescribe the form and content of the information a state agency must provide.

HISTORY: Enacted by Acts 2017, 85th Leg., ch. 947 (S.B. 1831), § 1, effective June 15, 2017.

Sec. 403.015. Electronic Computing and Data Processing.

The comptroller may:

(1) establish and operate a central electronic computing and data processing center to:

(A) maintain the central accounting records of the state;

(B) prepare payrolls and other warrants;

(C) audit tax reports; and

(D) perform other accounting and data processing activities for which this equipment economically and practically may be used;

(2) prescribe and revise claim forms, registers, warrants, and other documents submitted in support of payroll or other claims or to support tax or other payments to the state, in order to provide for the orderly and economical use of equipment under this section; and

(3) prescribe and revise procedures, techniques, and formats for electronic data transmission, in order to improve the flow of data between state agencies.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.016. Electronic Funds Transfer.

(a) The comptroller shall establish and operate an electronic funds transfer system in accordance with this section. The comptroller may use the services of financial institutions, automated clearinghouses, and the federal government to establish and operate the system.

(b) The comptroller shall use the electronic funds transfer system to pay an employee's net state salary and travel expense reimbursements.

(c) The comptroller shall use the electronic funds transfer system to make:

(1) payments of more than $100 to annuitants by the Employees Retirement System of Texas, the Teacher Retirement System of Texas, or the Texas Emergency Services Retirement System under each system's administrative jurisdiction;

(2) recurring payments to municipalities, counties, political subdivisions, special districts, and other governmental entities of this state; and

(3) payments to vendors who choose to receive payment through the electronic funds transfer system rather than by warrant.

(d) If the comptroller is not required by this section to use the electronic funds transfer system to pay a person, the comptroller may use the system to pay the person on the person's request.

(e) [Repealed by Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 90(a), effective June 19, 1997.]

(f) Except as provided by Subsection (f-1) and subject to any limitation in rules adopted by the comptroller, an automated clearinghouse, or the federal government, the comptroller may use the electronic funds transfer system to deposit payments only to one or more accounts of a payee at one or more financial institutions, including credit unions.

(f-1) The comptroller may also use the electronic funds transfer system to deposit the amount of an employee's payroll deduction made as authorized by law.

(f-2) A single electronic funds transfer may contain payments to multiple payees. Individual transfers or warrants are not required for each payee.

(g) When a law requires the comptroller to make a payment by warrant, the comptroller may instead make the payment through the electronic funds transfer system. The comptroller's use of the electronic funds transfer system or any other payment means does not create a right that would not have been created if a warrant had been issued.

(h) Notwithstanding any requirement in this section to make a payment through the electronic funds transfer system, the comptroller shall issue a warrant to pay a person if:

(1) the person properly notifies the comptroller that:

(A) receiving the payment by electronic funds transfer would be impractical to the person;

(B) receiving the payment by electronic funds transfer would be more costly to the person than receiving the payment by warrant;

(C) the person is unable to establish a qualifying account at a financial institution to receive electronic funds transfers; or

(D) the person chooses to receive the payment by warrant; or

(2) the state agency on whose behalf the comptroller makes the payment properly notifies the comptroller that:

(A) making the payment by electronic funds transfer would be impractical to the agency; or

(B) making the payment by electronic funds transfer would be more costly to the agency than making the payment by warrant.

(i) Notwithstanding any requirement in this section to make a payment through the electronic funds transfer system, the comptroller may make a payment by warrant if the comptroller determines that:

(1) using the electronic funds transfer system would be impractical to the state; or

(2) the cost to the state of using the electronic funds transfer system would exceed the cost of issuing a warrant.

(j) The comptroller shall adopt rules to administer this section, including rules relating to the notifications that may be provided to the comptroller under Subsection (h).

(k) [Repealed by Acts 1999, 76th Leg., ch. 945 (H.B. 2429), § 2, effective June 18, 1999.]

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 104), § 3.01, effective January 1, 1992; am. Acts 1991, 72nd Leg., ch. 909 (H.B. 1630), § 2, effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 24, effective September 1, 1993; am. Acts 1993, 73rd Leg., ch. 939 (H.B. 1608), § 13, effective August 30, 1993; am. Acts 1997, 75th Leg., ch. 634 (H.B. 1209), § 1(a), effective September 1, 1998; am. Acts 1997, 75th Leg., ch. 1035 (S.B. 645), §§ 49, 90(a), effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 945 (H.B. 2429), §§ 1, 2, effective June 18, 1999; am. Acts 2003, 78th Leg., ch. 1310 (H.B. 2425), § 15, effective June 20, 2003; am. Acts 2019, 86th Leg., ch. 392 (S.B. 557), § 1, effective June 2, 2019.

Sec. 403.0165. Payroll Deduction for State Employee Organization.

(a) An employee of a state agency may authorize a transfer each pay period from the employee's salary or wage payment for a membership fee in an eligible state employee organization. The authorization shall remain in effect until an employee authorizes a change in the authorization. Authorizations and changes in authorizations must be provided in accordance with rules adopted by the comptroller.

(b) The comptroller shall adopt rules for transfers by employees to a certified eligible state employee organization. The rules may authorize electronic transfers of amounts deducted from employees' salaries and wages under this section.

(c) Participation by employees of state agencies in the payroll deduction program authorized by this section is voluntary.

(d) To be certified by the comptroller, a state employee organization must have a current dues structure for state employees in place and operating in this state for a period of at least 18 months.

(e) Any organization requesting certification shall demonstrate that the fee structure proposed from state employees is equal to an average of not less than one-half of the fees for that organization nationwide.

(f) An organization not previously certified may submit an application for certification as an eligible state employee organization to the comptroller at any time except during the period after June 2 and before September 1.

(g) The comptroller may approve an application under Subsection (f) if a state employee organization demonstrates to the satisfaction of the comptroller that it qualifies as an eligible state employee organization by providing the documentation required by this section and applicable rules adopted by the comptroller.

(h) The comptroller may charge an administrative fee to cover the costs incurred as a result of administering this section. The administrative fees charged by the comptroller shall be paid by each qualifying state employee organization on a pro rata basis to be determined by the comptroller. The comptroller by rule shall determine the most efficient and effective method of collecting the fees.

(i) The comptroller may adopt rules for the administration of this section.

(j) [Repealed by Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 90(a), effective June 19, 1997.]

(k) Any state employee organization that has a membership of at least 4,000 state employee members on April 1, 1991, shall be certified by the comptroller as an eligible state employee organization. Such an organization may not be required to meet any other eligibility requirements as set out in this section for certification, including requirements in the definition of eligible state employee organization under Subsection (*l*).

(*l*) In this section:

(1) "Eligible state employee organization" means a state employee organization with a membership of at least 4,000 state employees continuously for the 18 months preceding a request for certification from the comptroller that conducts activities on a statewide basis and that the comptroller has certified under this article.

(2) "State agency" means a department, commission, board, office, or any other state entity of state government.

HISTORY: Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 3.02, effective January 1, 1992; am. Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 25, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1035 (S.B. 645), §§ 32, 90(a), effective June 19, 1997.

Sec. 403.017. Custody of Security for Money and Deeds.

(a) A bond, note, or other security for money given to the state or an officer for the use of the state shall be deposited in the office of the comptroller.

(b) A deed conveying land or an interest in land to the state for highway purposes shall be deposited in the Austin office of the Texas Department of Transportation.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 641 (H.B.1095), § 5, effective September 1, 1991; am. Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 22(33), effective September 1, 1995.

Sec. 403.018. Assistance in Reconstructing Destroyed Records.

The comptroller may assist any taxpayer in reconstructing and recompiling business records that are damaged or destroyed by natural disaster.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.019. Contracts to Collect Out-of-State Debts.

(a) The comptroller may contract with a person who is qualified in the business of debt collection to collect on behalf of this state a tax or other amount finally determined to be owed to this state by a person residing outside this state and not known by the agency referring the debt to have sufficient assets in this state to satisfy the debt if the comptroller determines that the collection service to be provided by the collector would be economical and in the best interest of the state. Subject to Subsection (c), a contract may permit or require the person to pursue a judicial action in a court outside this state to collect a tax or other amount owed. A contract may also apply to a tax or other amount owed by a person residing outside this state and not known by the agency referring the debt to have sufficient assets in this state to satisfy the debt to a political subdivision of this state, if the comptroller or another state official is required by law to collect the tax or other amount owed for the political subdivision. No contract authorized under this section may exceed four years in length, except that such contract may provide for an extension for the sole purpose of concluding actions pending at the time of the termination of the contract. This restriction shall not be construed so as to prohibit a contractor from bidding on a subsequent contract.

(b) The comptroller must obtain services authorized by this section in the manner provided for the purchase of services by contract under Chapters 2155-2158. In addition to any other notice required by that Act for inviting bids, the comptroller shall solicit bids for a contract by publishing notice in the Texas Register.

(c) A contract under this section is not valid unless approved by the attorney general. The attorney general shall approve a contract if the attorney general determines that the contract complies with the requirements of this section and is in the best interest of the state. No judicial action by any person on behalf of the state under a contract authorized and approved by this section may be brought unless approved by the attorney general.

(d) A contract authorized by this section may provide for reasonable compensation for services provided under the contract, including compensation determined by the application of a specified percentage of the total amount collected, including penalties, interest, court costs, or attorney's fees. If the debt to be collected consists of unpaid taxes, including any penalties, interest, or costs incurred in connection with the taxes, for which tax enforcement funds are available, the comptroller shall pay the compensation for services provided under the contract from those funds.

(e) An amount collected under a contract authorized by this section shall be deposited in a suspense account established for that purpose in the state treasury. The comptroller shall pay any compensation provided by the contract that is not paid from other funds under Subsection (d) from the suspense account. After those amounts have been paid, the remainder shall be transferred to the fund or account to which the amount collected is required to be deposited. If the amount collected is not required to be deposited to a specific fund or account, the amount shall be transferred to the general revenue fund.

(f) The comptroller may provide for the imposition of a collection fee not to exceed 15 percent of the amount owed in addition to the other amounts owed to this state to be collected under a contract authorized by this section. The person who owes the other amounts to be collected under the contract is liable for the collection fee. The collection fee may be collected under the contract in addition to the other amounts due. The amount of the collection fee is the amount provided by the contract, whether a specified amount or an amount contingent on the amount collected or other factor, for compensation of the person with whom the contract is made and any court costs or attorney's fees incurred in collecting the amount owed to this state.

(g) The comptroller shall require a person acting on behalf of the state under a contract authorized by this section to post a bond or other security in an amount the comptroller determines is sufficient to cover all revenue or other property of the state that is expected to come into the possession or control of the person in the course of providing the service.

(h) A person acting on behalf of the state under a contract authorized by this section does not exercise any of the sovereign power of this state, except that the person is an agent of this state for purposes of determining the priority of a claim that the person is attempting to collect under the contract with respect to the claims of other creditors.

(i) The comptroller may provide a person acting on behalf of the state under a contract authorized by this section with any confidential information in the custody of the comptroller relating to the debtor that is necessary to the collection of the claim and that the comptroller is not prohibited from sharing under an agreement with another state or the federal government. A person acting on behalf of the state under a contract authorized by this section, and each employee or agent of the person, is subject to all prohibitions against the disclosure of confidential information obtained

from the state in connection with the contract that apply to the comptroller or an employee of the comptroller. A person acting on behalf of the state under a contract authorized by this section or an employee or agent of the person who discloses confidential information in violation of a prohibition made applicable to the person under this subsection is subject to the same sanctions and penalties that would apply to the comptroller or an employee of the comptroller for that disclosure.

(j) The comptroller shall require a person acting on behalf of the state under a contract authorized by this section to obtain and maintain insurance coverage adequate to provide reasonable coverage for damages negligently, recklessly, or intentionally caused by the person or the person's agent in the course of collecting a debt under the contract and to protect the state from any liability for those damages. This state is not liable for and may not indemnify a person acting on behalf of the state under a contract authorized by this section for damages negligently, recklessly, or intentionally caused by the person or the person's agent in the course of collecting a tax or other amount under the contract.

(k) In addition to any other reasons that may be provided in the contract, a contract authorized under this section may be terminated if a person acting on behalf of the state under such contract, or an employee or agent of the person, is found to be in violation of the federal Fair Debt Collection Practices Act, discloses confidential information to a person not authorized to receive it as provided in Subsection (i) of this section, or performs any act resulting in a final judgment for damages against this state.

(*l*) The execution of a contract under this section does not accelerate the imposition of any penalty imposed or to be imposed on the tax or other amount to be collected under the contract.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 752 (H.B. 1302), § 1, effective January 1, 1991; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 17.19(1), effective September 1, 1997.

Sec. 403.0195. Contracts for Information About Property Recoverable by the State.

(a) The comptroller may contract with a person for the receipt of information about a possible claim that the state may be entitled to pursue for the recovery of revenue or other property.

(b) In a contract under Subsection (a), the total consideration to be paid by the state:

(1) must be contingent on a recovery by the state;

(2) may not exceed five percent of the amount of the revenue or the value of the other property that the state recovers as a result of the pursuit of the claim about which the contracting person provided information; and

(3) may be limited by agreement not to exceed a specified, absolute dollar amount.

(c) Consideration may not be paid by the state under a contract executed under Subsection (a) if, at the time the contract is executed or within three months after the date of execution and by means other than disclosure under the contract, a state employee has knowledge of the claim disclosed under the contract or has knowledge of a cause of action different from that disclosed under the contract but entitling the state to recover the same revenue or other property. An affidavit by a state employee claiming that knowledge under those circumstances is prima facie evidence of the knowledge and circumstances.

(d) This section does not apply to or affect property that is recoverable by the state under Chapters 71 through 75, Property Code.

(e) If the state recovers property in connection with a contract executed under this section and payment of the contractual consideration is not prohibited by Subsection (c), an amount not to exceed five percent of the amount of revenue or proceeds from the sale of property recovered shall be deposited to the credit of the comptroller's operating fund for payment of the consideration. The balance of the revenue or proceeds from the sale of property recovered shall be deposited to the credit of the general revenue fund or to any special fund as required by law.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 286 (S.B. 1108), § 1, effective September 1, 1991.

Sec. 403.020. Performance Review of School Districts [Repealed].

Repealed by Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 6.18(1), effective January 11, 2004.

HISTORY: Enacted by Acts 1990, 6th C.S., ch. 1 (S.B. 1), § 2.23, effective September 1, 1991; am. Acts 1999, 76th Leg., ch. 1428 (H.B. 2553), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1310 (H.B. 2425), § 16, effective June 20, 2003.

Sec. 403.0205. Review by Comptroller-Interscholastic Competition [Repealed].

Repealed by Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 6.18(2), effective January 11, 2004.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 26, effective September 1, 1993.

Sec. 403.021. Encumbrance Reports.

(a) In this section, "state agency" has the meaning assigned by Section 403.013.

(b) A state agency that expends appropriated funds shall report into the uniform statewide accounting system all payables and binding encumbrances by appropriation account for the first three quarters of the current appropriation year within 30 days after the close of each quarter. A state agency shall report payables and binding encumbrances for

all appropriation years annually to the comptroller and the Legislative Budget Board no later than October 30 of each year.

(c) Payables and binding encumbrances must be reported for all appropriations in the format that the comptroller prescribes.

(d) On November 1 of each fiscal year, the comptroller shall lapse all unencumbered nonconstruction appropriation balances for all prior appropriation years based on the payables and binding encumbrances reported.

(e) If a state agency submits a valid claim against a prior year's appropriation 30 days or more after the reporting due date, the comptroller shall reinstate the agency's appropriations to the extent of the claim.

(f) If a state agency submits a claim that is legally payable against an appropriation for an earlier year and the balance of the appropriation is insufficient to pay the claim, then the comptroller may reopen the appropriation to pay the claim. A claim is legally payable from an appropriation only if the appropriation was encumbered to pay the claim before the expiration of the appropriation.

(g) Each state agency shall reconcile all expenditures, binding encumbrances, payables, and accrued expenditures, as reported in the uniform statewide accounting system, with the state agency's strategic planning and budget structure, as reported in the automated budget and evaluation system. Each state agency shall report in the automated budget and evaluation system a method of financing as provided in the General Appropriations Act. The Legislative Budget Board, after consultation with the comptroller, shall determine a schedule for the reconciliation required by this subsection.

(h) The comptroller may adopt rules to administer this section.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 641 (S.B. 1095), § 6, effective September 1, 1991; am. Acts 1995, 74th Leg., ch. 686 (H.B. 2449), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 69, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 90(b), effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 281 (S.B. 176), § 3, effective September 1, 1999; am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 26, effective September 1, 2013.

Sec. 403.022. Review of State Agencies [Repealed].

Repealed by Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 6.18(3), effective January 11, 2004.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 17, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.90, effective September 1, 1995.

Sec. 403.0221. Performance Audit of Certain Transit Authorities.

(a) This section applies only to a transit authority that is governed by Chapter 451, Transportation Code, and was confirmed before July 1, 1985, and does not contain a municipality of more than 750,000.

(b) The comptroller may, on the request of an entity listed in Subsection (c), enter into an interlocal contract under Chapter 791 with a transit authority to conduct a performance audit to determine whether the authority is effectively and efficiently providing the services it was created to provide. The comptroller shall report the findings of an audit conducted under this section and make appropriate recommendations on changes in the operations of the authority to the governing body of the authority.

(c) A performance audit under this section may be requested by:

(1) the governing body of the transit authority;

(2) the governing body of the municipality with the largest population in the authority; or

(3) the commissioners court in which the majority of the area of the municipality described in Subdivision (2) is located.

(d) A contract under Subsection (b) shall provide that the authority will reimburse the comptroller for costs incurred in conducting the audit.

(e) The comptroller shall file a report containing the results of an audit performed under this section with the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the committees of the senate and the house of representatives responsible for approving legislation governing the authority.

(f) An audit may not be conducted under this section more often than once every two years.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1252, § 1, effective June 20, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(30), effective September 1, 1999 (renumbered from Sec. 403.026).

Sec. 403.023. Credit, Charge, and Debit Cards.

(a) The comptroller may adopt rules relating to the acceptance of credit, charge, and debit cards for the payment of fees, taxes, and other charges assessed by state agencies. The rules may:

(1) authorize a state agency to accept credit, charge, or debit cards for a payment if the comptroller determines the best interests of the state would be promoted;

(2) authorize or require a person that uses a credit, charge, or debit card to pay a processing fee to the state agency that accepts the card for a payment; and

(3) authorize a particular state agency to accept credit, charge, or debit cards for a payment without providing the same authorization to other state agencies.

(b) The comptroller may adopt rules relating to the use of credit or charge cards by state agencies to pay for purchases. The rules may:

(1) authorize a state agency to use credit or charge cards if the comptroller determines the best interests of the state would be promoted;

(2) authorize a state agency to use credit or charge cards to pay for purchases without providing the same authorization to other state agencies; and

(3) authorize a state agency to use credit or charge cards to pay for purchases that otherwise may be paid out of the agency's petty cash accounts under Subchapter K.

(c) The comptroller may not adopt rules about a particular state agency's acceptance of credit or charge cards for a payment if the rules would affect a contract that the agency has entered into that is in effect on September 1, 1993. The comptroller may not adopt rules about a particular state agency's acceptance of charge or debit cards for a payment if the rules would affect a contract that the agency has entered into that is in effect on September 1, 1999.

(d) The comptroller may not adopt rules about a particular state agency's acceptance or use of credit, charge, or debit cards if another law specifically authorizes, requires, prohibits, or otherwise regulates the acceptance or use.

(e) In this section, "state agency" means:

(1) a board, commission, department, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college;

(2) the legislature or a legislative agency; or

(3) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 26, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.04, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1467 (H.B. 3211), § 1.13, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 3.02, effective September 1, 2007.

Sec. 403.0231. Credit Card Agreement Benefitting State.

(a) The comptroller may enter an agreement with a credit card issuer under which:

(1) the issuer is required to pay to the comptroller an amount of money based on the use of the credit card by the holders of the credit card; and

(2) the issuer is permitted to represent to the public that use of the credit card benefits state parks and to design credit cards issued under the agreement to indicate this benefit.

(b) The form of any representation of benefit to state parks and the design of credit cards issued under the agreement must be approved by the comptroller.

(c) The comptroller shall deposit money received under this section to the credit of the state parks account under Section 11.035, Parks and Wildlife Code.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 167 (H.B. 16), § 1, effective May 21, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(31), effective September 1, 1999 (renumbered from Sec. 403.026).

Sec. 403.0232. Credit or Debit Card Agreement Benefiting Public Schools.

(a) In this section, "debit card" includes a prepaid debit card.

(b) The comptroller may enter an agreement with a credit or debit card issuer under which:

(1) the issuer is required to pay to the comptroller an amount of money based on the use of the credit or debit card by the cardholders; and

(2) the issuer is permitted to:

(A) represent to the public that use of the credit or debit card benefits public schools; and

(B) design credit or debit cards issued under the agreement to indicate that benefit.

(c) The form of any representation of benefit to public schools and the design of credit or debit cards issued under the agreement must be approved by the comptroller.

(d) In evaluating an issuer's proposal to enter into an agreement under this section, the comptroller shall consider:

(1) the financial stability of the issuer;

(2) whether the proposal offers the best available financial terms for the state and cardholders;

(3) the strength of the marketing effort to be made by the issuer and its marketing partners; and

(4) other issues the comptroller determines are appropriate.

(e) The agreement between the comptroller and the issuer must allow the cardholder to designate a particular school district as the recipient of money generated by the cardholder's credit or debit card use and should to the extent practicable allow the cardholder to designate a particular school. If the cardholder does not designate a particular school district or school, the comptroller shall deposit money received under this section to the credit of the foundation school fund.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 351 (S.B. 966), § 1, effective June 18, 2003.

Sec. 403.024. Searchable State Expenditure Database.

(a) In this section, "state agency" has the meaning assigned by Section 403.013.

(b) The comptroller shall establish and post on the Internet a database of state expenditures, including contracts and grants, that is electronically searchable by the public except as provided by Subsection (d). The database must include:

(1) the amount, date, payor, and payee of expenditures; and

(2) a listing of state expenditures by:

(A) object of expense with links to the warrant or check register level; and

(B) to the extent maintained by state agency accounting systems in a reportable format, class and item levels.

(c) To the extent possible, the comptroller shall present information in the database established under this section in a manner that is searchable and intuitive to users. The comptroller shall enhance and organize the presentation of the information through the use of graphical representations, such as pie charts, as the comptroller considers appropriate. At a minimum, the database must allow users to:

(1) search and aggregate state funding by any element of the information;

(2) ascertain through a single search the total amount of state funding awarded to a person by a state agency; and

(3) download information yielded by a search of the database.

(d) The comptroller may not allow public access under this section to a payee's address, except that the comptroller may allow public access under this section to information identifying the county in which the payee is located. The comptroller may not allow public access under this section to information that is identified by a state agency as excepted from required disclosure under Chapter 552 or as confidential. It is an exception to the application of Section 552.352(a) that the comptroller or an officer or employee of the comptroller's office posted information under this section in reliance on a determination made by a state agency about the confidentiality of information relating to the agency's expenditures. The comptroller or an officer or employee of the comptroller's office is immune from any civil liability for posting confidential information under this section if the comptroller, officer, or employee posted the information in reliance on a determination made by a state agency about the confidentiality of information relating to the agency's expenditures.

(e) To the extent any information required to be in the database is already being collected or maintained by a state agency, the state agency shall provide that information to the comptroller for inclusion in the database.

(f) The comptroller may not charge a fee to the public to access the database.

(g) Except as provided by Subsection (h), a state agency is required to cooperate with and provide information to the comptroller as necessary to implement and administer this section.

(h) This section does not require a state agency to record information or expend resources for the purpose of computer programming or other additional actions necessary to make information reportable under this section.

(i) The Department of Information Resources, after consultation with the comptroller, shall prominently include a link to the database established under this section on the public home page of the state electronic Internet portal project described by Section 2054.252.

(j) The comptroller may establish procedures and adopt rules to implement this section.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 1270 (H.B. 3430), § 1, effective October 1, 2007; am. Acts 2011, 82nd Leg., ch. 973 (H.B. 1504), § 4, effective June 17, 2011.

Sec. 403.0241. Special Purpose District Public Information Database.

(a) In this section:

(1) "Special purpose district" means a political subdivision of this state with geographic boundaries that define the subdivision's territorial jurisdiction. The term does not include a municipality, county, junior college district, independent school district, or political subdivision with statewide jurisdiction.

(2) "Tax year" has the meaning assigned by Section 1.04, Tax Code.

(b) The comptroller shall create and make accessible on the Internet a database, to be known as the Special Purpose District Public Information Database, that contains information regarding all special purpose districts of this state that:

(1) are authorized by the state by a general or special law to impose an ad valorem tax or a sales and use tax, to impose an assessment, or to charge a fee; and

(2) during the most recent fiscal year:

(A) had bonds outstanding;

(B) had gross receipts from operations, loans, taxes, or contributions in excess of $250,000; or

(C) had cash and temporary investments in excess of $250,000.

(c) For each special purpose district described by Subsection (b), the database must include:

(1) the name of the special purpose district;

(2) the name of each board member of the special purpose district;

(3) contact information for the main office of the special purpose district, including the physical address, the mailing address, and the main telephone number;

(4) if the special purpose district employs a person as a general manager or executive director, or in another position to perform duties or functions comparable to those of a general manager or executive director, the name of the employee;

(5) if the special purpose district contracts with a utility operator, contact information for a person representing the utility operator, including a mailing address and a telephone number;

(6) if the special purpose district contracts with a tax assessor-collector, contact information for a person representing the tax assessor-collector, including a mailing address and telephone number;

(7) the special purpose district's Internet website address, if any;

(8) the financial information described by Section 140.008(b) or (g), Local Government Code, including any revenue obligations;

(9) the total amount of bonds authorized by the voters of the special purpose district that are payable wholly or partly from ad valorem taxes, excluding refunding bonds if refunding bonds were separately authorized and excluding contract revenue bonds;

(10) the aggregate initial principal amount of all bonds issued by the special purpose district that are payable wholly or partly from ad valorem taxes, excluding refunding bonds and contract revenue bonds;

(11) the rate of any sales and use tax the special purpose district imposes;

(12) for a special purpose district that imposes an ad valorem tax:

(A) the ad valorem tax rate for the most recent tax year if the district is a district as defined by Section 49.001, Water Code; or

(B) the table of ad valorem tax rates for the most recent tax year described by Section 26.16, Tax Code, in the form required by that section, if the district is not a district as defined by Section 49.001, Water Code; and

(13) a link to the Internet website described by Section 49.062(g), Water Code, with a plain-language description of how a resident may petition to require that board meetings of certain special purpose districts be held not further than 10 miles from the boundary of the district.

(d) The comptroller may consult with the appropriate officer of, or other person representing, each special purpose district to obtain the information necessary to operate and update the database.

(e) To the extent information required in the database is otherwise collected or maintained by a state agency or special purpose district, the comptroller may require the state agency or special purpose district to provide that information and updates to the information as necessary for inclusion in the database in the form and manner prescribed by the comptroller. If the required information is posted separately on an Internet website that the state agency, comptroller, or special purpose district maintains or causes to be maintained, the comptroller may include in the database a direct link to, or a clear statement describing the location of, the separately posted information instead of or in addition to reproducing the information in the database.

(f) The comptroller shall update information in the database annually.

(g) The comptroller may not charge a fee to the public to access the database.

(h) The comptroller may establish procedures and adopt rules to implement this section.

HISTORY: Enacted by Acts 2017, 85th Leg., ch. 564 (S.B. 625), § 1, effective September 1, 2017; am. Acts 2019, 86th Leg., ch. 105 (S.B. 239), § 1, effective September 1, 2019; am. Acts 2019, 86th Leg., ch. 868 (H.B. 3001), § 1, effective September 1, 2019.

Sec. 403.0242. Special Purpose District Noncompliance List.

The comptroller shall prepare and maintain a noncompliance list of special purpose districts that have not timely complied with a requirement to provide information under Section 203.062, Local Government Code.

HISTORY: Enacted by Acts 2017, 85th Leg., ch. 564 (S.B. 625), § 1, effective September 1, 2017.

Sec. 403.0245. Availability on Internet of Certain Information on State Grants.

(a) In this section, "state agency" has the meaning assigned by Section 403.013.

(b) A state agency that awards a state grant in an amount greater than $25,000 shall make available to the public on the agency's generally accessible Internet website the purposes for which the grant was awarded. The agency shall provide to the comptroller a link to the information in order for the comptroller to maintain the information on the comptroller's Internet website through a central Internet portal.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 1131 (H.B. 1487), § 1, effective September 1, 2013.

Sec. 403.025. Federal Earned Income Tax Credit.

(a) The comptroller's office is the lead state agency in promoting awareness of the federal earned income tax credit program for working families.

(b) The comptroller shall recruit other state agencies and the governor's office to participate in a coordinated campaign to increase awareness of the federal tax program.

(c) State agencies that otherwise distribute information to the public may use existing resources to distribute information to persons likely to qualify for federal earned income tax credits and shall cooperate with the comptroller in information distribution efforts.

(d) The comptroller shall produce and make available to employers, by a written notice and a posting on the comptroller's Internet website, a form that includes information:

(1) regarding the federal earned income tax credit for distribution under Chapter 104, Labor Code; and

(2) explaining the availability of and contact information for local volunteer income tax assistance programs.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 655 (H.B. 1863), § 6.10, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(33), effective September 1, 1997 (renumbered from Sec. 403.024); am. Acts 1997, 75th Leg., ch. 1122 (H.B. 2906), § 8, effective September 1, 1997; am. Acts 2009, 81st Leg., ch. 1300 (H.B. 2360), § 3, effective September 1, 2009.

Sec. 403.026. Electronic Storage and Maintenance of Records.

(a) The comptroller may store and maintain electronically a state record or an essential record if:

(1) the method used to store and maintain the record allows accurate reproduction of the record;

(2) the method used to store and maintain the record conforms with any standards prescribed by the records preservation officer in conformity with any applicable rules of the National Institute of Standards and Technology, except that those standards do not apply to the extent they conflict with this section; and

(3) the place and manner of safekeeping the medium or equipment on which the record is stored and maintained conforms with the records preservation officer's requirements under Section 441.059(a), except that the officer may not prohibit the comptroller from retaining possession of that medium or equipment.

(b) An accurate reproduction of a state record that is stored and maintained according to this section is a preservation duplicate of the record for purposes of Sections 441.058 and 441.059, without regard to whether the records preservation officer:

(1) made the reproduction; or

(2) designated the reproduction as a preservation duplicate.

(c) An accurate reproduction of an essential record that is stored and maintained according to this section is a photographic reproduction of the record for purposes of Section 441.038(f).

(d) An accurate reproduction of a state record or an essential record may be in tangible or intangible form, including an electronic or optical image of the record.

(e) In this section:

(1) "Essential record" means written or graphical material that is made or received by the comptroller in the conduct of official state business and that is filed or intended to be preserved permanently or for a definite period as a record of that business.

(2) "Records preservation officer" means the director of the records management division of the Texas State Library.

(3) "State record" means a document, book, paper, photograph, sound recording, or other material, without regard to physical form or characteristic, that is made or received by the comptroller according to law or in connection with the transaction of official state business.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1040 (S.B. 862), § 61, effective September 1, 1997.

Sec. 403.027. Digital Signatures.

(a) The comptroller may establish a procedure for a person to use a digital signature to authenticate a document, a communication, or data submitted to the comptroller if:

(1) the comptroller determines the procedure will provide a degree of security and authenticity at least equal to that provided by a manual signature; and

(2) the digital signature:

(A) is unique to the person using it;

(B) is capable of independent verification;

(C) is under the sole control of the person using it; and

(D) is transmitted in a manner that makes it infeasible to change the signature, document, communication, or data without invalidating the signature.

(b) A digital signature provided according to a procedure established under Subsection (a) has the same legal force and effect for all purposes as a manual signature.

(c) The electronic approval of a voucher is governed by:

(1) this section and Chapter 2103 if the comptroller has established a procedure for the person approving the voucher to provide a digital signature concerning the voucher; or

(2) Chapter 2103 if the comptroller has not established the procedure.

(d) This section prevails over Chapter 2103 to the extent of conflict if both this section and that chapter apply under Subsection (c)(1).

(e) Except as provided by this subsection, Section 2054.060 applies to a digital signature used to authenticate any document, communication, or data submitted to the comptroller if the comptroller has not established a procedure under Subsection (a) concerning the signature. Section 2054.060 does not apply to the electronic approval of a voucher under Chapter 2103.

(f) The use of a digital signature under this section is subject to criminal laws pertaining to fraud and computer crimes, including Chapters 32 and 33, Penal Code.

(g) In this section, "digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 76, effective June 19, 1997; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 11, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 1310 (H.B. 2425), § 17, effective June 20, 2003.

Sec. 403.0271. Authorizations to Debit State Accounts.

(a) The comptroller may authorize a person to debit a state account in or outside of the state treasury for the purpose of receiving payment for goods or services provided to a state agency.

(b) The comptroller may:

(1) authorize certain persons to debit an account without authorizing others to do so;

(2) authorize a debit for goods or services provided to certain state agencies without authorizing a debit for goods or services provided to other state agencies;

(3) authorize a debit for certain types of goods or services without authorizing a debit for other types of goods or services; and

(4) otherwise limit the circumstances under which a debit is permitted.

(c) Each state agency whose funds are paid through debits authorized under Subsection (a) shall:

(1) reconcile the debits with the actual amount due for goods or services provided; and

(2) recover any amount debited that exceeds the amount due.

(d) The comptroller by rule shall specify the frequency with which a reconciliation under Subsection (c)(1) must be conducted by a state agency. The comptroller by rule may require the agency to submit the reconciliation to the comptroller for review and approval. The comptroller may audit the agency to ensure the accuracy of the reconciliation.

(e) The comptroller may adopt rules and establish procedures to administer this section.

(f) In this section, "state agency" means:

(1) a board, commission, department, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code, other than a public junior or community college;

(2) the legislature or a legislative agency; or

(3) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1467 (H.B. 3211), § 1.14, effective June 19, 1999.

Sec. 403.028. Strategies to Reduce Emissions of Greenhouse Gases.

(a) In this section, "greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(b) Not later than December 31, 2010, the comptroller shall prepare and deliver to each member of the legislature a report including a list of strategies for reducing emissions of greenhouse gases in this state that:

(1) shall result in net savings for consumers or businesses in this state;

(2) can be achieved without financial cost to consumers or businesses in this state; or

(3) help businesses in the state maintain global competitiveness.

(c) In preparing the list of emission reduction strategies, the comptroller shall consider the strategies for reducing the emissions of greenhouse gases that have been implemented in other states or nations.

(d) In determining under Subsection (b) whether an emission reduction strategy may result in a financial cost to consumers or businesses in this state, the comptroller shall consider the total net costs that may occur over the life of the strategy.

(e) A report prepared under Subsection (b) shall include the following information for each identified strategy:

(1) initial, short-term capital costs that may result from the implementation of the strategy delineated by the cost to business, and the costs to consumers; and

(2) lifetime costs and savings that may result from the implementation of the strategy delineated by the costs and savings to business and the costs and savings to consumers.

(f) The comptroller shall appoint one or more advisory committees to assist the comptroller in identifying and evaluating greenhouse gas emission reduction strategies. At least one representative from the following agencies shall serve on the advisory committee or committees:

(1) the Railroad Commission of Texas;

(2) the General Land Office;

(3) the Texas Commission on Environmental Quality;

(4) the Department of Agriculture; and

(5) a Texas institution of higher education.

(g) The comptroller may enter into an interagency agreement with the Texas Commission on Environmental Quality or other state agency for technical advice or assistance as necessary to complete the requirements of this section.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1343 (S.B. 184), § 1, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 27.001(22), effective September 1, 2011 (renumbered from Sec. 2305.201).

Sec. 403.029. Transfer of Certain Money to General Revenue Fund.

On the expiration of Subchapter N:

(1) the comptroller shall determine the amount sufficient to administer loan guarantees or obligations of the comptroller that remain outstanding under the Texas film industry loan guarantee indemnity program administered by the comptroller under Subchapter N; and

(2) any amount in the Texas film industry administrative fund that exceeds the amount determined under Subdivision (1) may be used only by the Music, Film, Television, and Multimedia Office in the governor's office for the purpose of promoting the film industry in this state.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 2, effective September 1, 1999.

Sec. 403.030. Information on Economic Development Activities [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 17.05(1), effective September 28, 2011.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1407 (S.B. 275), § 1, effective June 16, 2001; am. Acts 2007, 80th Leg., ch. 885 (H.B. 2278), § 3.02, effective April 1, 2009.

Sec. 403.0301. Intellectual Property.

(a) The comptroller may:

(1) apply for, register, secure, hold, and protect under the laws of the United States or any state or nation:

(A) a patent for the invention, discovery, or improvement of any process, machine, manufacture, or composition of matter;

(B) a copyright for an original work of authorship fixed in any tangible medium of expression, known or later developed, from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device;

(C) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan that the comptroller uses to identify and distinguish the comptroller's goods and services from other goods and services; or

(D) other evidence of protection or exclusivity issued for intellectual property;

(2) contract with a person for the sale, lease, marketing, or other distribution of the comptroller's intellectual property;

(3) obtain under a contract described in Subdivision (2) a royalty, license right, or other appropriate means of securing reasonable compensation for the development or purchase of the comptroller's intellectual property; and

(4) waive or reduce the amount of compensation secured by contract under Subdivision (3) if the comptroller determines that the waiver or reduction will:

(A) further a goal or mission of the comptroller; and

(B) result in a net benefit to the state.

(b) Intellectual property is excepted from required disclosure under Chapter 552:

(1) beginning on the date the comptroller decides to seek a patent, trademark, service mark, collective mark, certification mark, or other evidence of protection of exclusivity concerning the property; and

(2) ending on the date the comptroller receives a decision about the comptroller's application for a patent, trademark, service mark, collective mark, certification mark, or other evidence of protection of exclusivity concerning the property.

(c) Except as provided by Section 2054.115(c), money paid to the comptroller under this section shall be deposited to the credit of the general revenue fund.

(d) Notwithstanding any other law of this state, the comptroller may award to an employee of the comptroller who conceives, creates, discovers, invents, or develops intellectual property an appropriate amount of equity interest or participation in the research, development, licensing, or exploitation of that property.

(e) The comptroller shall establish intellectual property policies for the comptroller's office that include minimum standards for:

(1) the public disclosure or availability of products, technology, and scientific information, including inventions, discoveries, trade secrets, and computer software;

(2) review by the comptroller's office of products, technology, and scientific information, including consideration of ownership and appropriate legal protection;

(3) the licensing of products, technology, and scientific information;

(4) the identification of ownership and licensing responsibilities for each class of intellectual property; and

(5) royalty participation by inventors and the comptroller's office.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 12, effective June 15, 2001.

Sec. 403.0305. Approval by Comptroller [Repealed].

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 3.03, effective September 1, 2007; Repealed by Acts 2019, 86th Leg., ch. 857 (H.B. 2826), § 9, effective September 1, 2019.

Sec. 403.03057. [Expired January 1, 2018] Centralized State Purchasing Study.

HISTORY: Enacted by Acts 2015, 84th Leg., ch. 326 (S.B. 20), § 2, effective January 1, 2018; expired by 2015, 84th Leg., ch. 326 (S.B. 20), § 2, effective January 1, 2018.

Sec. 403.03058. Report on Occupational Licensing.

(a) Not later than December 31 of each even-numbered year, the comptroller shall prepare and submit to the legislature a report regarding all occupational licenses, including permits, certifications, and registrations, required by this state. The report must include:

(1) for each type of license:

(A) a description of the license;

(B) the department with regulatory authority for the license;

(C) the number of active licenses;

(D) the cost of an initial application for the license and for a renewal of the license; and

(E) the amount of state revenue generated from the issuance and renewal of the license; and

(2) a list of all statutory provisions requiring a license that were abolished during the previous legislative session.

(b) The comptroller shall post on its Internet website the report prepared under Subsection (a).

HISTORY: Enacted by Acts 2017, 85th Leg., ch. 967 (S.B. 2065), § 3.001, effective September 1, 2017.

Subchapter C

Accounting

Sec. 403.031. General Accounting Duties.

(a) The comptroller shall maintain accounts and information as necessary to show the sources of state revenues and the purposes for which expenditures are made and shall provide proper accounting controls to protect state finances.

(b) The comptroller shall maintain a double entry system of bookkeeping.

(c) The comptroller, in consultation with the state auditor and the attorney general, may develop standards and criteria to account for or to reclassify receivables determined to be uncollectible. The standards and criteria developed by the comptroller must comply with generally accepted accounting principles as prescribed or modified by the Governmental Accounting Standards Board or its successors and must provide proper accounting controls to protect state finances. The attorney general shall review and approve the standards and criteria for classification of receivables. Receivables may be reclassified as collectible or uncollectible on a case-by-case basis as determined or approved by the attorney general. The classification of receivables as uncollectible under this subsection does not constitute forgiveness of the debt, and any person indebted to the state remains subject to Section 403.055.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 1, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 70, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 10, effective September 1, 2003.

Sec. 403.032. Ledgers.

The comptroller shall collect and maintain the information that is necessary to produce:

(1) a state general ledger;

(2) a tax collectors' control ledger;

(3) a tax collectors' ledger for cash accounts;

(4) a tax collectors' ledger for occupation taxes;

(5) a tax collectors' ledger for insolvent taxes;

(6) a tax collectors' ledger for delinquent taxes;

(7) agency suspense ledgers;

(8) a bond ledger for state-owned bonds;

(9) a securities ledger;

(10) an appropriation ledger; and

(11) other ledgers found necessary.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 2, effective September 1, 1989.

Sec. 403.033. Supporting and Analysis Records.

The comptroller shall collect and maintain the information that is necessary to produce:

(1) a general journal;

(2) registers concerning deposits;

(3) registers concerning warrants;

(4) a warrants canceled register;
(5) a suspense cash record;
(6) a securities register;
(7) a tax collectors' journal;
(8) a tax collectors' report register;
(9) an occupation tax register;
(10) a revenue analysis;
(11) an expense analysis; and
(12) other necessary supporting records or analyses.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 3, effective September 1, 1989.

Sec. 403.034. State General Ledger.

(a) The comptroller shall maintain information concerning all entries to the state general ledger. The ledger contains controlling and fund accounts, including:
(1) a comptroller cash account;
(2) a comptroller bond account;
(3) a comptroller securities in trust account;
(4) a warrants payable account;
(5) agency suspense accounts;
(6) securities in trust fund accounts showing net balances, with a separate account for each fund;
(7) fund accounts for bonds owned, with a separate account for each fund; and
(8) other accounts found necessary.

(b) The comptroller shall charge the accounts in Subsection (a) with the cash on hand and in depository banks and with all bonds and securities held for state funds or in trust. The comptroller shall charge the state treasury with the totals of all deposits made into the state treasury and credit the state treasury with warrants paid, so that the state treasury balance in the comptroller's hands plus the balance in the state depositories equals the balance shown by the accounts.

(c) The comptroller shall keep accounts to show the amounts of outstanding warrants and shall credit the accounts with warrants issued and charge the accounts for warrants paid, so that the balances of the accounts represent the total amount of outstanding warrants.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 4, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.05, effective September 1, 1997.

Sec. 403.035. Suspense Accounts and Ledgers.

(a) The comptroller may create and use suspense accounts and funds for the collection, allocation, and distribution of revenue, including the allocation of revenue required to be deposited to the credit of the available school fund.

(b) The comptroller shall keep a suspense ledger that states the accounts of the comptroller with respect to money and securities the comptroller holds in suspense, including money and securities deposited with the comptroller pending a determination of whether the deposits are for a state purpose. The comptroller shall acknowledge the receipt of the items held in suspense and post these items to the ledger. The ledger must also include accounts for all money and securities received by heads of agencies and deposited in suspense with the comptroller.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 5, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.06, effective September 1, 1997.

Sec. 403.036. Appropriation Ledgers.

(a) The comptroller shall keep an account for each legislative appropriation and shall credit the account with the appropriation and charge the account with all warrants issued under the authority of the appropriation. Each account must show the law authorizing the appropriation.

(b) The comptroller shall credit the total of all appropriations to a control account. The comptroller shall charge the total of warrants issued to this account so that the balance represents the amount of unused appropriations. The comptroller shall balance the individual appropriation accounts against the control account.

(c) The head of each state agency or institution shall keep accounts of the appropriations as they apply to the agency or institution and shall balance the accounts against the similar accounts kept by the comptroller.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 6, effective September 1, 1989.

Sec. 403.037. Allocation of Certain Settlement Money at Direction of Attorney General.

(a) The attorney general may certify to the comptroller and the Legislative Budget Board that money awarded to the state in settlement of a claim is money to be credited to the account for a particular appropriation under Section 403.036 if it is not clear under applicable law to which account the money should be credited.

(b) Except as provided by Subsection (c), the comptroller shall act in accordance with the certification received under Subsection (a):

(1) on the 31st day after the date the comptroller receives it; or

(2) on the day following the date the comptroller receives the written prior approval of the Legislative Budget Board to act in accordance with the certification.

(c) If, before the 31st day after the date the comptroller receives the certification under Subsection (a), the comptroller receives from the Legislative Budget Board a certification that the money is to be credited to a different account for a particular appropriation under Section 403.036 or that the money should not be credited to any account for a particular appropriation under Section 403.036, the comptroller shall act in accordance with the board's certification as soon as is practicable.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1396 (H.B. 2065), § 1, effective September 1, 2001.

Sec. 403.038. Revenue and Expense Analysis Records.

(a) The comptroller shall maintain sufficient information for a revenue analysis record and shall enter in the record the distribution of revenues derived by the state from all sources and the amounts derived from each source. The comptroller shall post to the record the sources of revenue as represented by deposits.

(b) The comptroller shall maintain sufficient information for an expense analysis record and shall enter in the record the distribution of the disbursements made from state funds, classified by agencies or institutions, objects of expenditure, or other criteria considered advisable.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 8, effective September 1, 1989.

Sec. 403.039. Texas Identification Number System.

(a) The comptroller shall assign a Texas Identification Number to each person who supplies property or services to the state for compensation or reimbursement.

(b) The Texas Identification Number system shall be used by each state agency as the primary identification system for persons who supply property or services to the agency for compensation or reimbursement. The agency may assign secondary numbers if the secondary numbering system does not unnecessarily create duplication of data bases, efforts, or costs.

(c) All state agencies shall cooperate with the comptroller to convert existing relevant identification systems to the Texas Identification Number system. The comptroller may adopt rules governing the conversion to and the administration of the Texas Identification Number system, including rules on the procedure for applying for a number under the system.

(d) In this section, "state agency" means any department, commission, board, office, or other agency in the executive, legislative, or judicial branch of state government, including an institution of higher education.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 906 (S.B. 381), § 1.04, effective June 19, 1993; am. Acts 2015, 84th Leg., ch. 51 (H.B. 1443), § 1, effective May 21, 2015.

Secs. 403.040 to 403.050. [Reserved for expansion].

Subchapter D

Warrants, Receipts, and Registers

Sec. 403.051. Deposit Warrants and Registers [Repealed].

Repealed by Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 9, effective September 1, 1989.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.052. Information Concerning Deposits.

(a) The comptroller shall promulgate rules and develop and implement procedures for the efficient deposit of money and securities received and held by the comptroller. The rules and procedures shall be consistent with the requirements of the uniform statewide accounting system.

(b) The comptroller shall record and maintain adequate information concerning deposits into the state treasury. This deposit information shall consist of the records and data that the comptroller deems necessary.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 10, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.07, effective September 1, 1997.

Sec. 403.053. Form and Handling of Deposit Warrants and Receipts [Repealed].

Repealed by Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 11, effective September 1, 1989.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.054. Replacement Warrant.

(a) Subject to Subsection (b), the comptroller may issue a replacement warrant in place of an original warrant drawn on the state treasury if the state agency on whose behalf the comptroller issued the original warrant notifies the comptroller that:

(1) the original warrant has been lost, destroyed, or stolen;

(2) the original warrant has not been received; or

(3) the payee's endorsement on the original warrant has been forged.

(b) The comptroller may not issue a replacement warrant if:

(1) the comptroller has paid the original warrant, unless the comptroller:

(A) has received a refund of the payment; or

(B) is satisfied that the state agency on whose behalf the comptroller issued the original warrant has taken reasonable steps to obtain a refund of the payment;

(2) the period during which the comptroller may pay the original warrant has expired under Section 404.046 or other applicable law;

(3) the payee of the replacement warrant is not the same as the payee of the original warrant; or

(4) the comptroller is prohibited by a payment law from issuing a warrant to the payee of the replacement warrant.

(c) A replacement warrant:

(1) must reflect the same fiscal year as the original warrant; and

(2) may not be paid by the comptroller unless presented for payment to the comptroller or a financial institution before the expiration of two years after the close of the fiscal year in which the original warrant was issued.

(d) The comptroller may not pay an original warrant after the comptroller has issued a replacement warrant for the original warrant.

(e) If the comptroller determines that a replacement warrant was improperly issued or that the person to whom the replacement was issued was not its owner, the comptroller shall immediately demand return of the replacement or, if the replacement has been paid, the amount paid by the state. If this demand is not satisfied, the comptroller shall refer the matter to the attorney general for appropriate action.

(f) A person other than a law enforcement official that has possession of a lost or stolen warrant or a warrant on which the payee's endorsement has been forged shall, on request, immediately deliver the warrant to the comptroller or the state agency on whose behalf the comptroller issued the warrant. The agency or comptroller shall issue a receipt for the warrant.

(g) Failure to reimburse the state on demand as required by Subsection (e) constitutes a debt to the state and further payment to the person shall be held as provided by Section 403.055.

(h) The comptroller shall adopt rules and forms regarding the issuance of replacement warrants.

(i) In this section, "payment law" means:

(1) Section 403.055;

(2) Section 57.48, Education Code;

(3) Section 231.007, Family Code; or

(4) any similar law that prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to a person.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 4 (S.B. 223), § 2.03, effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 27, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.08, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1310 (H.B. 2425), § 18, effective September 1, 2003.

Sec. 403.055. Payments to Debtors or Delinquents Prohibited.

(a) Except as provided by this section, the comptroller, as a ministerial duty, may not issue a warrant or initiate an electronic funds transfer to a person who has been reported properly under Subsection (f).

(b) Except as provided by this section, the comptroller may not issue a warrant or initiate an electronic funds transfer to the assignee of a person who has been reported properly under Subsection (f) if the assignment became effective after the person became indebted to the state or incurred a tax delinquency.

(c) If this section prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to a person, the comptroller may issue a warrant or initiate an electronic funds transfer only as provided by this section to:

(1) the person's estate;

(2) the distributees of the person's estate; or

(3) the person's surviving spouse.

(d) This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to pay:

(1) the compensation of a state officer or employee; or

(2) the remuneration of an individual if the remuneration is being paid by a private person through a state agency.

(e) This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to a person reported properly under Subsection (f) or to the person's assignee if the state agency responsible for collecting the person's debt or tax delinquency subsequently and properly reports to the comptroller that:

(1) the person is complying with an installment payment agreement or similar agreement to pay or eliminate the debt or delinquency, unless the agency subsequently and properly reports to the comptroller that the person no longer is complying with the agreement;

(2) the person's debt or delinquency has been paid or otherwise eliminated; or

(3) the report of indebtedness or delinquency was prohibited by Subsection (g) or was otherwise erroneous.

(f) Except as provided by Subsection (g), a state agency shall report to the comptroller each person who is indebted to the state or has a tax delinquency. The report must contain the information and be submitted in the manner and with the frequency required by the comptroller.

(g) A state agency may not report a person under Subsection (f) unless the agency first provides the person with an opportunity to exercise any due process or other constitutional or statutory protection that must be accommodated before the agency or the state may begin a collection action or procedure. The comptroller may not investigate or determine whether a state agency has complied with this prohibition.

(h) This section does not apply:

(1) to the extent Section 57.48, Education Code, applies; or

(2) to the extent this section conflicts with Section 231.007, Family Code.

(i) This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer if:

(1) the warrant or transfer would result in a payment being made in whole or in part with money paid to the state by the United States; and

(2) the state agency that administers the money certifies to the comptroller that federal law:

(A) requires the payment to be made; or

(B) conditions the state's receipt of the money on the payment being made.

(j) The comptroller may adopt rules and establish procedures to administer this section.

(k) This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to a person, the person's assignee, the person's estate, the distributees of the person's estate, or the person's surviving spouse if each state agency that properly reported the person under Subsection (f) consents to issuance of the warrant or initiation of the transfer.

(*l*) In this section:

(1) "Compensation" means base salary or wages, longevity pay, hazardous duty pay, benefit replacement pay, or an emolument provided in lieu of base salary or wages.

(2) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code, other than a public junior or community college.

(3) "State officer or employee" means an officer or employee of a state agency.

(4) "Tax delinquency" means a delinquency in payment of:

(A) a tax to the state; or

(B) a tax that the comptroller administers or collects.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 12.01, effective January 1, 1992; am. Acts 1991, 72nd Leg., ch. 641 (S.B. 1095), § 7, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 28, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 23, effective June 19, 1997; am. Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 24, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 583 (S.B. 583), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1467 (H.B. 3211), § 1.15, effective January 1, 2000; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 13, effective June 15, 2001; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 94(2), effective June 15, 2001; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(37), effective September 1, 2001.

Sec. 403.0551. Deductions for Repayment of Certain Debts or Tax Delinquencies.

(a) Except as provided by Subsections (b) and (d), the comptroller may deduct the amount of a person's indebtedness to the state or tax delinquency from any amount the state owes the person or the person's successor. The comptroller shall issue a warrant or initiate an electronic funds transfer to the person or successor for any remaining amount.

(b) Subsection (a) applies to a person or the person's successor only if:

(1) the comptroller has provided notice to the person or successor that complies with Subsection (c);

(2) Section 57.48, Education Code, or Section 403.055 prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to the person or successor; and

(3) the comptroller is responsible under Section 404.046, 404.069, or 2103.003 for paying the amount owed by the state to the person or successor through the issuance of a warrant or initiation of an electronic funds transfer.

(c) The comptroller shall provide notice to a person or the person's successor before deducting the amount of the person's indebtedness to the state or tax delinquency under Subsection (a). The notice must:

(1) be given in a manner reasonably calculated to give actual notice to the person or successor;

(2) state the:

(A) amount of the indebtedness or the amount of the tax, penalties, interest, and costs due, as applicable; and

(B) name of the indebted or delinquent person;

(3) specify the deadline for paying the amount due; and

(4) inform the person or successor that unless the amount due is paid before the deadline, the comptroller will deduct the amount of the indebtedness or delinquency from the amount the state owes the person or successor.

(d) This section does not authorize the comptroller to deduct the amount of a state employee's indebtedness to a state agency from any amount of compensation owed by the agency to the employee, the employee's successor, or the assignee of the employee or successor. In this subsection, "compensation" has the meaning assigned by Section 403.055 and "indebtedness," "state agency," "state employee," and "successor" have the meanings assigned by Section 666.001.

(e) The comptroller shall credit the appropriate fund or account for any amount deducted under this section if the comptroller is the custodian or trustee of that fund or account. The comptroller shall remit any amount deducted under this section to the custodian or trustee of the appropriate fund or account if the comptroller is not its custodian or trustee.

(f) The comptroller may determine the order that a person's multiple types of indebtedness to the state or tax delinquencies are deducted from the amount the state owes the person or the person's successor.

(g) The assignee of a person or the person's successor is considered to be a successor of the person for the purposes of this section, except that a deduction under this section from the amount owed to the assignee of a person or the person's successor may not be made if the assignment became effective before the person became indebted to the state or incurred the tax delinquency.

(h) The comptroller may adopt rules and establish procedures to administer this section.

(i) Except as provided by Subsection (d), in this section, "successor" means a person's estate and the distributees of that estate.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1467 (H.B. 3211), § 1.16, effective January 1, 2000; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 16.01, effective September 28, 2011.

Sec. 403.0552. Preparation and Retention of Certain Warrants.

(a) The comptroller may prepare and retain a warrant that Section 57.48, Education Code, Section 231.007, Family Code, or Section 403.055 prohibits the comptroller from issuing.

(b) Except as provided by this subsection, the comptroller may prepare a warrant to make a payment that Section 57.48, Education Code, Section 231.007, Family Code, or Section 403.055 prohibits the comptroller from initiating by electronic funds transfer. The comptroller shall prepare the warrant if the payment is overdue under Section 2251.021.

(c) If the comptroller prepares a warrant under Subsection (a) or (b), the comptroller shall:

(1) make the warrant payable to the person to whom the warrant may not be issued or an electronic funds transfer may not be initiated; and

(2) retain the warrant until the earliest of:

(A) the first day the warrant may no longer be paid by the comptroller under Section 404.046 or other applicable law;

(B) the date the comptroller deducts the amount of the person's indebtedness to the state or tax delinquency from the amount of the warrant under Section 403.0551 or other applicable law;

(C) the date the comptroller recovers the amount of the person's indebtedness to the state under Chapter 666; or

(D) the first day the comptroller is no longer prohibited from issuing the warrant or initiating an electronic funds transfer to that person.

(d) The comptroller may not cancel or destroy a warrant prepared under Subsection (a) or (b) unless the comptroller receives a request for the cancellation or destruction from the state agency that submitted the voucher requesting issuance of the warrant or initiation of the electronic funds transfer and:

(1) the agency informs the comptroller that the voucher was erroneous or was submitted erroneously;

(2) the agency is the only state agency responsible for collecting the indebtedness or tax delinquency of the payee of the warrant; or

(3) all state agencies that are responsible for collecting the indebtedness or tax delinquency of the payee of the warrant consent to the cancellation or destruction.

(e) For purposes of Subsection (d)(1), a voucher is not erroneous and is not submitted erroneously merely because the comptroller is prohibited by Section 57.48, Education Code, Section 231.007, Family Code, or Section 403.055 from issuing a warrant or initiating an electronic funds transfer in accordance with the voucher.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1467 (H.B. 3211), § 1.17, effective January 1, 2000; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 14(a), effective June 15, 2001; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 14(b), effective September 1, 2001.

Sec. 403.056. Preparation and Delivery of Warrants.

(a) When a warrant is prepared, the comptroller shall record and maintain adequate information concerning the warrant. This information shall consist of the records and data that the comptroller deems necessary.

(b) After the warrant has been prepared, it shall be delivered to the comptroller for the comptroller's authorization or signature as provided by law.

(c) The comptroller shall deliver the warrant to the person entitled to receive it. The comptroller may require the person to give a receipt for the warrant. The comptroller may file that receipt in the comptroller's office.

(d) A warrant prepared under this section is considered for all purposes to be issued on the due date of the claim.

(e) Notwithstanding Subsection (c), the comptroller may deliver a warrant for payment of a bill for gas or water service provided to the state or a state agency directly to the utility that provided the service. The comptroller may adopt rules to carry out this subsection, consistent with Chapter 2251.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 12, effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 660 (S.B. 83), § 9, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.09, effective September 1, 1997.

Sec. 403.057. Signature on Warrants After Change in Office.

If the comptroller ceases to hold or perform the duties of office, existing stocks of warrants bearing the person's printed name, signature, or facsimile signature may be used until they are exhausted, and the person succeeding to the office or the duties of the office shall have the warrants issued with:

(1) the obsolete printed name, signature, or facsimile signature struck through;

(2) the successor's printed name substituted for the obsolete printed name, signature, or facsimile signature; and

(3) the inscription "Printed name authorized by law" near the successor's printed name.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 13, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.10, effective September 1, 1997.

Sec. 403.058. Information Concerning Canceled Warrants.

The comptroller shall record and maintain the information concerning canceled warrants that is necessary to enable an adequate audit to be performed.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 14, effective September 1, 1989.

Sec. 403.059. Pension Warrants [Repealed].

Repealed by Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 15, effective September 1, 1989.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.060. Printing and Issuance of Warrants.

(a) The comptroller may delegate to a person the authority to print warrants and deliver those warrants to the appropriate person. However, before a person may print and deliver a warrant, the comptroller must approve a voucher related to the warrant in accordance with Section 403.071.

(b) The comptroller:

(1) may print all warrants on a stock that is the same color and design;

(2) may make a warrant payable out of two or more state funds when not prohibited by law;

(3) shall number warrants in accordance with the requirements of the uniform statewide accounting system; and

(4) may combine on a single warrant the payments to a vendor or state employee by two or more state agencies when not prohibited by law.

(c) The comptroller shall promulgate rules for the effective and efficient administration of this section.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 16, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 641 (S.B. 1095), § 8, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.11, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1467 (H.B. 3211), § 1.18, effective June 19, 1999.

Secs. 403.061 to 403.070. [Reserved for expansion].

Subchapter E

Claims

Sec. 403.071. Claims and Available Money; Offense.

(a) A warrant may not be prepared unless a properly audited claim, verified as to correctness by the agency submitting the claim, is presented to the warrant clerk.

(b) A claim may not be paid from an appropriation unless the claim is presented to the comptroller for payment not later than two years after the end of the fiscal year for which the appropriation was made. However, a claim may be presented:

(1) not later than four years after the end of the fiscal year for which the appropriation from which the claim is to be paid was made if the appropriation relates to:

(A) new construction contracts;

(B) grants awarded under Chapter 391, Health and Safety Code;

(C) repair and remodeling projects that exceed the amount of $20,000, including furniture and other equipment and architects' and engineering fees; and

(D) other costs related to the contracts or projects; or

(2) not later than seven years after the end of the fiscal year for which the appropriation from which the claim is to be paid was made if the appropriation relates to grants awarded under Chapter 102, Health and Safety Code.

(c) A claim not presented before the deadline provided by Subsection (b) may be presented to the legislature as other claims for which appropriations are not available.

(d) A warrant may not be drawn against an appropriation from a special fund or account unless the fund or account contains in the state treasury sufficient cash to pay the warrant. The comptroller may not release or deliver a warrant unless the appropriation against which the warrant is drawn has a balance sufficient to pay the warrant.

(e) As a claim is paid it shall be filed according to the method the comptroller finds most advisable. After two years after a claim is filed, it shall be removed from the files and stored as a record.

(f) A person commits an offense if the person knowingly makes a false certificate on a claim against the state for the purpose of authenticating a claim against the state. An offense under this section is punishable by imprisonment in the Texas Department of Criminal Justice for not less than two or more than five years.

(g) Notwithstanding Subsection (a), the comptroller may audit claims presented by the state agency after the comptroller prepares warrants or uses the electronic funds transfer system to pay the claims.

(h) The comptroller may establish requirements and adopt rules concerning the time that a state agency must retain documentation in its files to enable a postpayment audit. If a postpayment audit by the comptroller shows that a claim presented by a state agency was invalid, the comptroller may:

(1) implement procedures to ensure that similar invalid claims from the state agency are not paid in the future;

(2) report to the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, and the Legislative Budget Board the results of the audit;

(3) require the state agency to obtain a refund of the monies from the payee; and

(4) reduce the state agency's remaining appropriations by the amount of the claim.

(i) The comptroller may access the books, accounts, confidential or nonconfidential reports, vouchers, electronic data, or other records or information of a state agency subject to a postpayment audit. If information may not be released under federal law, the comptroller may not access the information without approval of the appropriate federal agency.

(j) The comptroller shall use reasonable efforts to avoid hindering the daily operations of a state agency subject to a postpayment audit by coordinating requests for access to books, accounts, reports, vouchers, electronic data, or other records or information of the audited agency.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 11.02, effective August 22, 1991; am. Acts 1991, 72nd Leg., ch. 641 (S.B. 1095), § 9, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 29, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 14, effective June 19, 1997; am. Acts 2009, 81st Leg., ch. 1125 (H.B. 1796), § 10, effective September 1, 2009; am. Acts 2019, 86th Leg., ch. 201 (H.B. 2570), § 1, effective September 1, 2019; am. Acts 2019, 86th Leg., ch. 795 (H.B. 2042), § 1, effective September 1, 2019.

Sec. 403.072. Payroll Claims.

(a) A court, school, or other state agency may prepare and present a payroll claim to the comptroller before the end of the payroll period. The claim must be verified as to services performed during the payroll period before the date of the claim but need not be verified as to services to be performed during the payroll period after the date of the claim.

(b) The comptroller shall accept the claim when presented, prepare a warrant in payment of the claim before the date it becomes due and payable, and hold the warrant for delivery until it becomes due and payable. The warrant must be dated as of the due date of the claim and may not be delivered to the claimant until the due date.

(c) To allow such a warrant to be ready for delivery on the due date, the comptroller may adopt rules necessary to administer this section.

(d) In its rules adopted under this section, the comptroller may not require an institution of higher education, as defined by Section 61.003, Education Code, that processes its own payroll to submit payroll information to the comptroller relating to individual employees of the institution that is not required by the comptroller to make any distribution of state money to the institution to cover the institution's payroll.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.12, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1266 (S.B. 1652), § 1.18, effective June 21, 2003.

Sec. 403.0721. Net Compensation Calculation.

The comptroller may adopt procedures and rules relating to the method used to calculate the net compensation of a state officer or employee.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 30, effective September 1, 1993.

Sec. 403.073. Special Claims.

A person holding a claim against the state for which a warrant has not been issued and for which the appropriation

has been exhausted shall present the claim to the comptroller for the comptroller's consideration not later than 30 days before the meeting of each regular session of the legislature. The comptroller may not audit such a claim presented after this deadline until the comptroller has considered and passed on all claims presented before the deadline.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.074. Miscellaneous Claims.

(a) The comptroller shall pay, from available funds appropriated for that purpose, miscellaneous claims for which an appropriation does not otherwise exist or for which the appropriation has lapsed. For the purpose of this section, "miscellaneous claims" does not include claims concerning warrants that have expired because they were not presented to the comptroller for payment within the time period specified in Section 210.012, Labor Code.

(b) Except as provided by Subsection (g), the comptroller may not pay a miscellaneous claim unless the claim has been:

(1) verified and substantiated by an authorized employee of the state agency whose special fund or account is to be charged for the claim;

(2) verified by the attorney general as a legally enforceable obligation of the state; and

(3) certified by the claimant as due and unpaid.

(c) The comptroller shall keep a record of each transaction made under this section, showing:

(1) the amount of the claim paid;

(2) the identity of the claimant;

(3) the purpose of the claim; and

(4) the fund or account against which the claim is to be charged.

(d) Except as provided by Subsection (g), the comptroller may not pay under this section a single claim in excess of $50,000, or an aggregate of claims by a single claimant during a biennium in excess of $50,000. For the purposes of this subsection, all claims that were originally held by one person are considered held by a single claimant regardless of whether those claims were later transferred.

(e) Unless another law provides a period within which a particular claim must be made, a claim may not be made under this section after eight years from the date on which the claim arose. A claim arises on the day after the last day that payment was due on the original claim. A person who fails to make a claim within the period provided by law waives any right to a payment of the claim.

(f) This section does not apply to a claim for a refund of a tax or fee.

(g) The comptroller shall pay under this section any claim that satisfies the requirements of Subchapter B, Chapter 103, Civil Practice and Remedies Code, as provided by Section 103.151, Civil Practice and Remedies Code.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 20, effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 584 (H.B. 2519), § 5, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 641 (S.B. 1095), § 10, effective September 1, 1991; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 9.57, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.13, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1488 (S.B. 536), § 2, effective June 15, 2001; am. Acts 2007, 80th Leg., ch. 1388 (S.B. 1719), § 1, effective September 1, 2007.

Sec. 403.075. Deficiencies.

(a) A person having the power to contract for supplies or pledge the credit of the state for a deficiency that may arise under the person's management or control shall, before the occurrence of a deficiency, make a sworn estimate of the amount necessary to cover a deficiency until the meeting of the next legislature. The person must make the estimate not later than the 30th day before the date the deficiency occurs and shall immediately submit the claim to the governor.

(b) The governor shall:

(1) carefully examine the claim;

(2) approve or disapprove it in whole or part;

(3) endorse the approval on the claim or the part approved;

(4) designate the amount and items approved and the items disapproved; and

(5) file the claim with the comptroller.

(c) The comptroller may draw a deficiency warrant for and may pay only the part of a claim approved and filed as provided by this section. If a sufficient deficiency appropriation exists to meet the claim, the comptroller shall draw a warrant and the claim shall be paid. If such an appropriation does not exist or is not sufficient to pay the claim, the comptroller shall issue a deficiency warrant and the claim may not be paid until the legislature provides for the payment.

(d) If injury or damage occurs to public property from a flood, storm, or unavoidable cause, an estimate may be filed under this section immediately. The estimate must be approved by the governor as provided by this section.

(e) The governor may not approve warrants under this section in an aggregate amount exceeding $200,000. A warrant approved above this amount is invalid and the comptroller may not redeem it.

(f) This section does not apply to fees and dues for which the state may be liable under general law.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.14, effective September 1, 1997.

Sec. 403.076. Tax Refunds.

(a) The comptroller shall pay from available funds claims for refunds of state taxes for which a refund may not be claimed under Section 111.104, Tax Code.

(b) The comptroller shall keep records of each transaction made under this section, showing:

(1) the amount of the claim paid;

(2) the identity of the claimant;

(3) the purpose of the claim; and

(4) the fund or account against which the claim is to be charged.

(c) For a tax for which no other law provides a period within which a refund claim must be made, a refund claim may not be made after four years from the latest date on which the tax could be paid without the imposition of a penalty or interest. If the law does not provide for the imposition of a penalty or interest for a tax not paid within a specified period, a claim for a refund of the tax may not be made after four years from the date the return relating to the tax was due or, if applicable, a notice that the tax was due.

(d) A person who fails to make a tax refund claim within the period provided by this section or other law waives any right to a refund of the tax paid.

(e) The refund claim must be filed in writing with the agency that collects the tax for which the refund is claimed. The claim must state the amount of the refund claimed and be accompanied by evidence sufficient to establish the grounds for and the amount of the refund.

(f) If the refund is required by law to be made by an agency other than the agency that collects the tax for which the refund is claimed, the agency that collects the tax shall provide the agency making the refund with a copy of the refund claim and the accompanying evidence to establish the validity and amount of the refund. The agency responsible for making the refund may not make a refund without receiving that evidence.

(g) Before paying a refund under this section, the comptroller shall credit the amount due to the person claiming the refund against any other amount finally determined to be due to the state from the person according to information in the custody of the comptroller and shall refund the remainder.

(h) This section does not apply to taxes paid under protest.

(i) This section is not a waiver of sovereign immunity for a refund suit. A person claiming a refund may not seek or obtain judicial review of a determination by the agency with which a refund claim is filed or by the agency having the responsibility to make a refund relating to the refund claim unless the legislature by resolution grants permission for a person to seek judicial review of the determination.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 21, effective September 1, 1989.

Sec. 403.077. Improper Collections.

(a) The comptroller may refund the amount of money collected or received by a state agency through mistake of fact or law and deposited in the state treasury, including money not due the state and money collected or received in excess of the amount required to be collected or received. The agency must make written request to the comptroller for the refund, showing the reason for and amount of the refund. At any time the comptroller may require further written evidence for the refund and may withhold payment until the comptroller is satisfied that the refund is justified.

(b) A warrant for the payment of the refund must be signed by the comptroller and shall be drawn against the fund or account into which the money was deposited. The refund shall be made from funds appropriated for that purpose.

(c) This section does not affect Subchapter C, Chapter 111, Tax Code, or any statute requiring payment of unrefundable fees.

(d) Unless another law provides a period within which a particular refund claim must be made, a refund claim may not be made under this section after four years from the latest date on which the amount collected or received by the state was due, if the amount was required to be paid on or before a particular date. If the amount was not required to be paid on or before a particular date, a refund claim may not be made after four years from the date the amount was collected or received. A person who fails to make a refund claim within the period provided by law waives any right to a refund of the amount paid.

(e) This section does not apply to a refund of a tax.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 22, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.15, effective September 1, 1997.

Sec. 403.078. Form.

All claims and accounts against the state shall be submitted on forms or according to the method and format that the comptroller prescribes. The claims and accounts shall be prepared to provide for entering on the claim or account, for use of the comptroller's office, the following:

(1) authorization of the head of the office or other person responsible for the expenditure;

(2) the appropriation against which the disbursement is to be charged;

(3) information required by the comptroller's rules;

(4) proof that the claim or account was presented to the state within the period of limitation provided by Section 16.051, Civil Practice and Remedies Code, or other applicable statute; and

(5) other appropriate matters.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 23, effective September 1, 1989.

Sec. 403.079. Using Sampling Techniques to Audit Claims.

(a) The comptroller may use generally recognized sampling techniques to audit claims against the state. Those techniques may be used only when the comptroller determines that they would be cost-effective and would promote greater efficiency in paying claims. The comptroller's proper use of sampling techniques satisfies the auditing requirements of Section 403.071.

(b) When the comptroller uses sampling techniques to audit claims from a state agency, the comptroller may project the results from the sample to similar types of unaudited claims from that agency. The comptroller may use that projection to estimate the amount of unaudited claims that were improperly paid. The comptroller may submit that estimate to the governor, state auditor, and the Legislative Budget Board.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 108 (S.B. 317), § 5, effective September 1, 1989.

Secs. 403.080 to 403.090. [Reserved for expansion].

Subchapter F

Management of Funds In Treasury

Sec. 403.091. Dormant Fund [Renumbered].

Renumbered to Tex. Gov't Code § 403.0915 by Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 11.03, effective August 22, 1991.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.0915. Dormant Fund or Account.

At any time the comptroller, with notification to the state auditor, may transfer to the general revenue fund a balance in a dormant fund or account if the source of the fund or account is unknown or the purpose for which it was collected is moot. The legislature at any time after the transfer may appropriate the balance as a refund if the source and purpose of the fund or account become known and active.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 11.03, effective August 22, 1991 (redesignated from Sec. 403.091); am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.16, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 15, effective September 1, 2001.

Sec. 403.092. Temporary Transfer of Surplus and Other Cash.

(a) To allow efficient management of the cash flow of the general revenue fund and to avoid a temporary cash deficiency in that fund, the comptroller may transfer available cash, except constitutionally dedicated revenues, between funds that are managed by or in the custody of the comptroller. As soon as practicable the comptroller shall return the available cash to the fund from which it was transferred. The comptroller shall preserve the equity of the fund from which the cash was transferred and shall allocate the earned interest as if the transfer had not been made.

(b) If the comptroller submits a statement under Article III, Section 49a, of the Texas Constitution when available cash transferred under Subsection (a) is in the general revenue fund, the comptroller shall indicate in that statement that the transferred available cash is in the general revenue fund, is a liability of that fund, and is not available for appropriation by the legislature except as necessary to return cash to the fund from which it was transferred as required by Subsection (a).

(c) **[2 Versions: As added by Acts 1993, 73rd Leg., ch. 449]** The comptroller may temporarily transfer cash from the general revenue fund to a special fund in the state treasury or to an account in the general revenue fund if:

(1) the transfer contributes toward minimizing the state's interest liability under the Cash Management Improvement Act of 1990 (31 U.S.C. Section 6501 et seq.) by delaying the receipt of federal money;

(2) the amount transferred does not exceed the amount necessary for the comptroller to process a payroll claim that a state agency submits before the end of the payroll period under Section 403.072;

(3) the comptroller determines before the transfer occurs that other money is not available to process the payroll claim;

(4) before the transfer occurs, the comptroller is notified by the state agency whose payroll claim will be processed that the federal government is legally required to provide by payday sufficient money to pay the claim;

(5) the transfer does not occur earlier than the 10th day before payday; and

(6) the amount transferred is returned to the general revenue fund as soon as possible after the federal money is received but not later than payday.

(c) **[2 Versions: As added by Acts 1993, 73rd Leg., ch. 533 and as amended by Acts Acts 1995, 74th Leg., ch. 315]**

(1) The comptroller may temporarily transfer cash from the general revenue fund to the petroleum storage tank remediation fund during the 1996-1997 biennium for the purpose of paying reimbursement claims against that fund that are filed with the Texas Natural Resource Conservation Commission on or before August 31, 1995, and for paying the necessary expenses associated with the administration of that fund. The amount of cash to be transferred shall not exceed $120 million. The transfer shall be made on September 1, 1995, or as soon as practicable thereafter.

(2) Notwithstanding other law, $80 million of the fees collected under Section 26.3574, Water Code, shall be deposited to the credit of the general revenue fund not later than August 31, 1996, and $40 million of those fees shall be deposited to the credit of that fund not later than May 31, 1997. The remaining fees collected under that section in excess of the amounts required by this subdivision to be deposited to the credit of the general revenue fund shall be deposited to the credit of the petroleum storage tank remediation fund.

(3) The amount transferred under Subdivision (1) is a receivable of the general revenue fund for the purpose of statements that the comptroller submits under Article III, Section 49a, of the Texas Constitution. The transferred amount is available for appropriation by the legislature.

(4) This subsection expires on the latter of August 31, 1997, or the date of full repayment to the general revenue fund of the amount required under Subdivision (2).

(d) The amount transferred under Subsection (c) is a receivable of the general revenue fund for the purposes of statements that the comptroller submits under Article III, Section 49a, of the Texas Constitution. The transferred amount is available for appropriation by the legislature.

(e) The comptroller may adopt procedures and rules to administer Subsections (c) and (d).

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 31, effective September 1, 1993; am. Acts 1993, 73rd Leg., ch. 533 (S.B. 1243), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 315 (H.B. 2587), § 16, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.17, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1310 (H.B. 2425), § 11, effective June 20, 2003.

Sec. 403.093. Allocations from General Revenue Fund.

(a) Each month the comptroller shall withdraw from the general revenue fund authorized withdrawals and transfers.

(b) [Repealed by Acts 1989, 71st Leg., ch. 4 (S.B. 223), § 2.71(b), effective September 1, 1989.]

(c) Each month the comptroller shall transfer from the general revenue fund to the state contribution account of the teacher retirement system trust fund the equal monthly payment provided by Section 825.404. If the appropriation provided by the legislature is different from the amount of state contributions required, the comptroller, after the end of the fiscal year, shall make adjustments in the teacher retirement fund and the general revenue fund so that the total transfers during the year equal the total amount of the state contribution required.

(d) The comptroller shall transfer from the general revenue fund to the foundation school fund an amount of money necessary to fund the foundation school program as provided by Chapter 48, Education Code. The comptroller shall make the transfers in installments as necessary to comply with Section 48.273, Education Code, and permit the Texas Education Agency, to the extent authorized by the General Appropriations Act, to make temporary transfers from the foundation school fund for payment of the instructional materials and technology allotment under Section 31.0211, Education Code. Unless an earlier date is necessary for purposes of temporary transfers for payment of the instructional materials and technology allotment, an installment must be made not earlier than two days before the date an installment to school districts is required by Section 48.273, Education Code, and must not exceed the amount necessary for that payment and any temporary transfers for payment of the instructional materials and technology allotment.

(e) Except as provided by Subsection (f), when state revenue is allocated in proportional amounts to the available school fund and to the general revenue fund, the comptroller shall deposit all revenue to the credit of the general revenue fund and then, as a ministerial duty on the 10th day of each month and on the last day of the fiscal year, the comptroller shall transfer from the general revenue fund to the available school fund an amount equal to the proper proportional amount required by law to be allocated to the available school fund from revenue received from the tax during the preceding month, or in the case of the last month of the fiscal year, during the last month of the fiscal year.

(f) All net revenue from taxes imposed by Chapter 154, Tax Code, shall be deposited to the credit of the general revenue fund. The comptroller, as a ministerial duty on the 10th day of each month and on the last day of each fiscal year, shall transfer from the general revenue fund to the proper funds and accounts the amounts computed by the comptroller equal to the amounts required by that chapter.

(g) If on the 10th day of a month the amount available for transfer as provided by this section is insufficient, subsequent credits to the general revenue fund shall be accumulated in an amount sufficient to make the required transfer.

(h) [Expired pursuant to Acts 1993, 73rd Leg., ch. 27 (S.B. 380), § 2, effective September 15, 1995.]

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 4 (S.B. 223), § 2.71(b), effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 2(i), effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 27 (S.B. 380), § 2, effective September 15, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.13, effective

September 1, 1997; am. Acts 2015, 84th Leg., ch. 731 (H.B. 1474), § 5, effective September 1, 2015; am. Acts 2017, 85th Leg., ch. 581 (S.B. 810), § 41, effective June 9, 2017; am. Acts 2017, 85th Leg., ch. 705 (H.B. 3526), § 23, effective June 12, 2017; am. Acts 2019, 86th Leg., ch. 467 (H.B. 4170), § 8.009, effective September 1, 2019; am. Acts 2019, 86th Leg., ch. 943 (H.B. 3), § 3.073, effective September 1, 2019.

Sec. 403.0935. Account for Certain General Revenue Appropriations to Certain Institutions of Higher Education [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 7 (S.B. 8), § 2, effective March 31, 1995.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 27 (S.B. 380), § 6, effective April 13, 1993.

Sec. 403.0936. General Revenue Appropriations to Public Junior Colleges [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 7 (S.B. 8), § 2, effective March 31, 1995.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 27 (S.B. 380), § 7, effective April 13, 1993.

Sec. 403.094. Consolidation of Funds; Abolition of Dedications [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 1058 (H.B. 3050), § 17, effective September 1, 1995.

HISTORY: Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 11.04, effective August 22, 1991.

Sec. 403.095. Use of Dedicated Revenue. [Expires September 1, 2021]

(a) Revenue that has been set aside by law for a particular purpose or entity is available for that purpose or entity to the extent money is appropriated for that purpose or entity. Expenditures made in furtherance of the dedicated purpose or entity shall be made from money received from the dedicated revenue source to the extent those funds are appropriated.

(b) Notwithstanding any law dedicating or setting aside revenue for a particular purpose or entity, dedicated revenues that on August 31, 2021, are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 86th Legislature are available for general governmental purposes and are considered available for the purpose of certification under Section 403.121.

(c) The comptroller shall develop accounting and revenue estimating procedures so that each dedicated account maintained in the general revenue fund can be separately identified as to balances of cash and other assets and the amounts of revenues and expenditures and appropriations for each fiscal year.

(d) Following certification of the General Appropriations Act and other appropriations measures enacted by the 86th Legislature, the comptroller shall reduce each dedicated account as directed by the legislature by an amount that may not exceed the amount by which estimated revenues and unobligated balances exceed appropriations. The reductions may be made in the amounts and at the times necessary for cash flow considerations to allow all the dedicated accounts to maintain adequate cash balances to transact routine business. The legislature may authorize, in the General Appropriations Act, the temporary delay of the excess balance reduction required under this subsection. This subsection does not apply to revenues or balances in:

(1) funds outside the treasury;

(2) trust funds, which for purposes of this section include funds that may or are required to be used in whole or in part for the acquisition, development, construction, or maintenance of state and local government infrastructures, recreational facilities, or natural resource conservation facilities;

(3) funds created by the constitution or a court; or

(4) funds for which separate accounting is required by federal law.

(e) [Repealed.]

(f) This section expires September 1, 2021.

HISTORY: Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 11.04, effective August 22, 1991; am. Acts 1995, 74th Leg., ch. 1058 (H.B. 3050), § 18, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1123 (H.B. 2948), § 13, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1045 (H.B. 3084), § 14, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1466 (H.B. 3088), § 17, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1296 (H.B. 3318), § 32, effective June 21, 2003; am. Acts 2005, 79th Leg., ch. 1358 (S.B. 1605), § 13, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1418 (H.B. 3107), § 15, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1051 (H.B. 4583), § 11, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1348 (S.B. 1588), § 17, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 839 (H.B. 6), § 15, effective September 1, 2013; am. Acts 2015, 84th Leg., ch. 987 (H.B. 6), § 21, effective September 1, 2015; am. Acts 2017, 85th Leg., ch. 710 (H.B. 3849), § 9, effective September 1, 2017; am. Acts 2017, 85th Leg., ch. 710 (H.B. 3849), § 15, effective June 12, 2017; am. Acts 2019, 86th Leg., ch. 1173 (H.B. 3317), § 14, effective September 1, 2019.

Sec. 403.0956. Reallocation of Interest Accrued on Certain Dedicated Revenue.

Notwithstanding any other law, all interest or other earnings that accrue on all revenue held in an account in the general revenue fund any part of which Section 403.095 makes available for certification under Section 403.121 are

available for any general governmental purpose, and the comptroller shall deposit the interest and earnings to the credit of the general revenue fund. This section does not apply to:

(1) interest or earnings on revenue deposited in accordance with Section 51.008, Education Code;

(2) an account that accrues interest or other earnings on deposits of state or federal money the diversion of which is specifically excluded by federal law;

(3) the lifetime license endowment account;

(4) the game, fish, and water safety account;

(5) the coastal protection account;

(6) the Alamo complex account; or

(7) the artificial reef account.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 835 (H.B. 7), § 2, effective June 14, 2013; am. Acts 2019, 86th Leg., ch. 1173 (H.B. 3317), § 13, effective September 1, 2019.

Sec. 403.096. Funds Review Advisory Committee [Repealed].

Repealed by Acts 1999, 76th Leg., ch. 1045 (H.B. 3084), § 18, effective June 18, 1999.

HISTORY: Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 11.04, effective August 22, 1991; am. Acts 1993, 73rd Leg., ch. 36 (S.B. 384), § 1.07, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.18, effective September 1, 1997.

Sec. 403.097. Funds Expended in Proportion to Method of Financing.

(a) The comptroller may prescribe rules to ensure that, when it is necessary to preserve cash balances in the funds and accounts in the state treasury, appropriations are drawn from the treasury in proportion to the methods of financing specified in the Acts authorizing the appropriations.

(b) The rules may include procedures relating to the deposit of receipts and the issuance of warrants.

(c) This section does not affect other powers of the comptroller under this subchapter, Subchapter H of Chapter 404, or other law.

(d) This section does not apply if the method of financing specified for an agency or an institution of higher education in the Act authorizing appropriations includes interest earned or to be earned on local funds of the agency or institution.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1499 (S.B. 178), § 1.07, effective September 1, 1999.

Secs. 403.098 to 403.100. [Reserved for expansion].

Subchapter G

Funds

Sec. 403.101. Flood Area School and Road Fund.

(a) The comptroller may receive and give a receipt for money due or payable under 33 U.S.C. Section 701c-3 (1986). The money shall be placed in a separate account called the flood area school and road fund to the credit of the comptroller. The money may not be part of the general funds of the state.

(b) Each person having the duty to collect school or road taxes for a school district, county, or other political subdivision all or part of which is within a flood control district or flood control area created or designated under law shall prepare and file with the comptroller a sworn report showing:

(1) the total number of acres acquired by the United States for flood control purposes within the boundaries of the school district, county, or other political subdivision; and

(2) the tax rate for each $100 of valuation for school and road purposes levied by the school district, county, or other political subdivision for the year in which the report is made.

(c) On or before September 15 of each year the comptroller shall pay to a school district, county, or other political subdivision the proportionate share of money in the flood area school and road fund that was produced by leases on land acquired by the United States for flood control purposes within the school district, county, or other political subdivision. The school district, county, or other political subdivision is entitled to a proportionate part of the money in the fund based on the ratio that the district's, county's, or subdivision's tax rate bears to the sum of the school tax rate and the road tax rate. The money may be used for the purposes permitted by federal law.

(d) If during a school year money distributable to a school district is in the flood area school and road fund, the comptroller, on application of a school district, may distribute the money on a date other than a date permitted by Subsection (c).

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.102. Federal Revenue Sharing Trust Fund.

(a) The federal revenue sharing trust fund exists to receive money authorized under the federal revenue sharing law (31 U.S.C. Section 6701 et seq. (1983)) and money earned by the use of that money. Expenditures from the fund must

be authorized by the legislature. The comptroller shall administer the fund and may adopt rules providing for the availability of money for use among the entities funded from the fund. Costs related to salary and wages for employer contributions to the state retirement programs, to the Federal Old Age and Survivors Insurance Program (42 U.S.C. Section 401 et seq. (1983)), and for the unemployment benefit program computed at the maximum contributor rate shall be applied to salaries and wages paid from the fund and credited to the general revenue fund.

(b) To ensure that the state obtains full benefit of the federal revenue sharing trust fund, the comptroller may invest money in the fund that is determined to exceed cash requirements for current expenditures in:

(1) direct obligations of, or obligations the principal and interest of which are guaranteed by, the United States;

(2) direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Bank, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, or Banks for Cooperatives;

(3) savings and loan associations insured by the Federal Savings and Loan Insurance Corporation;

(4) certificates of deposit of a bank or trust company the deposits of which are fully secured by a pledge of securities listed in Subdivisions (1)—(3);

(5) other securities made eligible by law for this investment; or

(6) any combination of those investments.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.103. School Taxing Ability Protection Fund.

The school taxing ability protection fund is a special fund in the state treasury. Money in the fund may be appropriated to finance formulas designed to protect school districts against estimated revenue losses resulting from implementation of Article VIII, Sections 1-b(c), 1-b(d), and 1-d-1, of the Texas Constitution and shall be allocated to school districts on the basis of formulas, conditions, and limitations prescribed by law.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.104. Federal Resource Receipts Distribution Fund.

(a) The federal resource receipts distribution fund is a fund in the state treasury. Money received by the state under 30 U.S.C. Section 191 or 355 (1984) shall be deposited to the credit of the fund. The comptroller shall distribute money in the fund to each eligible county in the amount and manner and for the purposes provided by federal law and this section.

(b) A county is eligible to receive funds under this section if federal land for which the state receives a portion of the money from sales, bonuses, royalties, or rentals under 30 U.S.C. Section 191 or 355 (1984) is located in the county. An eligible county is entitled to receive from the fund all of the money paid to the state and deposited in the fund from all sales, bonuses, royalties, and rentals received from federal public land located in the county.

(c) Not later than the 10th day after the date that a county receives a payment from the comptroller under this section the county shall distribute the payment as follows:

(1) 50 percent of the payment is available for distribution to the independent school districts located in whole or part in the county, with each school district receiving a proportionate share according to Subsection (d);

(2) 15 percent of the payment is available for distribution to the incorporated municipalities located in whole or part in the county, with each municipality receiving a proportionate share according to Subsection (e); and

(3) 35 percent of the payment is available for the county to retain.

(d) The proportionate share of an independent school district is determined by multiplying the total amount of the payment available for distribution to school districts by the ratio that the average daily attendance for students who reside in the county and who attend that school district bears to the average daily attendance for all students who reside in the county and who attend any independent school district. However, if there are fewer than 10 independent school districts located in whole or part in the county and if an independent school district would receive under this formula less than 10 percent of the total payment available for distribution to independent school districts, the school district's share shall be increased to 10 percent of the total payment and the shares of the school districts that would receive more than 10 percent under the formula shall be reduced proportionately, but not to an amount less than 10 percent of the total payment. Each independent school district shall develop a reasonable method for determining the average daily attendance for students who reside in the county and who attend the school district.

(e) The proportionate share of a municipality is determined by multiplying the total payment available for distribution to municipalities by the ratio that the number of residents of that municipality who live in the county bears to the total number of residents of all municipalities who live in the county. The number of residents shall be determined according to the most recent federal census.

(f) Money from the fund may be used only for planning, for constructing and maintaining public facilities, and for providing public service.

(g) The comptroller shall administer this section and distribute money from the fund to eligible counties as provided by this section and rules adopted under this section. The comptroller shall adopt rules establishing:

(1) procedures for determining eligible counties and the amounts of money to be distributed from the fund to each of those counties;

(2) methods for monitoring the uses and expenditures of the money; and

(3) other methods and procedures necessary to carry out this section and federal laws and rules governing the money distributed.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.1041. Tobacco Settlement Permanent Trust Account.

(a) In this section and Sections 403.1042 and 403.1043:

(1) "Account" means the tobacco settlement permanent trust account established under the agreement.

(2) "Advisory committee" means the tobacco settlement permanent trust account investment advisory committee.

(3) "Agreement" means the Agreement Regarding Disposition of Settlement Proceeds filed on July 24, 1998, in the United States District Court, Eastern District of Texas, in the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91. The term includes the subsequent Clarification of Agreement Regarding Disposition of Settlement Proceeds filed on July 24, 1998, in that litigation.

(4) "Department" means the Texas Department of Health.

(5) "Political subdivision" means:

(A) a hospital district;

(B) another local political subdivision that owns or maintains a public hospital; or

(C) a county of this state responsible for providing indigent health care to the general public.

(b) With the advice of and in consultation with the advisory committee, the comptroller shall administer the account and shall manage the assets of the account.

(c) In managing the assets of the account, the comptroller, with the advice of and in consultation with the advisory committee, may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the comptroller establishes and in amounts the comptroller considers appropriate, any kind of investment that a person of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances prevailing at that time, would acquire or retain for the person's own account in the management of the person's affairs, not in regard to speculation but in regard to the permanent disposition of the person's money, considering the probable income as well as the probable safety of the capital. Investment and management decisions concerning individual investments must be evaluated not in isolation but in the context of the investment portfolio as a whole and as part of an overall investment strategy consistent with the investment objectives of the account.

(d) The account is a trust account with the comptroller and is composed of money paid to the account in accordance with the agreement, assets purchased with that money, the earnings of the account, and any other contributions made to the account. The corpus of the account shall remain in the account and may not be distributed for any purpose. The money and other assets contained in the account are not a part of the general funds of the state. The comptroller may appoint one or more commercial banks, depository trust companies, or other entities to serve as a custodian of the account's assets. Section 404.071 does not apply to the account.

(e) The comptroller, with the advice of and in consultation with the advisory committee, may use the earnings of the account for any investment expense, including to obtain the advice of appropriate investment consultants for managing the assets in the account.

(f) On certification by the department under Subchapter J, Chapter 12, Health and Safety Code, the comptroller shall make an annual distribution of the net earnings from the account to each eligible political subdivision as provided in the agreement regarding disposition of settlement proceeds.

(g) Before December 1 of each year the comptroller shall prepare a written report regarding the account during the fiscal year ending on the preceding August 31. Not later than January 1 of each year the comptroller shall distribute the report to the advisory committee, the governor, the lieutenant governor, the attorney general, and the Legislative Budget Board. The comptroller shall furnish a copy of the report to any member of the legislature or other interested person on request. The report must include:

(1) statements of assets and a schedule of changes in book value of the investments from the account;

(2) a summary of the gains, losses, and income from investments on August 31;

(3) an itemized list of the securities held for the account on August 31; and

(4) any other information needed to clearly indicate the nature and extent of the investments made of the account and the income realized from the components of the account.

(h) The comptroller shall adopt rules necessary to implement the comptroller's duties under this section, including rules distinguishing the net earnings of the account that may be distributed under Subsection (f) from earnings used for investment expenses under Subsection (e) and from the money and assets that are the corpus of the account. A rule adopted by the comptroller under this subsection must be submitted to the advisory committee and may not become effective before the rule is approved by the advisory committee. If the advisory committee disapproves a proposed rule, the advisory committee shall provide the comptroller the specific reasons that the rule was disapproved.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 753 (H.B. 1161), § 1.01, effective August 30, 1999; am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 27, effective September 1, 2013.

Sec. 403.1042. Tobacco Settlement Permanent Trust Account Investment Advisory Committee.

(a) The tobacco settlement permanent trust account investment advisory committee shall advise the comptroller

with respect to managing the assets of the tobacco settlement permanent trust account. The committee shall provide the comptroller guidance with respect to the investment philosophy that should be pursued in managing these assets and the extent to which, at any particular time, the assets should be managed to maximize growth of the corpus or to maximize earnings. Except as provided by Section 403.1041(h), the advisory committee serves in an advisory capacity only and is not a fiduciary with respect to the account.

(b) The advisory committee is composed of 11 members appointed as follows:

(1) one member appointed by the comptroller to represent a public hospital or hospital district located in a county with a population of 50,000 or less or a public hospital owned or maintained by a municipality;

(2) one member appointed by the political subdivision that, in the year preceding the appointment, received the largest annual distribution paid from the account;

(3) one member appointed by the political subdivision that, in the year preceding the appointment, received the second largest annual distribution paid from the account;

(4) four members appointed by the Texas Conference of Urban Counties from nominations received from political subdivisions that, in the year preceding the appointment, received the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, or 12th largest annual distribution paid from the account;

(5) one member appointed by the County Judges and Commissioners Association of Texas;

(6) one member appointed by the North and East Texas County Judges and Commissioners Association;

(7) one member appointed by the South Texas County Judges and Commissioners Association; and

(8) one member appointed by the West Texas County Judges and Commissioners Association.

(c) A commissioners court that sets the tax rate for a hospital district must approve any person appointed by the hospital district to serve on the advisory committee.

(d) The advisory committee shall elect the officers of the committee from among the members of the committee.

(e) Except as provided by this subsection, members of the advisory committee serve staggered six-year terms expiring on August 31 of each odd-numbered year. A member of the advisory committee whose term expires or who attempts to resign from the committee remains a member of the committee until the member's successor is appointed.

(f) An individual or entity authorized to make an appointment to the advisory committee created under this section shall attempt to appoint persons who represent the gender composition, minority populations, and geographic regions of the state.

(g) Members of the advisory committee serve without compensation from the trust fund or the state and may not be reimbursed from the trust fund or the state for travel expenses incurred while conducting the business of the advisory committee.

(h) The comptroller shall provide administrative support and resources to the advisory committee as necessary for the advisory committee to perform the advisory committee's duties under this section and Section 403.1041.

(i) Chapter 2110 does not apply to the advisory committee.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 753 (H.B. 1161), § 1.01, effective August 30, 1999; am. Acts 2003, 78th Leg., ch. 1310 (H.B. 2425), § 20, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1094 (H.B. 2120), § 7, effective September 1, 2005.

Sec. 403.1043. Restrictions on Lobbying Expenditures.

(a) A political subdivision receiving a distribution under Section 403.1041(f) may not use the distribution to pay:

(1) lobbying expenses incurred by the recipient of the distribution;

(2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305, Government Code;

(3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or

(4) a person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

(b) The persons or entities described by Subsection (a) are not eligible to receive the money or participate either directly or indirectly in the distributions made under Section 403.1041(f).

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 753 (H.B. 1161), § 1.01, effective August 30, 1999.

Sec. 403.105. Permanent Fund for Health and Tobacco Education and Enforcement.

(a) The permanent fund for health and tobacco education and enforcement is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

(3) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (b-1), (c), (e), (f), and (h), money in the fund may not be appropriated for any purpose.

(b-1) Notwithstanding the limitations and requirements of Section 403.1068, the legislature may appropriate money in the fund, including the corpus and available earnings of the fund determined under Section 403.1068, to pay the

principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. This subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

(c) The available earnings of the fund may be appropriated to the Texas Department of Health for:

(1) programs to reduce the use of cigarettes and tobacco products in this state, including:

(A) smoking cessation programs;

(B) enforcement of Subchapters H, K, and N, Chapter 161, Health and Safety Code, or other laws relating to distribution of cigarettes or tobacco products to minors or use of cigarettes or tobacco products by minors;

(C) public awareness programs relating to use of cigarettes and tobacco products, including general educational programs and programs directed toward youth; and

(D) specific programs for communities traditionally targeted, by advertising and other means, by companies that sell cigarettes or tobacco products; and

(2) the provision of preventive medical and dental services to children in the medical assistance program under Chapter 32, Human Resources Code.

(d) Subject to any applicable limit in the General Appropriations Act, the Texas Department of Health may contract with another entity to perform all or a part of the functions described by Subsection (c) or may award grants to community organizations, public institutions of higher education, as that term is defined by Section 61.003, Education Code, or political subdivisions to enable the organizations, institutions, or political subdivisions to perform all or a part of those functions. To ensure the most efficient, effective, and rapid delivery of services, the Texas Board of Health shall give high priority and preference to existing, effective state programs that do not otherwise receive money from an endowment program funded by money received under the Comprehensive Settlement Agreement and Release filed in the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas. The board may adopt rules governing any grant program established under this section.

(e) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(g) Sections 403.095 and 404.071 do not apply to the fund.

(h) The department may direct the comptroller to temporarily transfer money appropriated under Subsection (c) to pay an obligation that the department is authorized to incur under and for which money is appropriated under Section 403.1055(c), 403.106(c), or 403.1066(c) if the department determines that the transfer is necessary for cash management purposes. As soon as possible after the transfer but not later than the 90th day after the date of the transfer, the department shall direct the comptroller to transfer back the transferred amount from amounts appropriated under Section 403.1055(c), 403.106(c), or 403.1066(c), as applicable, to the appropriation item for Subsection (c).

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1391 (H.B. 1676), § 1, effective August 31, 1999; am. Acts 2001, 77th Leg., ch. 1182 (H.B. 3244), § 1, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), §§ 2.31, 2.32, effective September 1, 2003; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 28.01, effective September 28, 2011.

Sec. 403.1055. Permanent Fund for Children and Public Health.

(a) The permanent fund for children and public health is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

(3) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (b-1), (c), (e), (f), and (h), money in the fund may not be appropriated for any purpose.

(b-1) Notwithstanding the limitations and requirements of Section 403.1068, the legislature may appropriate money in the fund, including the corpus and available earnings of the fund determined under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. This subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

(c) The available earnings of the fund may be appropriated to:

(1) the Texas Department of Health for the purpose of:

(A) developing and demonstrating cost-effective prevention and intervention strategies for improving health outcomes for children and the public;

(B) providing grants to local communities to address specific public health priorities, including sickle cell anemia, diabetes, high blood pressure, cancer, heart attack, stroke, keloid tissue and scarring, and respiratory disease;

(C) providing grants to local communities for essential public health services as defined in the Health and Safety Code; and

(D) providing grants to schools of public health located in Texas; and

(2) the Interagency Council on Early Childhood Intervention to provide intervention services for children with developmental delay or who have a high probability of developing developmental delay and the families of those children.

(d) The Texas Board of Health may adopt rules governing any grant program established under this section.

(e) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(g) Sections 403.095 and 404.071 do not apply to the fund.

(h) The department may direct the comptroller to temporarily transfer money appropriated under Subsection (c) to pay an obligation that the department is authorized to incur under and for which money is appropriated under Section 403.105(c), 403.106(c), or 403.1066(c) if the department determines that the transfer is necessary for cash management purposes. As soon as possible after the transfer but not later than the 90th day after the date of the transfer, the department shall direct the comptroller to transfer back the transferred amount from amounts appropriated under Section 403.105(c), 403.106(c), or 403.1066(c), as applicable, to the appropriation item for Subsection (c).

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1391 (H.B. 1676), § 1, effective August 31, 1999; am. Acts 2001, 77th Leg., ch. 1182 (H.B. 3244), § 2, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), § 2.33, effective September 1, 2003; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 28.02, effective September 28, 2011.

Sec. 403.106. Permanent Fund for Emergency Medical Services and Trauma Care.

(a) The permanent fund for emergency medical services and trauma care is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

(3) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (b-1), (c), (e), (f), and (h), money in the fund may not be appropriated for any purpose.

(b-1) Notwithstanding the limitations and requirements of Section 403.1068, the legislature may appropriate money in the fund, including the corpus and available earnings of the fund determined under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. This subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

(c) The available earnings of the fund may be appropriated to the Texas Department of Health for programs to provide emergency medical services and trauma care in this state.

(d) Subject to any applicable limit in the General Appropriations Act, the Texas Department of Health may establish programs to provide emergency medical services and trauma care in this state, may contract with another entity to establish those programs, or may award grants to political subdivisions to establish or support those programs. The department may consolidate any grant program established under this section with other grant programs relating to the provision of emergency medical services and trauma care. The Texas Board of Health may adopt rules governing the grant program.

(e) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(g) Sections 403.095 and 404.071 do not apply to the fund.

(h) The department may direct the comptroller to temporarily transfer money appropriated under Subsection (c) to pay an obligation that the department is authorized to incur under and for which money is appropriated under Section 403.105(c), 403.1055(c), or 403.1066(c) if the department determines that the transfer is necessary for cash management purposes. As soon as possible after the transfer but not later than the 90th day after the date of the transfer, the department shall direct the comptroller to transfer back the transferred amount from amounts appropriated under Section 403.105(c), 403.1055(c), or 403.1066(c), as applicable, to the appropriation item for Subsection (c).

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1391 (H.B. 1676), § 1, effective August 31, 1999; am. Acts 2001, 77th Leg., ch. 1182 (H.B. 3244), § 3, effective June 15, 2001; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 28.03, effective September 28, 2011.

Sec. 403.1065. Permanent Fund for Rural Health Facility Capital Improvement.

(a) The permanent fund for rural health facility capital improvement is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) payments of interest and principal on loans made under Subchapter G, Chapter 106, Health and Safety Code, and fees collected under that subchapter;

(3) gifts and grants contributed to the fund; and

(4) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (c), (d), and (e), money in the fund may not be appropriated for any purpose.

(c) The available earnings of the fund may be appropriated to the Texas Department of Rural Affairs for the purposes of Subchapter H, Chapter 487.

(d) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as the available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(e) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(f) Sections 403.095 and 404.071 do not apply to the fund.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1391 (H.B. 1676), § 1, effective August 31, 1999; am. Acts 2001, 77th Leg., ch. 1424 (H.B. 7), § 8, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 112 (H.B. 1918), § 6, effective September 1, 2009.

Sec. 403.1066. Permanent Hospital Fund for Capital Improvements and the Texas Center for Infectious Disease.

(a) The permanent hospital fund for capital improvements and the Texas Center for Infectious Disease is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) payments of interest and principal on loans and fees collected under this section;

(3) gifts and grants contributed to the fund; and

(4) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (c), (d), (e), and (i), the money in the fund may not be appropriated for any purpose.

(c) The available earnings of the fund may be appropriated to the Department of State Health Services for the purpose of providing services at a public health hospital as defined by Section 13.033, Health and Safety Code, and grants, loans, or loan guarantees to public or nonprofit community hospitals with 125 beds or fewer located in an urban area of the state.

(d) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(e) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(f) The Texas Board of Health may adopt rules governing any grant, loan, or loan guarantee program established under this section.

(g) A hospital eligible to receive a grant, loan, or loan guarantee under Subchapter G, Chapter 106, Health and Safety Code, is not eligible to receive a grant, loan, or loan guarantee under this section.

(h) Sections 403.095 and 404.071 do not apply to the fund.

(i) The department may direct the comptroller to temporarily transfer money appropriated under Subsection (c) to pay an obligation that the department is authorized to incur under and for which money is appropriated under Section 403.105(c), 403.1055(c), or 403.106(c) if the department determines that the transfer is necessary for cash management purposes. As soon as possible after the transfer but not later than the 90th day after the date of the transfer, the department shall direct the comptroller to transfer back the transferred amount from amounts appropriated under Section 403.105(c), 403.1055(c), or 403.106(c), as applicable, to the appropriation item for Subsection (c).

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1391 (H.B. 1676), § 1, effective August 31, 1999; am. Acts 2001, 77th Leg., ch. 1182 (H.B. 3244), § 4, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), §§ 2.205, 2.206, effective September 1, 2003; am. Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 2.001, effective April 2, 2015.

Sec. 403.1067. Restrictions on Lobbying Expenditures.

(a) An organization, program, political subdivision, public institution of higher education, local community organization, or other entity receiving funds or grants from the permanent funds in Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066 may not use the funds or grants to pay:

(1) lobbying expenses incurred by the recipient;

(2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305, Government Code;

(3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or

(4) a person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

(b) Except as provided by this subsection, the persons or entities described by Subsection (a) are not eligible to receive the money or participate either directly or indirectly in the contracts, funds, or grants awarded in Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066. A registrant under Chapter 305 is not ineligible under this subsection if the person is required to register under that chapter solely because the person communicates directly with a member of the executive branch to influence administrative action concerning a matter relating to the purchase of products or services by a state agency.

(c) Grants or awards made under Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066 may not be conditioned on the enactment of legislation, agency rules, or local ordinances.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1391 (H.B. 1676), § 1, effective August 31, 1999; am. Acts 2009, 81st Leg., ch. 1174 (H.B. 3445), § 5, effective September 1, 2009.

Sec. 403.1068. Management of Certain Funds.

(a) This section applies only to management of the permanent funds established under Sections 403.105, 403.1055, 403.106, 403.1065, and 403.1066.

(b) The comptroller shall manage the assets of each permanent fund. In managing the assets of a fund, the comptroller may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the comptroller considers appropriate, any kind of investment that prudent investors, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(c) The available earnings of each permanent fund consist of distributions made to the fund from the total return on all investment assets of the fund, including net income attributable to the surface of land held by the fund.

(d) The amount of any distributions to each fund under Subsection (c) shall be determined by the comptroller in a manner intended to provide a stable and predictable stream of annual distributions and to maintain over time the purchasing power of fund investments and annual distributions to the fund. If the purchasing power of fund investments for any 10-year period is not preserved, the comptroller may not increase annual distributions to the available earnings of the fund until the purchasing power of the fund investments is restored.

(e) An annual distribution made by the comptroller to the available earnings of a fund during any fiscal year may not exceed an amount equal to seven percent of the average net fair market value of the investment assets of each fund as determined by the comptroller.

(f) The expenses of managing land and investments of each fund shall be paid from each fund.

(g) On request, the comptroller shall fully disclose all details concerning the investments of each fund.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1391 (H.B. 1676), § 1, effective August 31, 1999; am. Acts 2005, 79th Leg., ch. 395 (S.B. 1480), § 2, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1418 (H.B. 3107), § 16(b), effective June 15, 2007.

Sec. 403.1069. Reporting Requirement.

The department shall provide a report on the permanent funds established under this subchapter to the Legislative Budget Board no later than November 1 of each year. The report shall include the total amount of money distributed from each fund, the purpose for which the money was used, and any additional information that may be requested by the Legislative Budget Board.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1391 (H.B. 1676), § 1, effective August 31, 1999.

Sec. 403.107. Single Local Use Taxes Collected by Remote Sellers.

(a) The comptroller shall deposit revenue remitted to the comptroller from taxes computed using the single local use tax rate under Section 151.0595(b)(2), Tax Code, in the state treasury and shall keep records of the amount of money deposited for each reporting period. Money deposited under this subsection shall be held in trust for the benefit of eligible taxing units, as determined under Subsection (b). The comptroller shall distribute money held in trust under this section to each eligible taxing unit in the amount and manner provided by this section.

(b) A local taxing unit is an eligible taxing unit for purposes of this section if it has adopted a sales and use tax authorized or governed by Title 3, Tax Code.

(c) Subject to Subsection (d), the comptroller shall transmit to each eligible taxing unit's treasurer, or to the officer performing the functions of that office, on a monthly basis, the taxing unit's share of money held in trust under Subsection (a), together with the pro rata share of any penalty or interest on delinquent taxes computed using the single local use tax rate that may be collected. Before transmitting the funds, the comptroller shall deduct two percent of each taxing unit's share as a charge by the state for its services under this section and deposit that amount into the state treasury to the credit of the comptroller's operating fund. Interest earned on all deposits made in the state treasury under this section shall be credited to the general revenue fund.

(d) The comptroller shall retain a portion of each eligible taxing unit's share of money held in trust under Subsection (a), not to exceed five percent of the amount eligible to be transmitted to the taxing unit under Subsection (c). From the amounts retained, the comptroller may make refunds for overpayments of taxes computed using the single local use tax rate, make refunds to purchasers as provided by Section 151.0595(f), Tax Code, and redeem dishonored checks and drafts deposited under Subsection (a).

(e) The comptroller shall compute for each calendar month the percentage of the total sales and use tax allocations made pursuant to Title 3, Tax Code, including any local sales and use taxes governed by any provision of Title 3, Tax Code, to each eligible taxing unit. The comptroller shall determine each eligible taxing unit's share of the money held in trust from deposits under Subsection (a) for that month by applying the percentage computed under this subsection for the eligible taxing unit to the total amount held in trust from deposits for that month.

(f) The comptroller may combine an eligible taxing unit's share of the money held in trust under Subsection (a) with other money held for that taxing unit.

(g) The comptroller may adopt rules to administer this section.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 291 (H.B. 2215), § 4; am. Acts 2019, 86th Leg., ch. 51 (H.B. 2153), § 3, effective October 1, 2019.

Sec. 403.108. Fund for Veterans' Assistance [Renumbered].

Renumbered to Tex. Gov't Code § 434.017 by Acts 2007, 80th Leg., ch. 1418 (H.B. 3107), § 16(a), effective June 15, 2007.

Sec. 403.109. Property Tax Relief Fund.

(a) The property tax relief fund is a special fund in the state treasury outside the general revenue fund. The fund is exempt from the application of Sections 403.095 and 404.071. Interest and income from the deposit and investment of money in the fund must be allocated monthly to the fund.

(b) Until the state fiscal year beginning after the first tax year in which the average school district maintenance and operations tax rate is not more than $1.00 per $100 of taxable value, money in the fund may be appropriated only for a purpose that will result in a reduction of school district maintenance and operations tax rates to rates that are less than the rates in effect for the 2005 tax year.

(c) Beginning in the state fiscal year that begins after the first tax year in which the average school district maintenance and operations tax rate is not more than $1.00 per $100 of taxable value, any money remaining in the fund after a sufficient amount of money is appropriated in that state fiscal year to maintain an average school district maintenance and operations tax rate of $1.00 per $100 of taxable value may be appropriated only as follows:

(1) two-thirds of the money appropriated from the fund may be appropriated only for a purpose that will result in a further reduction of the average school district maintenance and operations tax rate; and

(2) one-third of the money appropriated from the fund may be appropriated only for the purpose of increasing the level of equalization of school district enrichment tax effort to the extent that limits reliance by school districts on local property tax effort and decreases the enrichment tax rates of districts.

(d) To the extent to which maintenance and operations tax rates are reduced using money appropriated from the fund, reductions must be carried out so as not to increase the disparity in revenue yield between districts of varying property wealth per weighted student.

HISTORY: Acts 2006, 79th Leg., 3rd C.S., ch. 3 (H.B. 2), § 1(a), effective September 1, 2006.

Sec. 403.110. Success Contract Payments Trust Fund.

(a) The success contract payments trust fund is established as a trust fund outside the state treasury with the comptroller as trustee.

(b) The trust fund is established to provide a fund from which the comptroller as trustee may make success contract payments due in accordance with the contract terms without the necessity of an appropriation for the contract payment.

(c) The trust fund consists of money gifted, granted, donated, or appropriated for deposit to the credit of the trust fund and any interest or other earnings attributable to the trust fund. The comptroller shall hold money credited to the trust fund for use only for payments due in accordance with success contract terms and expenses incurred in administering the trust fund or in administering the success contracts for which the trust fund is established. The

balance of the trust fund may not exceed $50 million at any time. The comptroller may establish in the trust fund one or more accounts to administer money for a particular success contract for which money has been credited to the trust fund.

(d) Notwithstanding any other law, a state agency and the comptroller jointly may enter into a success contract with any person the terms of which must include:

(1) that a majority of the contract payment is conditioned on the contractor meeting or exceeding certain specified performance measures toward the outcome of the contract's objectives;

(2) a defined objective procedure by which an independent evaluator is to determine whether the specified performance measures have been met or exceeded; and

(3) a schedule of the amounts and timing of payments to be earned by the contractor during each year or other specified period of the contract that indicates the payment amounts conditioned on meeting or exceeding the specified performance measures.

(e) A contract executed under this section is not enforceable until:

(1) the state agency and the Legislative Budget Board certify that the proposed contract is expected to result in significant performance improvements and significant budgetary savings for the state agency or agencies party to the contract if the performance targets are achieved; and

(2) a grantor or donor has gifted, granted, or donated, or the legislature has appropriated for deposit to the credit of the trust fund, contingent on the execution of the contract, an amount of money necessary to administer the contract and make all payments that may become due under the contract over the effective period of the contract.

(f) The comptroller shall make the contract payments for the success contracts only from the trust fund and only in accordance with the terms of the success contracts. The comptroller shall deposit to the credit of the trust fund any money the comptroller recovers from a contractor for overpayment or for a penalty or other amount recoverable under the terms of a success contract and shall hold the money in the trust fund in the same manner as the money held for payments for the success contract. To the extent that any money credited to the trust fund for a particular success contract remains unpaid at the time the particular contract expires or is terminated, as soon after the contract expiration as is practicable, the comptroller shall return the unpaid amount to the grantor, donor, or state treasury fund or account from which the money was gifted, granted, donated, or appropriated.

(g) Each state agency shall provide to each legislature not later than the first day of the regular legislative session a report that:

(1) provides details about the success in achieving the specified performance measures of each success contract the state agency has entered into under this section that has not expired or been terminated or that expired or was terminated since the date of the preceding report under this subsection; and

(2) provides details about proposed success contracts that the state agency has not executed at the time of the report.

(h) The comptroller may adopt rules as necessary to administer this section or success contracts entered into under this section, including joint rules adopted with other agencies that may be party to success contracts under this section.

HISTORY: Enacted by Acts 2015, 84th Leg., R.S., Ch. 803 (H.B. 3014), § 1, effective September 1, 2015; am. Acts 2019, 86th Leg., ch. 95 (H.B. 982), § 1, effective September 1, 2019.

Subchapter H

Securities

Sec. 403.111. Registration.

(a) Except as provided by Subsection (f), the comptroller shall obtain suitable books for use as bond registers by the comptroller's office. The volumes of the books shall be separately designated.

(b) In the bond registers the comptroller shall alphabetically register each bond required by law to be registered by the comptroller. For each bond the comptroller shall enter in the register only:

(1) the name of the issuing authority;

(2) the names and official capacities of the officers signing the bond;

(3) the date of issue;

(4) the date of registration;

(5) the principal amount;

(6) the date of maturity;

(7) the number;

(8) the time of option of redemption;

(9) the rate of interest; and

(10) the day of the month of each year when interest becomes due.

(c) On the same line where the entry under Subsection (b) is made, a blank space shall be provided for entry of the date of payment or redemption of the bond.

(d) The bond itself, the opinion of the attorney general, and the record or other papers or documents relating to the bond need not be included in the register.

(e) When a bond is paid or redeemed, the proper officer or authority paying the bond shall notify the comptroller of the occurrence and date of the payment or redemption. All papers and documents relating to the bonds shall be filed and appropriately numbered.

(f) The comptroller may use electronic means, including the central electronic computing and data processing center established under Section 403.015, instead of books to register bonds.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 449 (H.B. 1952), § 32, effective September 1, 1993.

Sec. 403.112. Accounts.

(a) The comptroller shall keep an appropriate account for each state fund, showing a short description of the essential features of the fund and maintaining sufficient information to account for bonds and securities owned by the fund.

(b) The comptroller shall keep controlling or total accounts of the bonds or other securities, showing the total amount of bonds or other securities belonging to each fund.

(c) A controlling account shall be balanced monthly.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 207 (S.B. 984), § 18, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.19, effective September 1, 1997.

Sec. 403.113. Cancellation of Unneeded Bonds.

(a) The comptroller from time to time shall cancel by perforation all unneeded bonds of entities authorized by law to issue bonds to be registered in the comptroller's office and shall return them by express or freight mail to the issuer at the issuer's expense. The comptroller shall make a permanent record in the comptroller's office of the cancellation or return.

(b) Not later than the 30th day before the date that the comptroller cancels bonds under this section, the comptroller shall give notice of the proposed cancellation by registered or certified mail to the entity. The notice must be addressed according to the latest information available in the comptroller's office. If the comptroller becomes aware that the notice is undeliverable, the comptroller shall notify the county judge of the county in which the entity was situated in whole or part of the proposed cancellation. The notice to the county judge must be given not later than 30 days before the date the bonds are canceled and must indicate that the notice to the entity was undeliverable.

(c) Before the date fixed for the cancellation, the entity or county judge, on written notice and execution of a receipt in the form the comptroller prescribes, may repossess the bonds. Any shipping expense involved in the transaction shall be paid by the entity or the county whose county judge repossessed the bonds.

(d) An entity's registered or unregistered bonds that remain in the comptroller's office may be considered unneeded after five years after the date of the bonds.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.114. Bond Clerk.

(a) The comptroller shall appoint a bond clerk. Before taking office the bond clerk shall take the official oath. The bond clerk serves at the pleasure of the comptroller.

(b) The bond clerk, under the comptroller's supervision, direction, and authority, shall perform all duties relating to the registration of bonds imposed on the comptroller by this chapter. The bond clerk may sign the comptroller's name to a certificate of registration of a bond that the bond clerk registers and that is required by law to be registered by the comptroller. In the absence of the bond clerk the chief clerk may perform the bond clerk's duties.

(c) The comptroller shall designate and appoint, from the employees of the comptroller's office, assistants to the bond clerk. The designation and appointment must be in writing, certified under the seal of the comptroller, and filed with the bond clerk. The assistants, under the direction and authority of the comptroller, shall perform all duties relating to the registration of bonds imposed on the comptroller by this chapter. Each assistant may sign the comptroller's name to a certificate of registration of a bond that the assistant registers and that is required by law to be registered by the comptroller. The duties assigned by the comptroller to the assistants are in addition to other duties that may be assigned to the assistants.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 2003, 78th Leg., ch. 285 (H.B. 2376), § 12, effective September 1, 2003.

Secs. 403.115 to 403.120. [Reserved for expansion].

Subchapter I

Revenue Estimates

Sec. 403.121. Contents of Estimate.

(a) In the statement required by Article III, Section 49a, of the Texas Constitution the comptroller shall list outstanding appropriations that may exist after the end of the current fiscal year but may not deduct them from the cash condition of the treasury or the anticipated revenues of the next biennium for the purpose of certification. The comptroller shall base the reports, estimates, and certifications of available funds on the actual or estimated cash condition of the treasury and shall consider outstanding and undisbursed appropriations at the end of each biennium as probable disbursements of the succeeding biennium in the same manner that earned but uncollected income of a current biennium is considered in probable receipts of the succeeding biennium. The comptroller shall consider as probable disbursements warrants that will be issued by the state before the end of the fiscal year.

(b) The comptroller shall include in the statement the detailed computations and all other pertinent information that the comptroller considered in arriving at the estimates of anticipated revenues.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.

Sec. 403.122. Committee on State Revenue Estimates [Repealed].

Repealed by Acts 1993, 73rd Leg., ch. 398 (S.B. 383), § 5(5), effective September 1, 1993.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., 1st C.S., ch. 17 (H.B. 222), § 7.01(31), effective November 12, 1991.

Secs. 403.123 to 403.200. [Reserved for expansion].

Subchapter J

Suits by Persons Owing Taxes or Fees

Sec. 403.201. Suits: Jurisdiction.

The district courts of Travis County have exclusive, original jurisdiction of a suit brought under this chapter. This section prevails over Chapter 25 to the extent of any conflict.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Sec. 403.202. Protest Payment Required.

(a) If a person who is required to pay to any department of the state government an occupation, excise, gross receipts, franchise, license, or privilege tax or fee, other than a tax or fee to which Subchapter B, Chapter 112, Tax Code, applies or a tax or other amount imposed under Subtitle A, Title 4, Labor Code, contends that the tax or fee is unlawful or that the department may not legally demand or collect the tax or fee, the person shall pay the amount claimed by the state, and if the person intends to bring suit under this subchapter, the person must submit with the payment a protest.

(b) The protest must be in writing and must state fully and in detail each reason for recovering the payment.

(c) The protest payment must be made within the period set out in Section 403.076 or 403.077 for the filing of a refund claim.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 486 (S.B. 82), § 7.09, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 9.58, effective September 1, 1995.

Sec. 403.203. Protest Payment Suit After Payment Under Protest.

(a) A person may bring suit against the state to recover an occupation, excise, gross receipts, franchise, license, or privilege tax or fee covered by this subchapter and required to be paid to the state if the person has first paid the tax under protest as required by Section 403.202.

(b) A suit under this section must be brought before the 91st day after the day the protest payment was made, or the suit is barred; provided that with respect to any tax or fee assessed annually but that is required to be paid in installments, the protest required by Section 403.202 may be filed with the final annual return and suit for the recovery for any such installment may be filed within 90 days after the final annual return is due.

(c) The state may bring a counterclaim in a suit brought under this section if the counterclaim relates to taxes or fees imposed under the same statute and during the same period as the taxes or fees that are the subject of the suit and if the counterclaim is filed not later than the 30th day before the date set for trial on the merits of the suit. The state is not required to make an assessment of the taxes or fees subject to the counterclaim under any other statute, and the period of limitation applicable to an assessment of the taxes or fees does not apply to a counterclaim brought under this subsection.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 486 (S.B. 82), § 7.10, effective September 1, 1993.

Sec. 403.204. Protest Payment Suit: Parties; Issues.

(a) A suit authorized by this subchapter must be brought against the public official charged with the duty of collecting the tax or fee, the comptroller, and the attorney general.

(b) The issues to be determined in the suit are limited to those arising from the reasons expressed in the written protest as originally filed.

(c) A copy of the written protest as originally filed must be attached to the original petition filed by the person paying the tax or fee with the court and to the copies of the original petition served on the comptroller, the attorney general, and the public official charged with the duty of collecting the tax or fee.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.20, effective September 1, 1997.

Sec. 403.205. Trial De Novo.

The trial of the issues in a suit under this subchapter is de novo.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Sec. 403.206. Class Actions.

(a) In this section, a class action includes a suit brought under this subchapter by at least two persons who have paid taxes or fees under protest as required by Section 403.202.

(b) In a class action, all taxpayers who are within the same class as the persons bringing the suit, who are represented in the class action, and who have paid taxes or fees under protest as required by Section 403.202 are not required to file separate suits but are entitled to and are governed by the decision rendered in the class action.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Sec. 403.207. Additional Protest Payments Before Hearing.

(a) A petitioner shall pay additional taxes or fees when due under protest after the filing of a suit authorized by this subchapter and before the trial. The petitioner may amend the original petition to include all additional taxes or fees paid under protest before five days before the day the suit is set for a hearing or may elect to file a separate suit. The election does not prevent the court from exercising its power to consolidate or sever suits and claims under the Texas Rules of Civil Procedure.

(b) This section applies to additional taxes or fees paid under protest only if a written protest is filed with the additional taxes or fees and the protest states the same reason for contending the payment of taxes or fees that was stated in the original protest.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Sec. 403.208. Protest Payments During Appeal.

(a) If the state or the person who brought the suit appeals the judgment of a trial court in a suit authorized by this subchapter, the person who brought the suit shall continue to pay additional taxes or fees under protest as the taxes or fees become due during the appeal.

(b) Additional taxes or fees that are paid under protest during the appeal of the suit are governed by the outcome of the suit without the necessity of the person filing an additional suit for the additional taxes or fees.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Sec. 403.209. Submission of Protest Payments to Comptroller.

(a) An officer who receives payments of taxes or fees made under protest as required by Section 403.202 shall each day send to the comptroller the payments, a list of the persons making the payments, and a written statement that the payments were made under protest.

(b) The comptroller shall deposit each payment made under protest in the General Revenue Fund or to the fund or funds to which the tax or fee is allocated by law.

(c) The comptroller or the officer who receives a payment made under protest, if designated by the comptroller, shall maintain detailed records of the payment made under protest.

(d) For purposes of a tax or fee paid under protest under this subchapter, the interest to be credited on the tax or fee is an amount equal to the amount of interest that would have been earned by the tax or fee if the tax or fee had been deposited into the suspense account of the comptroller.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.21, effective September 1, 1997.

Sec. 403.210. Disposition of Protest Payments Belonging to State.

If a suit authorized by this subchapter is not brought in the manner or within the time required or if the suit is properly filed and results in a final determination that a tax or fee payment or a portion of a tax or fee payment made under protest, including the amount of interest credited on the payment, belongs to the state, the state retains the proper amount of the tax or fee payment and the proportionate share of the interest earned.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Sec. 403.211. Credit or Refund.

(a) If a suit under this subchapter results in a final determination that all or part of the money paid under protest was unlawfully demanded by the public official and belongs to the payer, the comptroller, as soon as practicable on or after September 1 of the first year of the first state biennium that begins after the date of the final determination of the suit, shall credit the proper amount, with the interest credited on that amount, against any other amount finally determined to be due to the state from the payer according to information in the custody of the comptroller and shall refund the remainder to the payer by the issuance of a refund warrant.

(b) A refund warrant shall be written and signed by the comptroller.

(c) The comptroller shall draw a refund warrant against the General Revenue Fund or other funds from which refund appropriations may be made, as the comptroller determines appropriate.

(d) The comptroller shall deliver each refund warrant issued to the person entitled to receive it.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.22, effective September 1, 1997.

Sec. 403.212. Requirements Before Injunction.

(a) An action for a restraining order or injunction that prohibits the assessment or collection of a state tax; license, registration, or filing fee; or statutory penalty assessed for the failure to pay the state tax or fee may not be brought against a state official or a representative of an official in this state unless the applicant for the order or injunction has first:

(1) filed with the attorney general not later than the fifth day before the date the action is filed a statement of the grounds on which the order or injunction is sought; and

(2) either:

(A) paid to the state official who collects the tax or fee all taxes, fees, and penalties then due by the applicant to the state; or

(B) filed with the state official who collects the tax or fee a good and sufficient bond to guarantee the payment of the taxes, fees, and penalties in an amount equal to twice the amount of the taxes, fees, and penalties then due and that may reasonably be expected to become due during the period the order or injunction is in effect.

(b) The amount and terms of the bond and the sureties on the bond authorized by Subsection (a)(2)(B) must be approved by and acceptable to the judge of the court granting the order or injunction and the attorney general.

(c) The application for the restraining order or injunction must state under the oath of the applicant or the agent or attorney of the applicant that:

(1) the statement required by Subsection (a)(1) has been filed as provided by that subsection; and

(2) the payment of taxes, fees, and penalties has been made as provided by Subsection (a)(2)(A) or a bond has been approved and filed as provided by Subsection (a)(2)(B) and Subsection (b).

(d) A state official who receives a payment or bond under Subsection (a)(2) shall deliver the payment or bond to the comptroller. The comptroller shall deposit a payment made under Subsection (a)(2)(A) to the credit of each fund to which the tax, fee, or penalty is allocated by law.

(e) This section does not apply to a tax or fee to which Subchapter C, Chapter 112, Tax Code, applies.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.23, effective September 1, 1997.

Sec. 403.213. Nature of Action for Injunction.

(a) A court may not issue a restraining order or consider the issuance of an injunction that prohibits the assessment or collection of a tax, fee, or other amount covered by Section 403.212 unless the applicant for the order or injunction demonstrates that:

(1) irreparable injury will result to the applicant if the order or injunction is not granted;

(2) no other adequate remedy is available to the applicant; and

(3) the applicant has a reasonable possibility of prevailing on the merits of the claim.

(b) If the court issues a temporary or permanent injunction, the court shall determine whether the amount the assessment or collection of which the applicant seeks to prohibit is due and owing to the state by the applicant.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Sec. 403.214. Counterclaim.

The state may bring a counterclaim in a suit for a temporary or permanent injunction brought under this subchapter if the counterclaim relates to taxes or fees imposed under the same statute and during the same period as the taxes or fees that are the subject of the suit and if the counterclaim is filed not later than the 30th day before the date set for trial on the merits of the application for a temporary or permanent injunction. The state is not required to make an assessment of the taxes or fees subject to the counterclaim under any other statute, and the period of limitation applicable to an assessment of the taxes or fees does not apply to a counterclaim brought under this section.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Sec. 403.215. Records After Injunction.

(a) After the granting of a restraining order or injunction under this subchapter, the applicant shall make and keep records of all taxes and fees accruing during the period that the order or injunction is effective.

(b) The records are open for inspection by the attorney general and the state officer authorized to enforce the collection of the tax or fee to which the order or injunction applies during the period that the order or injunction is effective and for one year after the date that the order or injunction expires.

(c) The records must be adequate to determine the amount of all affected taxes or fees accruing during the period that the order or injunction is effective.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Sec. 403.216. Reports After Injunction.

(a) On the first Monday of each month during the period that an order or injunction granted under this subchapter is effective, the applicant shall make and file a report with the state officer authorized to enforce the collection of the tax or fee to which the order or injunction applies.

(b) The report must include the following monthly information:

(1) the amount of the tax accruing;

(2) a description of the total purchases, receipts, sales, and dispositions of all commodities, products, materials, articles, items, services, and transactions on which the tax is levied or by which the tax or fee is measured;

(3) the name and address of each person to whom a commodity, product, material, or article is sold or distributed or for whom a service is performed;

(4) if the tax is imposed on or measured by the number or status of employees of the applicant, a complete record of the employees of the applicant and any related information that affects the amount of the tax; and

(5) if payment of the tax or fee is evidenced or measured by the sale or use of stamps or tickets, a complete record of all stamps or tickets used, sold, or handled.

(c) The report shall be made on a form prescribed by the state official with whom the report is required to be filed.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Sec. 403.217. Additional Payments or Bond.

(a) If an applicant for an order or injunction granted under this subchapter has not filed a bond as required by Section 403.212(a)(2)(B), the applicant shall pay all taxes, fees, and penalties to which the order or injunction applies as those taxes, fees, and penalties accrue and before they become delinquent.

(b) If the attorney general determines that the amount of a bond filed under this subchapter is insufficient to cover double the amount of taxes, fees, and penalties accruing after the restraining order or injunction is granted, the attorney general shall demand that the applicant file an additional bond.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Sec. 403.218. Dismissal of Injunction.

(a) The attorney general or the state official authorized to enforce the collection of a tax or fee to which an order or injunction under this subchapter applies may file in the court that has granted the order or injunction an affidavit stating that the applicant has failed to comply with or has violated a provision of this subchapter.

(b) On the filing of an affidavit authorized by Subsection (a), the clerk of the court shall give notice to the applicant to appear before the court to show cause why the order or injunction should not be dismissed. The notice shall be served by the sheriff of the county where the applicant resides or by any other peace officer in the state.

(c) The date of the show-cause hearing, which shall be within five days of service of the notice or as soon as the court can hear it, shall be named in the notice.

(d) If the court finds that the applicant failed, at any time before the suit is finally disposed of by the court of last resort, to make and keep a record, file a report, file an additional bond on the demand of the attorney general, or pay additional taxes, fees, and penalties as required by this subchapter, the court shall dismiss the application and dissolve the order or injunction.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Sec. 403.219. Final Dismissal or Dissolution of Injunction.

(a) If a restraining order or injunction is finally dismissed or dissolved and a bond was filed, the comptroller shall make demand on the applicant and the applicant's sureties for the immediate payment of all taxes, fees, and penalties due the state.

(b) Taxes, fees, and penalties that are secured by a bond and remain unpaid after a demand for payment shall be recovered in a suit by the attorney general against the applicant and the applicant's sureties in a court of competent jurisdiction of Travis County or in any other court having jurisdiction of the suit.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.24, effective September 1, 1997.

Sec. 403.220. Credit or Refund.

(a) If the final judgment in a suit under this subchapter maintains the right of the applicant for a temporary or permanent injunction to prevent the collection of the tax or fee, the comptroller shall credit the amount of the tax or fee, with the interest on that amount, against any other amount finally determined to be due to the state from the applicant according to information in the custody of the comptroller and shall refund the remainder to the applicant. The credit or refund shall be made as soon as practicable on or after September 1 of the first year of the first state biennium that begins after the date of the final judgment.

(b) For purposes of this section, the interest to be paid on a refund of a tax or fee is an amount equal to the amount of interest that would have been earned by the tax or fee if the tax or fee had been paid into the suspense account of the comptroller.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 7.25, effective September 1, 1997.

Sec. 403.221. Other Actions Prohibited.

Except for a restraining order or injunction issued as provided by Section 403.212, a court may not issue a restraining order, injunction, declaratory judgment, writ of mandamus or prohibition, order requiring the payment of taxes or fees into the registry or custody of the court, or other similar legal or equitable relief against the state or a state agency relating to the applicability, assessment, collection, or constitutionality of a tax or fee covered by Section 403.212 or to the amount of the tax or fee due.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 232 (S.B. 1573), § 24, effective September 1, 1989.

Secs. 403.222 to 403.240. [Reserved for expansion].

Subchapter K

Petty Cash Accounts

Sec. 403.241. Definitions.

In this subchapter:

(1) [Repealed by Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.117(1), effective September 1, 2007.]

(2) "Fund" means the fund in the state treasury from which a petty cash account was created under this subchapter.

(3) "Petty cash account" means a set amount of money held outside the state treasury to be used for the purposes specified by this subchapter.

(4) "State agency" includes:

(A) a department, commission, board, office, or other state governmental entity in the executive or legislative branch of state government;

(B) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, the Texas Judicial Council, the Office of Court Administration of the Texas Judicial System, the State Bar of Texas, or any other state governmental entity in the judicial branch of state government;

(C) a university system or an institution of higher education as defined by Section 61.003, Education Code; and

(D) any other state governmental entity that the comptroller determines to be a component unit of state government for the purpose of financial reporting under Section 403.013.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 744 (S.B. 1358), § 1, effective September 1, 1991; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.117(1), effective September 1, 2007.

Sec. 403.242. Applicability of Subchapter.

This subchapter is the only authority for the establishment and maintenance of petty cash accounts for state agency funds not exempted by Section 403.252.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 744 (S.B. 1358), § 1, effective September 1, 1991.

Sec. 403.243. Conformance of Accounts Established Under Prior Law.

The comptroller shall develop and implement necessary procedures for ensuring that petty cash accounts established under prior law conform to the requirements of this subchapter.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 744 (S.B. 1358), § 1, effective September 1, 1991.

Sec. 403.244. Purpose of Petty Cash Accounts.

A petty cash account may be established for:

(1) making change of currency;

(2) advancing travel expense money to state officers and employees;

(3) making small disbursements for which formal expenditure procedures are not cost-effective; or

(4) any similar purpose or combination of purposes a state agency considers prudent for conducting state business.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 744 (S.B. 1358), § 1, effective September 1, 1991.

Sec. 403.245. Accounting for Petty Cash Account.

(a) The creation of a petty cash account is not an expenditure of state money or a reduction of appropriation.

(b) The replenishment of a petty cash account is an expenditure from the corresponding fund and shall be drawn from the appropriation from which the expenditure would otherwise have been made.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 744 (S.B. 1358), § 1, effective September 1, 1991; am. Acts 1999, 76th Leg., ch. 1499 (S.B. 178), § 1.08, effective September 1, 1999.

Sec. 403.246. Amount of Petty Cash Account.

(a) Unless the comptroller specifically directs otherwise under Section 403.249, the monetary limits in this section apply to petty cash accounts under this subchapter.

(b) A petty cash account established for changing currency may not exceed $500.

(c) A petty cash account established for making minor disbursements by the central office of a state agency may not exceed $1,000.

(d) A petty cash account established for making minor disbursements by offices other than the central office of a state agency may not exceed $500.

(e) A petty cash account established for advancing travel expense money to state officers and employees may not exceed one-twelfth of a state agency's expenditures for travel in the immediately preceding fiscal year.

(f) A petty cash account established for a purpose or a combination of purposes the agency considers prudent for conducting state business may not exceed the amounts determined by the comptroller as necessary for the efficient operation of the agency.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 744 (S.B. 1358), § 1, effective September 1, 1991.

Sec. 403.247. Duties of State Agency.

(a) A state agency may establish a petty cash account in a federally insured financial institution.

(b) Before a state agency may establish a petty cash account for a fiscal year:

(1) the head of the agency must determine that the account is necessary for the efficient operation of the agency and submit that determination to the comptroller;

(2) the agency must specify to the comptroller the purpose of the petty cash account;

(3) the agency must estimate the probable disbursements from the petty cash account during the fiscal year and submit that estimate to the comptroller;

(4) the agency must obtain a certification from the comptroller stating that the agency has a sufficient appropriation from the fund for the fiscal year to cover all probable disbursements during the fiscal year; and

(5) if the amount requested for the petty cash account would exceed the limits specified in Section 403.246, the agency must obtain the comptroller's approval of the amount.

(c) As soon as possible after the beginning of each fiscal year, a state agency shall provide to the comptroller an estimate of probable disbursements from each petty cash account during that fiscal year.

(d) A state agency may disburse money from a petty cash account only if the disbursement would be a proper expenditure from the corresponding fund if the fund itself, instead of the petty cash account, were being directly used to make the disbursement.

(e) Before a state agency may request the comptroller to replenish a petty cash account, the state agency shall submit the following documentation to the comptroller, in the content, method, and format required by the comptroller:

(1) the name of and a proper identification number for each person who received a disbursement from the petty cash account;

(2) invoices or receipts from each person who received a disbursement from the petty cash account or canceled checks proving that total disbursements from the account equal the amount of the requested replenishment; and

(3) any other documentation that the comptroller considers necessary.

(f) [Repealed by Acts 2003, 78th Leg., ch. 285 (H.B. 2376), § 31(11), effective September 1, 2003.]

(g) A state agency shall ensure that all disbursements from a petty cash account comply with the purchasing laws and rules of the state and are supported by documentation that is sufficient to enable a complete audit.

(h) A state agency may keep currency in its offices for the purpose of making change, spot purchases, or any similar purpose or a combination of purposes as determined by the agency. The amount of currency kept in an office may not exceed $100 at any time unless the comptroller determines additional amounts are necessary for the efficient operation of the agency. The documentation that the agency would maintain if a disbursement were made from the petty cash account itself must be maintained for each disbursement from the currency kept in the office.

(i) A state agency shall reconcile and request a replenishment of its petty cash account as often as the comptroller requires.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 744 (S.B. 1358), § 1, effective September 1, 1991; am. Acts 2003, 78th Leg., ch. 285 (H.B. 2376), § 31(11), effective September 1, 2003.

Sec. 403.248. Travel Advances.

(a) The comptroller shall adopt rules governing the use of petty cash accounts established under this subchapter for advancing travel expense money to state officers and employees.

(b) The rules must:

(1) prohibit the use of a petty cash account to advance more than projected travel expenses to a state officer or employee;

(2) prohibit a state agency from using a petty cash account to advance travel expense money to a prospective state officer or employee;

(3) require a final accounting after a state officer or employee has incurred travel expenses; and

(4) prohibit a state agency from using a petty cash account for any purpose other than advancing travel expense money to a state officer or employee.

(c) In this section, "final accounting" means a reimbursement from or additional payment to a state officer or employee so that the net amount received by the officer or employee equals the actual travel expenses incurred by the officer or employee.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 744 (S.B. 1358), § 1, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 50, effective September 1, 1997.

Sec. 403.249. Duties of Comptroller.

(a) The comptroller shall notify the state auditor when a state agency requests a certification under Section 403.247(b) for a petty cash account.

(b) The comptroller shall use the agency's estimate of probable disbursements from the account during the fiscal year to determine whether the agency has a sufficient appropriation from the fund during the fiscal year to cover those disbursements. The comptroller shall notify the state agency of the determination.

(c) The comptroller may approve a state agency's written request to increase or decrease the petty cash accounts limitations specified in Section 403.246 if the comptroller determines that the increase or decrease is appropriate. The comptroller shall notify the state auditor of any increase or decrease of a petty cash account.

(d) When a state agency submits documentation to the comptroller as part of the procedure for replenishing a petty cash account, the comptroller shall treat the documentation as a proposed expenditure of appropriated funds.

(e) The comptroller shall follow the regular procedures used for auditing claims against the state.

(f) As soon as possible after the beginning of each fiscal year, the comptroller shall review:

(1) each petty cash account to ensure that the corresponding state agency has a sufficient appropriation from the fund to cover projected disbursements from the account during the following fiscal year; and

(2) each petty cash account for advancing travel expense money to ensure that the current amount of the account complies with the limits specified in Section 403.246.

(g) The comptroller shall send the results of the review required by Subsection (f) to the state auditor.

(h) The comptroller may temporarily lapse a state agency's unencumbered appropriations from the fund in an amount equal to the shortage in its petty cash account if the state auditor certifies the existence of that shortage to the comptroller.

(i) The comptroller shall reinstate the lapsed unencumbered appropriations of a state agency if the state auditor certifies to the comptroller that the agency has adopted procedures to prevent similar shortages from occurring in the future.

(j) The comptroller, after consulting with the state auditor, shall adopt necessary rules for the efficient administration of this section.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 744 (S.B. 1358), § 1, effective September 1, 1991.

Sec. 403.250. Duties of State Auditor.

The state auditor, based on a risk assessment and subject to the legislative audit committee's approval of including the audit in the audit plan under Section 321.013, may audit state agencies for the proper use of petty cash accounts and promptly report shortages, abuses, or unwarranted uses of petty cash accounts to the legislature and the comptroller.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 744 (S.B. 1358), § 1, effective September 1, 1991; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 11, effective September 1, 2003.

Sec. 403.251. Additional Duties of Comptroller.

The comptroller shall treat documentation submitted by a state agency as part of the procedure for replenishing a petty cash account as a proposed expenditure of appropriated funds. The comptroller shall follow its usual procedures for reviewing purchases. The comptroller shall give the agency a written approval or disapproval of each disbursement from the petty cash account.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 744 (S.B. 1358), § 1, effective September 1, 1991; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.45, effective September 1, 2007.

Sec. 403.252. Exceptions.

This subchapter does not apply to:

(1) state agency funds located completely outside the state treasury;

(2) the petty cash accounts maintained by the Texas Department of Mental Health and Mental Retardation under Section 2.17(b)(3), Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes); or

(3) imprest funds kept by enforcement agencies for the purchase of evidence or other enforcement purposes.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 744 (S.B. 1358), § 1, effective September 1, 1991.

Secs. 403.253 to 403.270. [Reserved for expansion].

Subchapter L

Property Accounting

Sec. 403.271. Property Accounting System.

(a) This subchapter applies to:

(1) all personal property belonging to the state; and

(2) real and personal property acquired by or otherwise under the jurisdiction of the state under 40 U.S.C. Section 483c, 484(j), or 484(k), and Subchapter G, Chapter 2175.

(b) The comptroller shall administer the property accounting system and maintain centralized records based on information supplied by state agencies and the uniform statewide accounting system. The comptroller shall adopt necessary rules for the implementation of the property accounting system, including setting the dollar value amount for capital assets and authorizing exemptions from reporting.

(c) The property accounting system shall constitute, to the extent possible, the fixed asset component of the uniform statewide accounting system.

(d) The comptroller may authorize a state agency to keep property accounting records at the agency's principal office if the agency maintains complete, accurate, and detailed records. When the comptroller makes such a finding, it shall keep summary records of the property held by that agency. The agency shall maintain detailed records in the manner prescribed by the comptroller and shall furnish reports at the time and in the form directed by the comptroller.

(e) A state agency shall mark and identify state property in its possession. The agency shall follow the rules issued by the comptroller in marking state property.

HISTORY: Enacted by Acts 1991, 72nd Leg., 2nd C.S., ch. 8 (H.B. 39), § 2.30, effective September 1, 1991; am. Acts 1993, 73rd Leg.,

ch. 906 (S.B. 381), § 2.11, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(g), effective September 1, 2003.

Sec. 403.2715. University Systems and Institutions of Higher Education.

(a) In this section, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) Except as provided by this section, this subchapter does not apply to a university system or institution of higher education.

(c) A university system or institution of higher education shall account for all personal property as defined by the comptroller under Section 403.272. At all times, the property records of a university system or institution of higher education must accurately reflect the personal property possessed by the system or institution.

(d) The chief executive officer of each university system or institution of higher education shall designate one or more property managers. The property manager shall maintain the records required and be the custodian of all personal property possessed by the system or institution.

(e) Sections 403.273(h), 403.275, and 403.278 apply to a university system or institution of higher education.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 1049 (S.B. 5), § 6.07, effective June 17, 2011.

Sec. 403.272. Responsibility for Property Accounting.

(a) A state agency must comply with this subchapter and maintain the property records required.

(b) All personal property owned by the state shall be accounted for by the agency that possesses the property. The comptroller shall define personal property by rule for the purposes of this subchapter. In adopting rules, the comptroller shall consider the value of the property, its expected useful life, and the cost of recordkeeping.

HISTORY: Enacted by Acts 1991, 72nd Leg., 2nd C.S., ch. 8 (H.B. 39), § 2.30, effective September 1, 1991; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 12, effective September 1, 2003.

Sec. 403.273. Property Manager; Property Inventory.

(a) The head of each state agency is responsible for the custody and care of property in the agency's possession.

(b) The head of each state agency shall designate a property manager and inform the comptroller of the designation. Subject to comptroller approval, more than one property manager may be designated.

(c) The property manager of a state agency shall maintain the records required and be the custodian of all property possessed by the agency.

(d) When a state agency's property is entrusted to a person other than the agency's property manager, the person to whom the property is entrusted shall provide a written receipt to the manager. A state agency may lend its property to another state agency only if the head of the agency lending the property provides written authorization for the lending. The head of the agency to which the property is lent must execute a written receipt.

(e) A state agency shall conduct an annual physical inventory of all property in its possession. The comptroller may specify the date on which the inventory must be conducted.

(f) Not later than the date prescribed by the comptroller, the head of a state agency shall submit to the comptroller:

(1) a signed statement describing the methods used to conduct the agency's annual physical inventory under Subsection (e);

(2) a copy of the results of the inventory; and

(3) any other information concerning the inventory that the comptroller requires.

(g) At all times, the property records of a state agency must accurately reflect the property possessed by the agency. Property may be deleted from the agency's records only in accordance with rules adopted by the comptroller.

(h) The state auditor, based on a risk assessment and subject to the legislative audit committee's approval of including the examination in the audit plan under Section 321.013, may periodically examine property records or inventory as necessary to determine if controls are adequate to safeguard state property.

HISTORY: Enacted by Acts 1991, 72nd Leg., 2nd C.S., ch. 8 (H.B. 39), § 2.30, effective September 1, 1991; am. Acts 1999, 76th Leg., ch. 1499 (S.B. 178), § 1.44, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 16, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 13, effective September 1, 2003.

Sec. 403.274. Change of Agency Head or Property Manager.

When the head or property manager of a state agency changes, the outgoing head of the agency or property manager shall complete the form required by the comptroller about property in the agency's possession. The outgoing head of the agency or property manager shall deliver the form to the incoming head of the agency or property manager. After verifying the information on and signing the form, the incoming head of the agency or property manager shall submit a copy of the form to the comptroller.

HISTORY: Enacted by Acts 1991, 72nd Leg., 2nd C.S., ch. 8 (H.B. 39), § 2.30, effective September 1, 1991; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 17, effective June 15, 2001.

Sec. 403.275. Liability for Property Loss.

The liability prescribed by this section may attach on a joint and several basis to more than one person in a particular instance. A person is pecuniarily liable for the loss sustained by the state if:

(1) agency property disappears, as a result of the failure of the head of an agency, property manager, or agency employee entrusted with the property to exercise reasonable care for its safekeeping;

(2) agency property deteriorates as a result of the failure of the head of an agency, property manager, or agency employee entrusted with the property to exercise reasonable care to maintain and service the property; or

(3) agency property is damaged or destroyed as a result of an intentional wrongful act or of a negligent act of any state official or employee.

HISTORY: Enacted by Acts 1991, 72nd Leg., 2nd C.S., ch. 8 (H.B. 39), § 2.30, effective September 1, 1991.

Sec. 403.276. Reporting to Comptroller and Attorney General.

(a) If the head or property manager of a state agency has reasonable cause to believe that any property in the agency's possession has been lost, destroyed, or damaged through the negligence of any state official or employee, the head of the agency or property manager shall report the loss, destruction, or damage to the comptroller and the attorney general not later than the date established by the comptroller. If the head or property manager of a state agency has reasonable cause to believe that any property in the agency's possession has been stolen, the head of the agency or property manager shall report the theft to the comptroller, the attorney general, and the appropriate law enforcement agency not later than the date established by the comptroller.

(b) The attorney general may investigate a report received under Subsection (a).

(c) If an investigation by the attorney general under Subsection (b) reveals that a property loss has been sustained through the negligence of a state official or employee, the attorney general shall make written demand on the official or employee for reimbursement of the loss.

(d) If the demand made by the attorney general under Subsection (c) is refused or disregarded, the attorney general may take legal action to recover the value of the property as the attorney general deems necessary.

(e) Venue for all suits instituted under this section against a state official or employee is in a court of appropriate jurisdiction of Travis County.

HISTORY: Enacted by Acts 1991, 72nd Leg., 2nd C.S., ch. 8 (H.B. 39), § 2.30, effective September 1, 1991; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 18, effective June 15, 2001.

Sec. 403.277. Failure to Keep Records.

If a state agency fails to keep the records or fails to take the annual physical inventory required by this subchapter, the comptroller may refuse to draw warrants or initiate electronic funds transfers on behalf of the agency.

HISTORY: Enacted by Acts 1991, 72nd Leg., 2nd C.S., ch. 8 (H.B. 39), § 2.30, effective September 1, 1991.

Sec. 403.278. Transfer of Personal Property.

(a) A state agency may transfer any personal property of the state in its possession to another state agency with or without reimbursement between the agencies.

(b) When personal property in the possession of one state agency is transferred to the possession of another state agency, the transfers must be reported immediately to the comptroller by the transferor and the transferee on the forms prescribed.

HISTORY: Enacted by Acts 1991, 72nd Leg., 2nd C.S., ch. 8 (H.B. 39), § 2.30, effective September 1, 1991.

Secs. 403.279 to 403.300. [Reserved for expansion].

Subchapter M

Study of School District Property Values

Sec. 403.301. Purpose.

It is the policy of this state to ensure equity among taxpayers in the burden of school district taxes and among school districts in the distribution of state financial aid for public education. The purpose of this subchapter is to promote that policy by providing for uniformity in local property appraisal practices and procedures and in the determination of property values for schools in order to distribute state funding equitably.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 26, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1183 (S.B. 671), § 1, effective June 20, 2003.

Sec. 403.3011. Definitions.

In this subchapter:

(1) "Study" means a study conducted under Section 403.302.

(2) "Eligible school district" means a school district for which the comptroller has determined the following:

(A) in the most recent study, the local value is invalid under Section 403.302(c) and does not exceed the state value for the school district determined in the study;

(B) in the two studies preceding the most recent study, the school district's local value was valid under Section 403.302(c);

(C) in the most recent study, the aggregate local value of all of the categories of property sampled by the comptroller is not less than 90 percent of the lower limit of the margin of error as determined by the comptroller of the aggregate value as determined by the comptroller of all of the categories of property sampled by the comptroller; and

(D) the appraisal district that appraises property for the school district was in compliance with the scoring requirement of the comptroller's most recent review of the appraisal district conducted under Section 5.102, Tax Code.

(3) "Local value" means the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total amounts and values listed in Section 403.302(d) as determined by that appraisal district.

(4) "State value" means the value of property in a school district as determined in a study.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1183 (S.B. 671), § 2, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 288 (H.B. 8), § 1, effective January 1, 2010.

Sec. 403.302. Determination of School District Property Values.

(a) The comptroller shall conduct a study using comparable sales and generally accepted auditing and sampling techniques to determine the total taxable value of all property in each school district. The study shall determine the taxable value of all property and of each category of property in the district and the productivity value of all land that qualifies for appraisal on the basis of its productive capacity and for which the owner has applied for and received a productivity appraisal. The comptroller shall make appropriate adjustments in the study to account for actions taken under Chapter 49, Education Code.

(a-1) The comptroller shall conduct a study:

(1) at least every two years in each school district for which the most recent study resulted in a determination by the comptroller that the school district's local value was valid; and

(2) each year in a school district for which the most recent study resulted in a determination by the comptroller that the school district's local value was not valid.

(a-2) If in any year the comptroller does not conduct a study, the school district's local value for that year is considered to be valid.

(b) In conducting the study, the comptroller shall determine the taxable value of property in each school district:

(1) using, if appropriate, samples selected through generally accepted sampling techniques;

(2) according to generally accepted standard valuation, statistical compilation, and analysis techniques;

(3) ensuring that different levels of appraisal on sold and unsold property do not adversely affect the accuracy of the study; and

(4) ensuring that different levels of appraisal resulting from protests determined under Section 41.43, Tax Code, are appropriately adjusted in the study.

(c) If after conducting the study the comptroller determines that the local value for a school district is valid, the local value is presumed to represent taxable value for the school district. In the absence of that presumption, taxable value for a school district is the state value for the school district determined by the comptroller under Subsections (a) and (b) unless the local value exceeds the state value, in which case the taxable value for the school district is the district's local value. In determining whether the local value for a school district is valid, the comptroller shall use a margin of error that does not exceed five percent unless the comptroller determines that the size of the sample of properties necessary to make the determination makes the use of such a margin of error not feasible, in which case the comptroller may use a larger margin of error.

(c-1) This subsection applies only to a school district whose central administrative office is located in a county with a population of 9,000 or less and a total area of more than 6,000 square miles. If after conducting the study for a tax year the comptroller determines that the local value for a school district is not valid, the comptroller shall adjust the taxable value determined under Subsections (a) and (b) as follows:

(1) for each category of property sampled and tested by the comptroller in the school district, the comptroller shall use the weighted mean appraisal ratio determined by the study, unless the ratio is more than four percentage points lower than the weighted mean appraisal ratio determined by the comptroller for that category of property in the immediately preceding study, in which case the comptroller shall use the weighted mean appraisal ratio determined in the immediately preceding study minus four percentage points;

(2) the comptroller shall use the category weighted mean appraisal ratios as adjusted under Subdivision (1) to establish a value estimate for each category of property sampled and tested by the comptroller in the school district; and

(3) the value estimates established under Subdivision (2), together with the local tax roll value for any categories not sampled and tested by the comptroller, less total deductions determined by the comptroller, determine the taxable value for the school district.

(d) **[Effective if 2019 HJR 34 is not approved by voters]** For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by former Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(5) the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone:

(i) created on or before December 31, 2008, by a municipality with a population of less than 18,000; and

(ii) the project plan for which includes the alteration, remodeling, repair, or reconstruction of a structure that is included on the National Register of Historic Places and requires that a portion of the tax increment of the zone be used for the improvement or construction of related facilities or for affordable housing;

(B) generates school district taxes that are paid into a tax increment fund created under Chapter 311, Tax Code; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(6) the total dollar amount of any exemptions granted under Section 11.251 or 11.253, Tax Code;

(7) the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(8) the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(9) a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the constitution of this state, other than Section 11.311, Tax Code, that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted;

(10) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(11) the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(12) the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(13) the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

(d) **[Effective if 2019 HJR 34 is approved by voters]** For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into

the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by former Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(5) the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone:

(i) created on or before December 31, 2008, by a municipality with a population of less than 18,000; and

(ii) the project plan for which includes the alteration, remodeling, repair, or reconstruction of a structure that is included on the National Register of Historic Places and requires that a portion of the tax increment of the zone be used for the improvement or construction of related facilities or for affordable housing;

(B) generates school district taxes that are paid into a tax increment fund created under Chapter 311, Tax Code; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(6) the total dollar amount of any exemptions granted under Section 11.251 or 11.253, Tax Code;

(7) the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(8) the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(9) a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the constitution of this state, other than Section 11.311, Tax Code, that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted;

(10) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(11) the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(12) the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code;

(13) the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section; and

(14) the total dollar amount of any exemptions granted under Section 11.35, Tax Code.

(d-1) For purposes of Subsection (d), a residence homestead that receives an exemption under Section 11.131, 11.133, or 11.134, Tax Code, in the year that is the subject of the study is not considered to be taxable property.

(e) The total dollar amount deducted in each year as required by Subsection (d)(4) in a reinvestment zone created after January 1, 1999, may not exceed the captured appraised value estimated for that year as required by Section 311.011(c)(8), Tax Code, in the reinvestment zone financing plan approved under Section 311.011(d), Tax Code, before September 1, 1999. The number of years for which the total dollar amount may be deducted under Subsection (d)(4) shall for any zone, including those created on or before January 1, 1999, be limited to the duration of the zone as specified as required by Section 311.011(c)(9), Tax Code, in the reinvestment zone financing plan approved under Section 311.011(d), Tax Code, before September 1, 1999. The total dollar amount deducted under Subsection (d)(4) for any zone, including those created on or before January 1, 1999, may not be increased by any reinvestment zone financing plan amendments that occur after August 31, 1999. The total dollar amount deducted under Subsection (d)(4) for any zone, including those created on or before January 1, 1999, may not be increased by a change made after August 31, 1999, in the portion of the tax increment retained by the school district.

(e-1) This subsection applies only to a reinvestment zone created by a municipality that has a population of 70,000 or less and is located in a county in which all or part of a military installation is located. Notwithstanding Subsection (e), if on or after January 1, 2017, the municipality adopts an ordinance designating a termination date for the zone that is later than the termination date designated in the ordinance creating the zone, the number of years for which the total dollar amount may be deducted under Subsection (d)(4) is limited to the duration of the zone as determined under Section 311.017, Tax Code.

(f) The study shall determine the values as of January 1 of each year:

(1) for a school district in which a study was conducted according to the results of the study; and

(2) for a school district in which a study was not conducted according to the market value determined by the appraisal district that appraises property for the district, less the amounts specified by Subsection (d).

(g) The comptroller shall publish preliminary findings, listing values by district, before February 1 of the year following the year of the study. Preliminary findings shall be delivered to each school district and shall be certified to the commissioner of education.

(h) On request of the commissioner of education or a school district, the comptroller may audit the total taxable value of property in a school district and may revise the study findings. The request for audit is limited to corrections and changes in a school district's appraisal roll that occurred after preliminary certification of the study findings by the comptroller. Except as otherwise provided by this subsection, the request for audit must be filed with the comptroller not later than the third anniversary of the date of the final certification of the study findings. The request for audit may be filed not later than the first anniversary of the date the chief appraiser certifies a change to the appraisal roll if the chief appraiser corrects the appraisal roll under Section 25.25 or 42.41, Tax Code, and the change results in a material reduction in the total taxable value of property in the school district. The comptroller shall certify the findings of the audit to the commissioner of education.

(i) If the comptroller determines in the study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) subtract from the market value as determined by the appraisal district of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code. If the comptroller determines in the study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is not valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) subtract from the market value as estimated by the comptroller of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code.

(j) The comptroller shall certify the final taxable value for each school district, appropriately adjusted to give effect to certain provisions of the Education Code related to school funding, to the commissioner of education as provided by the terms of a memorandum of understanding entered into between the comptroller, the Legislative Budget Board, and the commissioner of education.

(j-1) [Expired pursuant to Acts 2007, 80th Leg., ch. 19 (H.B. 5), § 4, effective September 1, 2008.]

(k) **[Effective January 1, 2020]** If the comptroller determines in the final certification of the study that the school district's local value as determined by the appraisal district that appraises property for the school district is not valid, the comptroller shall provide notice of the comptroller's determination to the board of directors of the appraisal district. The board of directors of the appraisal district shall hold a public meeting to discuss the receipt of notice under this subsection.

(k-1) **[Effective January 1, 2020]** If the comptroller determines in the final certification of the study that the school district's local value as determined by the appraisal district that appraises property for the school district is not valid for three consecutive years, the comptroller shall conduct an additional review of the appraisal district under Section 5.102, Tax Code, and provide recommendations to the appraisal district regarding appraisal standards, procedures, and methodologies. The comptroller may contract with a third party to assist the comptroller in conducting the additional review and providing the recommendations required under this subsection. If the appraisal district fails to comply with the recommendations provided under this subsection and the comptroller finds that the board of directors of the appraisal district failed to take remedial action reasonably designed to ensure substantial compliance with each recommendation before the first anniversary of the date the recommendations were made, the comptroller shall notify the Texas Department of Licensing and Regulation, or a successor to the department, which shall take action necessary to ensure that the recommendations are implemented as soon as practicable. Before February 1 of the year following the year in which the Texas Department of Licensing and Regulation, or a successor to the department, takes action under this subsection, the department, with the assistance of the comptroller, shall determine whether the recommendations have been substantially implemented and notify the chief appraiser and the board of directors of the appraisal district of the determination. If the department determines that the recommendations have not been substantially implemented, the board of directors of the appraisal district must, within three months of the determination, consider whether the failure to implement the recommendations was under the current chief appraiser's control and whether the chief appraiser is able to adequately perform the chief appraiser's duties.

(*l*) If after conducting the study for a year the comptroller determines that a school district is an eligible school district, for that year and the following year the taxable value for the school district is the district's local value.

(m) [Repealed.]

(m-1) **[Effective until January 1, 2020]** The Comptroller's Property Value Study Advisory Committee is created. The committee is composed of:

(1) one member of the house of representatives, appointed by the speaker of the house of representatives;

(2) one member of the senate, appointed by the lieutenant governor;

(3) two members who represent appraisal districts, appointed by the comptroller;

(4) two members who represent school districts, appointed by the comptroller; and

(5) three members appointed by the comptroller who are residents of this state and are school district taxpayers or have expertise in school district taxation or ratio studies.

(n) **[Effective until January 1, 2020]** Chapter 2110 does not apply to the size, composition, or duration of the Comptroller's Property Value Study Advisory Committee.

(*o*) **[Effective until January 1, 2020]** The comptroller shall adopt rules governing the conduct of the study after consultation with the Comptroller's Property Value Study Advisory Committee.

(*o*) **[Effective January 1, 2020]** The comptroller shall adopt rules governing the conduct of the study after consultation with the comptroller 's property tax administration advisory board.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 26, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.07, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1039 (S.B. 841), § 44, effective January 1, 1998; am. Acts 1997, 75th Leg., ch. 1040 (S.B. 862), § 63, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 27, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 8.04, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 1.36, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 3.01(b), effective August 31, 1999; am. Acts 1999, 76th Leg., ch. 983 (H.B. 2684), §§ 9, 10, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 1467 (H.B. 3211), § 1.19, effective June 19, 1999; am. Acts 1999, 76th Leg., ch. 1525 (S.B. 868), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 9.005(a), (b), effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 7, effective January 1, 2002; am. Acts 2003, 78th Leg., 3rd C.S., ch. 10 (H.B. 28), §§ 3.01, 3.02, effective October 20, 2003; am. Acts 2003, 78th Leg., ch. 411 (H.B. 217), § 7, effective January 1, 2004; am. Acts 2003, 78th Leg., ch. 1183 (S.B. 671), § 3, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.004, effective September 1, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.17, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 19 (H.B. 5), § 4, effective May 12, 2007; am. Acts 2007, 80th Leg., ch. 764 (H.B. 3492), § 1, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 830 (H.B. 621), § 3, effective January 1, 2008; am. Acts 2007, 80th Leg., ch. 1341 (S.B. 1908), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 288 (H.B. 8), § 2, effective January 1, 2010; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 13, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 80, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1405 (H.B. 3613), § 1(e), effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), §§ 11.003, 11.004, 27.001(14), effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 350 (H.B. 3465), § 1, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1032 (H.B. 2853), §§ 19, 20, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 138 (S.B. 163), § 7, effective January 1, 2014; am. Acts 2013, 83rd Leg., ch. 964 (H.B. 1897), § 4, effective September 1, 2013; am. Acts 2015, 84th Leg., ch. 408 (H.B. 2293), §§ 1, 2, effective January 1, 2016; am. Acts 2015, 84th Leg., ch. 465 (S.B. 1), §§ 24(a), 24(b), effective November 3, 2015; am. Acts 2015, 84th Leg., ch. 1236 (S.B. 1296), § 21.002(9), effective September 1, 2015; am. Acts 2017, 85th Leg., ch. 511 (S.B. 15), § 7, effective January 1, 2018; am. Acts 2019, 86th Leg., ch. 943 (H.B. 3), §§ 1.061, 3.074, 4.001(b)(2), effective September 1, 2019; am. Acts 2019, 86th Leg., ch. 944 (S.B. 2), §§ 75, 91(1), effective January 1, 2020; am. Acts 2019, 86th Leg., ch. 1034 (H.B. 492), § 9.

Sec. 403.303. Protest.

(a) A school district or a property owner whose property is included in the study under Section 403.302 and whose tax liability on the property is $100,000 or more may protest the comptroller's findings under Section 403.302(g) or (h) by filing a petition with the comptroller. The petition must be filed not later than the 40th day after the date on which the comptroller's findings are certified to the commissioner of education and must specify the grounds for objection and the value claimed to be correct by the school district or property owner.

(b) After receipt of a petition, the comptroller shall hold a hearing. The comptroller has the burden to prove the accuracy of the findings. Until a final decision is made by the comptroller, the taxable value of property in the district is determined, with respect to property subject to the protest, according to the value claimed by the school district or property owner, except that the value to be used while a final decision is pending may not be less than the appraisal roll value for the year of the study. If after a hearing the comptroller concludes that the findings should be changed, the comptroller shall order the appropriate changes and shall certify to the commissioner of education the changes in the values of the school district that brought the protest, the values of the school district named by the property owner who brought the protest, or, if the comptroller by rule allows an appraisal district to bring a protest, the values of the school district named by the appraisal district that brought the protest. The comptroller may not order a change in the values of a school district as a result of a protest brought by another school district, a property owner in the other school district, or an appraisal district that appraises property for the other school district. The comptroller shall complete all protest hearings and certify all changes as necessary to comply with Chapter 48, Education Code. A hearing conducted under this subsection is not a contested case for purposes of Section 2001.003.

(c) The comptroller shall adopt procedural rules governing the conduct of protest hearings. The rules shall provide each protesting school district and property owner with the requirements for submitting a petition initiating a protest and shall provide each protesting school district and property owner with adequate notice of a hearing, an opportunity to present evidence and oral argument, and notice of the comptroller's decision on the hearing.

(d) A protesting school district may appeal a determination of a protest by the comptroller to a district court of Travis County by filing a petition with the court. An appeal must be filed not later than the 30th day after the date the school district receives notification of a final decision on a protest. Review is conducted by the court sitting without a jury. The court shall remand the determination to the comptroller if on the review the court discovers that substantial rights of the school district have been prejudiced, and that:

(1) the comptroller has acted arbitrarily and without regard to the facts; or

(2) the finding of the comptroller is not reasonably supported by substantial evidence introduced before the court.

(e) If, in a hearing under Subsection (b), the comptroller has not heard the case or read the record, the decision may not be made until a proposal for decision is served on each party and an opportunity to file exceptions is afforded to each party adversely affected. If exceptions are filed, an opportunity must be afforded to all other parties to file replies to the exceptions. The proposal for decision must contain a statement of the reasons for the proposed decision, prepared by the person who conducted the hearing or by a person who has read the record. The proposal for decision may be amended pursuant to the exceptions or replies submitted without again being served on the parties. The parties by written stipulation may waive compliance with this subsection. The comptroller may adopt rules to implement this subsection.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 26, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1040 (S.B. 862), § 64, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 574 (S.B. 521), § 1, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 983 (H.B. 2684), § 11, effective June 18, 1999; am. Acts 2005, 79th Leg., ch. 412 (S.B. 1652), § 1, effective September 1, 2005; am. Acts 2019, 86th Leg., ch. 943 (H.B. 3), § 3.075, effective September 1, 2019.

Sec. 403.304. Cooperation with Comptroller; Confidentiality.

(a) A school district, appraisal district, or other governmental entity in this state shall promptly comply with an oral or written request from the comptroller for information to be used in conducting a study, including information that is made confidential by Chapter 552 of this code, Section 22.27, Tax Code, or another law of this state.

(a-1) All information the comptroller obtains from a person, other than a government or governmental subdivision or agency, under an assurance that the information will be kept confidential, in the course of conducting a study is confidential and may not be disclosed except as provided in Subsection (b).

(b) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who gave the information to the comptroller; or

(3) for statistical purposes if in a form that does not identify specific property or a specific property owner.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 26, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 288 (H.B. 8), §§ 3, 4, effective January 1, 2010.

Secs. 403.305 to 403.320. [Reserved for expansion].

Subchapter N

Texas Film Industry Development Loan Guarantee Program [Expired]

Sec. 403.321. Definitions [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999.

Sec. 403.322. Liberal Construction [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999.

Sec. 403.323. Texas Film Industry Administrative Fund [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999.

Sec. 403.324. Texas Film Industry Loan Guarantee Indemnity Program [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999.

Sec. 403.325. Qualified Texas Film Production Loan [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999.

Sec. 403.326. Application for Loan Guarantee [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999.

Sec. 403.327. Indemnity Requirement [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 580 (H.B. 3589), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.513, effective September 1, 2003.

Sec. 403.328. Surety Bond for Completion of Film [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999.

Sec. 403.329. Issuance of Loan Guarantee [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 580 (H.B. 3589), § 2, effective September 1, 2001.

Sec. 403.330. Rulemaking Authority [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999.

Sec. 403.331. Offense [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999.

Sec. 403.332. Limitations in Program [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 580 (H.B. 3589), § 3, effective September 1, 2001.

Sec. 403.333. Quarterly Report [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999.

Sec. 403.334. Gifts and Grants [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999.

Sec. 403.335. Application of Sunset Act to Program [Expired].

Expired pursuant to Acts 1999, 76th Leg., ch. 382, (H.B. 1867), § 1, effective September 1, 2005.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 832 (H.B. 1687), § 1, effective September 1, 1999.

Secs. 403.336 to 403.350. [Reserved for expansion].

Subchapter O

Jobs and Education for Texans (JET) Grant Program [Repealed]

Sec. 403.351. Definitions [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 859 (H.B. 437), § 3(b), effective September 1, 2013.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.352. Jobs and Education for Texans (JET) Fund [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 859 (H.B. 437), § 3(b), effective September 1, 2013.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.353. Advisory Board [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 859 (H.B. 437), § 3(b), effective September 1, 2013.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.354. Jobs and Education for Texans (JET) Grant Program [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 859 (H.B. 437), § 3(b), effective September 1, 2013.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.355. Grants to Nonprofit Organizations for Innovative and Successful Programs [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 859 (H.B. 437), § 3(b), effective September 1, 2013.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.356. Grants to Educational Institutions for Career and Technical Education Programs [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 859 (H.B. 437), § 3(b), effective September 1, 2013.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.357. Scholarships [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 859 (H.B. 437), § 3(b), effective September 1, 2013.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.358. Rules [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 859 (H.B. 437), § 3(b), effective September 1, 2013.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.359. Study [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2011.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Secs. 403.360 to 403.400. [Reserved for expansion].

Subchapter P

Green Job Skills Development Fund and Training Program

Sec. 403.401. Purpose.

The purpose of this subchapter is to:

(1) promote green industry employment opportunities, including through the establishment of training programs to enhance green job skills and create career opportunities that result in high-wage jobs;

(2) foster regional collaboration for the development of green industry employment opportunities;

(3) assist in the development of a highly skilled, high-wage, and productive workforce in the green industry; and

(4) assist workers with obtaining education, skills training, and labor market information to enhance their employability, earnings, and standard of living.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.402. Definitions.

In this subchapter:

(1) "Development fund" means the Texas green job skills development fund.

(2) "Green job" means a job in the field of renewable energy or energy efficiency, including a job relating to:

(A) energy-efficient building, construction, and retrofitting;

(B) renewable energy, including biomass, hydroelectric, geothermal, and ocean energy, and wind and solar power;

(C) research and development or manufacturing of advanced battery or energy storage technologies;

(D) biofuels from non-feed food stocks;

(E) techniques to reduce, reuse, or recycle waste;

(F) techniques to recycle products and convert used materials into new products;

(G) energy efficiency assessments;

(H) manufacturing of sustainable products using sustainable processes and materials; and

(I) water conservation and water efficiency.

(3) "Recycle" means the process of extracting resources or value from waste by recovering or reusing the material, including the collection and reuse of everyday waste materials.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.403. Texas Green Job Skills Development Fund.

(a) The Texas green job skills development fund is an account in the general revenue fund. The account is composed of:

(1) legislative appropriations;

(2) gifts, grants, donations, and matching funds received under Subsection (b); and

(3) other money required by law to be deposited in the account.

(b) The comptroller may solicit and accept gifts, grants, and donations of money from the federal government, local governments, private corporations, or other persons to be used for the purposes of this subchapter.

(c) Income from money in the account shall be credited to the account.

(d) Money in the development fund may be used only for the purposes of this subchapter.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.404. Establishment of Green Job Skills Grant Program.

The comptroller shall establish a green job skills grant program, funded by the development fund under Section 403.403, through which the comptroller may award grants in cooperation with the Texas Workforce Commission through the State Energy Conservation Office for the implementation, expansion, and operation of green job skills training programs.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.405. Grant Program Requirements.

(a) A training program funded through a grant awarded under this subchapter must:

(1) be hosted by a regional partnership that presents a plan to implement training programs that lead trainees to economic self-sufficiency and career pathways and includes at least:

(A) one university, college, technical school, or other nonprofit workforce training provider;

(B) one chamber of commerce, local workforce agency, local employer, or other public or private participating entity;

(C) one economic development authority; and

(D) one community or faith-based nonprofit organization that works with one or more targeted populations;

(2) assist an eligible individual in obtaining education, skills training, and labor market information to enhance the individual's employability in green industries; and

(3) assist in the development of a highly skilled and productive workforce in green industries.

(b) A training program awarded a grant under this subchapter shall target a population of eligible individuals for training that includes:

(1) workers in high-demand green industries who are in or are preparing for high-wage occupations;

(2) workers in declining industries who may be retrained for high-wage occupations in a high-demand green industry;

(3) agriculture, timber, or energy sector workers who may be retrained for high-wage occupations in a high-demand green industry;

(4) veterans or past or present members of the armed forces of the United States, including the state military forces, or a reserve component of the armed forces or the national guard;

(5) unemployed workers;

(6) low-income workers, unemployed youth and adults, individuals who did not complete high school, or other underserved sectors of the workforce in high poverty areas; or

(7) individuals otherwise determined by the comptroller in cooperation with the Texas Workforce Commission to be disadvantaged and in need of training to obtain employment.

(c) A training program may receive funding under this subchapter for a period not to exceed three years.

(d) A training program may use grant funds for support services, including basic skills, literacy, GED, English as a second language, and job readiness training, career guidance, and referral services.

(e) A percentage of the grant, to be determined by the comptroller, must be devoted to administrative costs, costs related to hiring instructors and purchasing equipment, and tuition assistance.

HISTORY: Enacted by; am. Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.406. Application.

(a) A regional partnership, as described by Section 403.405, may apply for a grant under this subchapter in the manner prescribed by the comptroller.

(b) The grant application must require the applicant to provide to the comptroller the applicant's plan to continue to operate the training program after the grant expires.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.407. Additional Considerations in Awarding Grants.

(a) In addition to the factors described by Sections 403.404 and 403.405, in determining whether to award a grant to an applicant under this subchapter, the comptroller shall give preference to a training program that:

(1) provides certification and a career advancement mechanism to a worker who receives green job skills training under the program; and

(2) leverages additional public and private resources to fund the program, including cash or in-kind matches.

(b) Grants shall be awarded in a manner that ensures geographic diversity.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.408. Reservation for Certain Programs.

Twenty percent of the funds available for grant programs under this subchapter must be reserved for job skills training programs that serve the unemployed and individuals whose incomes are at or below 200 percent of the federal poverty level.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.409. Report.

(a) Not later than the 30th day after the date funding for a grant under this subchapter ends, the grant recipient shall submit a report to the comptroller that contains the following information:

(1) the number of participants who entered the program;

(2) the demographics of the participants, including race, gender, age, and significant barriers to education such as limited English proficiency, a criminal record, or a physical or mental disability;

(3) services received by participants, including training, education, and support services;

(4) the amount of program spending per participant;

(5) program completion rates;

(6) factors determined to interfere significantly with program participation or completion;

(7) the average wage at placement, including benefits, and the rate of average wage increases after one year; and

(8) any post-employment support services provided.

(b) Not later than October 1 of each even-numbered year, the comptroller shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives that includes a summary of all information submitted under Subsection (a).

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.410. Standards.

The comptroller by rule shall adopt standards for a green job skills training program awarded a grant under this subchapter.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 654 (H.B. 1935), § 1, effective September 1, 2009.

Sec. 403.411. Texas Product Development Fund [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 814 (S.B. 275), § 6.01(2), effective September 1, 2003.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 19, effective June 15, 2001.

Sec. 403.412. Small Business Incubator Fund [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 814 (S.B. 275), § 6.01(2), effective September 1, 2003.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 19, effective June 15, 2001.

Sec. 403.413. Eligible Products and Businesses; Financing [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 814 (S.B. 275), § 6.01(2), effective September 1, 2003.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 19, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 1310 (H.B. 2425), §§ 24, 121(7), effective June 20, 2003.

Sec. 403.414. Application Process [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 814 (S.B. 275), § 6.01(2), effective September 1, 2003.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 19, effective June 15, 2001.

Sec. 403.415. Information Confidential [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 814 (S.B. 275), § 6.01(2), effective September 1, 2003.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 19, effective June 15, 2001.

Sec. 403.416. Program Coordination [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 814 (S.B. 275), § 6.01(2), effective September 1, 2003.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 19, effective June 15, 2001.

Subchapter Q

Support for Habitat Protection Measures

Sec. 403.451. Definitions.

In this subchapter:

(1) "Candidate conservation plan" means a plan to implement such actions as necessary for the conservation of one or more candidate species or species likely to become a candidate species in the near future.

(2) "Candidate species" means a species identified by the United States Department of the Interior as appropriate for listing as threatened or endangered.

(3) "Endangered species," "federal permit," "habitat conservation plan," and "mitigation fee" have the meanings assigned by Section 83.011, Parks and Wildlife Code.

HISTORY: Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 67.01, effective September 28, 2011.

Sec. 403.452. Comptroller Powers and Duties.

(a) To promote compliance with federal law protecting endangered species and candidate species in a manner consistent with this state's economic development and fiscal stability, the comptroller may:

(1) develop or coordinate the development of a habitat conservation plan or candidate conservation plan;

(2) apply for and hold a federal permit issued in connection with a habitat conservation plan or candidate conservation plan developed by the comptroller or the development of which is coordinated by the comptroller;

(3) enter into an agreement for the implementation of a candidate conservation plan with the United States Department of the Interior or assist another entity in entering into such an agreement;

(4) establish the habitat protection fund, to be held by the comptroller outside the treasury, to be used to support the development or coordination of the development of a habitat conservation plan or a candidate conservation plan, or to pay the costs of monitoring or administering the implementation of such a plan;

(5) impose or provide for the imposition of a mitigation fee in connection with a habitat conservation plan or such fees as are necessary or advisable for a candidate conservation plan developed by the comptroller or the development of which is coordinated by the comptroller; and

(6) implement, monitor, or support the implementation of a habitat conservation plan or candidate conservation plan developed by the comptroller or the development of which is coordinated by the comptroller.

(b) The comptroller may solicit and accept appropriations, fees under this subchapter, gifts, or grants from any public or private source, including the federal government, this state, a public agency, or a political subdivision of this state, for deposit to the credit of the fund established under this section.

(c) The legislature finds that expenditures described by Subsection (a)(4) serve public purposes, including economic development in this state.

(d) The comptroller may establish a nonprofit corporation or contract with a third party to perform one or more of the comptroller's functions under this section.

HISTORY: Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 67.01, effective September 28, 2011.

Sec. 403.453. State Agency Powers and Duties.

(a) Upon consideration of the factors identified in Subsection (b), the comptroller may designate one of the following agencies to undertake the functions identified in Section 403.452(a)(1), (2), (3), (5), or (6):

(1) the Department of Agriculture;

(2) the Parks and Wildlife Department;

(3) the Texas Department of Transportation;

(4) the State Soil and Water Conservation Board; or

(5) any agency receiving funds through Article VI (Natural Resources) of the 2012-2013 appropriations bill.

(b) In designating an agency pursuant to Subsection (a), the comptroller shall consider the following factors:

(1) the economic sectors impacted by the species of interest that will be included in the habitat conservation plan or candidate conservation plan;

(2) the identified threats to the species of interest; and
(3) the location of the species of interest.

(c) The comptroller may enter into a memorandum of understanding or an interagency contract with any of the agencies listed in this section to implement this subchapter and to provide for the use of the habitat protection fund.

HISTORY: Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 67.01, effective September 28, 2011.

Sec. 403.454. Confidential Information.

Information collected under this subchapter by an agency, or an entity acting on the agency's behalf, from a private landowner or other participant or potential participant in a habitat conservation plan, proposed habitat conservation plan, candidate conservation plan, or proposed candidate conservation plan is not subject to Chapter 552 and may not be disclosed to any person, including a state or federal agency, if the information relates to the specific location, species identification, or quantity of any animal or plant life for which a plan is under consideration or development or has been established under this subchapter. The agency may disclose information described by this section only to the person who provided the information unless the person consents in writing to full or specified partial disclosure of the information.

HISTORY: Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 67.01, effective September 28, 2011.

Sec. 403.455. Rules.

The comptroller or agencies identified in Section 403.453 may adopt rules as necessary for the administration of this subchapter.

HISTORY: Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 67.01, effective September 28, 2011.

TITLE 5

OPEN GOVERNMENT; ETHICS

SUBTITLE A

OPEN GOVERNMENT

CHAPTER 551

Open Meetings

Subchapter A. General Provisions

Subchapter B. Record of Open Meeting

Subchapter C. Notice of Meetings

Subchapter D. Exceptions to Requirement That Meetings Be Open

Subchapter E. Procedures Relating to Closed Meeting

Subchapter F. Meetings Using Telephone, Videoconference, or Internet

Subchapter G. Enforcement and Remedies; Criminal Violations

Subchapter A

General Provisions

Sec. 551.001. Definitions.

In this chapter:

(1) "Closed meeting" means a meeting to which the public does not have access.

(2) "Deliberation" means a verbal or written exchange between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body.

(3) "Governmental body" means:

(A) a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members;

(B) a county commissioners court in the state;

(C) a municipal governing body in the state;

(D) a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(E) a school district board of trustees;

(F) a county board of school trustees;

(G) a county board of education;

(H) the governing board of a special district created by law;

(I) a local workforce development board created under Section 2308.253;

(J) a nonprofit corporation that is eligible to receive funds under the federal community services block grant program and that is authorized by this state to serve a geographic area of the state;

(K) a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code; and

(L) a joint board created under Section 22.074, Transportation Code.

(4) "Meeting" means:

(A) a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action; or

(B) except as otherwise provided by this subdivision, a gathering:

(i) that is conducted by the governmental body or for which the governmental body is responsible;

(ii) at which a quorum of members of the governmental body is present;

(iii) that has been called by the governmental body; and

(iv) at which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

The term does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business that is conducted by the body,the attendance by a quorum of a governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, or the attendance by a quorum of a governmental body at a candidate forum, appearance, or debate to inform the electorate, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event,press conference, forum, appearance, or debate.

The term includes a session of a governmental body.

The term does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business that is conducted by the body, or the attendance by a quorum of a governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, or press conference.

The term includes a session of a governmental body.

(5) "Open" means open to the public.

(6) "Quorum" means a majority of a governmental body, unless defined differently by applicable law or rule or the charter of the governmental body.

(7) "Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed.

(8) "Videoconference call" means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through duplex audio and video signals transmitted over a telephone network, a data network, or the Internet.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 18.23, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 647 (H.B. 156), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 633 (H.B. 371), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1004 (H.B. 936), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.012, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 165 (S.B. 1306), § 1, effective May 22, 2007; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 1, effective May 18, 2013; am. Acts 2013, 83rd Leg., ch. 685 (H.B. 2414), § 1, effective June 14, 2013; am. Acts 2015, 84th Leg., ch. 115 (S.B. 679), § 1, effective May 23, 2015; am. Acts 2015, 84th Leg., ch. 1236 (S.B. 1296), § 21.001(26), effective September 1, 2015; am. Acts 2019, 86th Leg., ch. 645 (S.B. 1640), § 1, effective June 10, 2019.

Sec. 551.0015. Certain Property Owners' Associations Subject to Law.

(a) A property owners' association is subject to this chapter in the same manner as a governmental body:

(1) if:

(A) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more;

(B) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(C) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution; or

(2) if the property owners' association:

(A) provides maintenance, preservation, and architectural control of residential and commercial property within a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more; and

(B) is a corporation that:

(i) is governed by a board of trustees who may employ a general manager to execute the association's bylaws and administer the business of the corporation;

(ii) does not require membership in the corporation by the owners of the property within the defined area; and

(iii) was incorporated before January 1, 2006.

(b) The governing body of the association, a committee of the association, and members of the governing body or of a committee of the association are subject to this chapter in the same manner as the governing body of a governmental body, a committee of a governmental body, and members of the governing body or of a committee of the governmental body.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1084 (H.B. 3407), § 1, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 1367 (H.B. 3674), § 1, effective September 1, 2007.

Sec. 551.002. Open Meetings Requirement.

Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.003. Legislature.

In this chapter, the legislature is exercising its powers to adopt rules to prohibit secret meetings of the legislature, committees of the legislature, and other bodies associated with the legislature, except as specifically permitted in the constitution.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.0035. Attendance by Governmental Body at Legislative Committee or Agency Meeting.

(a) This section applies only to the attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature. This section does not apply to attendance at the meeting by members of the legislative committee or agency holding the meeting.

(b) The attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature is not considered to be a meeting of that governmental body if the deliberations at the meeting by the members of that governmental body consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 447 (S.B. 170), § 1, effective June 4, 2001.

Sec. 551.004. Open Meetings Required by Charter.

This chapter does not authorize a governmental body to close a meeting that a charter of the governmental body:

(1) prohibits from being closed; or

(2) requires to be open.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.005. Open Meetings Training.

(a) Each elected or appointed public official who is a member of a governmental body subject to this chapter shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body and its members under this chapter not later than the 90th day after the date the member:

(1) takes the oath of office, if the member is required to take an oath of office to assume the person's duties as a member of the governmental body; or

(2) otherwise assumes responsibilities as a member of the governmental body, if the member is not required to take an oath of office to assume the person's duties as a member of the governmental body.

(b) The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The attorney general shall ensure that at least one course of training approved or provided by the attorney general is available on videotape or a functionally similar and widely available medium at no cost. The training must include instruction in:

(1) the general background of the legal requirements for open meetings;

(2) the applicability of this chapter to governmental bodies;

(3) procedures and requirements regarding quorums, notice, and recordkeeping under this chapter;

(4) procedures and requirements for holding an open meeting and for holding a closed meeting under this chapter; and

(5) penalties and other consequences for failure to comply with this chapter.

(c) The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training required by this section. A governmental body shall maintain and make available for public inspection the record of its members' completion of the training.

(d) Completing the required training as a member of the governmental body satisfies the requirements of this section with regard to the member's service on a committee or subcommittee of the governmental body and the member's ex officio service on any other governmental body.

(e) The training required by this section may be used to satisfy any corresponding training requirements concerning this chapter or open meetings required by law for the members of a governmental body. The attorney general shall attempt to coordinate the training required by this section with training required by other law to the extent practicable.

(f) The failure of one or more members of a governmental body to complete the training required by this section does not affect the validity of an action taken by the governmental body.

(g) A certificate of course completion is admissible as evidence in a criminal prosecution under this chapter. However, evidence that a defendant completed a course of training offered under this section is not prima facie evidence that the defendant knowingly violated this chapter.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 105 (S.B. 286), § 1, effective January 1, 2006.

Sec. 551.006. Written Electronic Communications Accessible to Public.

(a) A communication or exchange of information between members of a governmental body about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of this chapter if:

(1) the communication is in writing;

(2) the writing is posted to an online message board or similar Internet application that is viewable and searchable by the public; and

(3) the communication is displayed in real time and displayed on the online message board or similar Internet application for no less than 30 days after the communication is first posted.

(b) A governmental body may have no more than one online message board or similar Internet application to be used for the purposes described in Subsection (a). The online message board or similar Internet application must be owned or controlled by the governmental body, prominently displayed on the governmental body's primary Internet web page, and no more than one click away from the governmental body's primary Internet web page.

(c) The online message board or similar Internet application described in Subsection (a) may only be used by members of the governmental body or staff members of the governmental body who have received specific authorization from a member of the governmental body. In the event that a staff member posts a communication to the online message board or similar Internet application, the name and title of the staff member must be posted along with the communication.

(d) If a governmental body removes from the online message board or similar Internet application a communication that has been posted for at least 30 days, the governmental body shall maintain the posting for a period of six years. This communication is public information and must be disclosed in accordance with Chapter 552.

(e) The governmental body may not vote or take any action that is required to be taken at a meeting under this chapter of the governmental body by posting a communication to the online message board or similar Internet application. In no event shall a communication or posting to the online message board or similar Internet application be construed to be an action of the governmental body.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 685 (H.B. 2414), § 3, effective June 14, 2013; Enacted Acts 2013, 83rd Leg., ch. 1201 (S.B. 1297), § 1, effective September 1, 2013.

Sec. 551.007. Public Testimony.

(a) This section applies only to a governmental body described by Sections 551.001(3)(B)-(L).

(b) A governmental body shall allow each member of the public who desires to address the body regarding an item on an agenda for an open meeting of the body to address the body regarding the item at the meeting before or during the body's consideration of the item.

(c) A governmental body may adopt reasonable rules regarding the public's right to address the body under this section, including rules that limit the total amount of time that a member of the public may address the body on a given item.

(d) This subsection applies only if a governmental body does not use simultaneous translation equipment in a manner that allows the body to hear the translated public testimony simultaneously. A rule adopted under Subsection (c) that limits the amount of time that a member of the public may address the governmental body must provide that a member of the public who addresses the body through a translator must be given at least twice the amount of time

as a member of the public who does not require the assistance of a translator in order to ensure that non-English speakers receive the same opportunity to address the body.

(e) A governmental body may not prohibit public criticism of the governmental body, including criticism of any act, omission, policy, procedure, program, or service. This subsection does not apply to public criticism that is otherwise prohibited by law.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 861 (H.B. 2840), § 1, effective September 1, 2019.

Secs. 551.008 to 551.020. [Reserved for expansion].

Subchapter B

Record of Open Meeting

Sec. 551.021. Minutes or Recording of Open Meeting Required.

(a) A governmental body shall prepare and keep minutes or make a recording of each open meeting of the body.

(b) The minutes must:

(1) state the subject of each deliberation; and

(2) indicate each vote, order, decision, or other action taken.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), §§ 2, 3, effective May 18, 2013.

Sec. 551.022. Minutes and Recordings of Open Meeting: Public Record.

The minutes and recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 4, effective May 18, 2013.

Sec. 551.023. Recording of Meeting by Person in Attendance.

(a) A person in attendance may record all or any part of an open meeting of a governmental body by means of a recorder, video camera, or other means of aural or visual reproduction.

(b) A governmental body may adopt reasonable rules to maintain order at a meeting, including rules relating to:

(1) the location of recording equipment; and

(2) the manner in which the recording is conducted.

(c) A rule adopted under Subsection (b) may not prevent or unreasonably impair a person from exercising a right granted under Subsection (a).

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 5, effective May 18, 2013.

Secs. 551.024 to 551.040. [Reserved for expansion].

Subchapter C

Notice of Meetings

Sec. 551.041. Notice of Meeting Required.

A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.0411. Meeting Notice Requirements in Certain Circumstances.

(a) Section 551.041 does not require a governmental body that recesses an open meeting to the following regular business day to post notice of the continued meeting if the action is taken in good faith and not to circumvent this chapter. If an open meeting is continued to the following regular business day and, on that following day, the governmental body continues the meeting to another day, the governmental body must give written notice as required by this subchapter of the meeting continued to that other day.

(b) A governmental body that is prevented from convening an open meeting that was otherwise properly posted under Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Section 551.045 if the action is taken in good faith and not to circumvent this chapter. If the governmental body is unable to convene the open meeting within those 72 hours, the governmental body may subsequently convene the meeting only if the governmental body gives written notice of the meeting as required by this subchapter.

(c) In this section, "catastrophe" means a condition or occurrence that interferes physically with the ability of a governmental body to conduct a meeting, including:

(1) fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;

(2) power failure, transportation failure, or interruption of communication facilities;

(3) epidemic; or

(4) riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 325 (S.B. 690), § 1, effective June 17, 2005.

Sec. 551.0415. Governing Body of Municipality or County: Reports About Items of Community Interest Regarding Which No Action Will Be Taken.

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

(1) expressions of thanks, congratulations, or condolence;

(2) information regarding holiday schedules;

(3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;

(4) a reminder about an upcoming event organized or sponsored by the governing body;

(5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and

(6) announcements involving an imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 1, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1007 (H.B. 2313), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1341 (S.B. 1233), § 14, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 9.013, effective September 1, 2013.

Sec. 551.042. Inquiry Made at Meeting.

(a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:

(1) a statement of specific factual information given in response to the inquiry; or

(2) a recitation of existing policy in response to the inquiry.

(b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.043. Time and Accessibility of Notice; General Rule.

(a) The notice of a meeting of a governmental body must be posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting, except as provided by Sections 551.044—551.046.

(b) If this chapter specifically requires or allows a governmental body to post notice of a meeting on the Internet:

(1) the governmental body satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period;

(2) the governmental body must still comply with any duty imposed by this chapter to physically post the notice at a particular location; and

(3) if the governmental body makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the notice physically posted at the location prescribed by this chapter must be readily accessible to the general public during normal business hours.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2005, 79th Leg., ch. 624 (H.B. 2381), § 1, effective September 1, 2005.

Sec. 551.044. Exception to General Rule: Governmental Body with Statewide Jurisdiction.

(a) The secretary of state must post notice on the Internet of a meeting of a state board, commission, department, or officer having statewide jurisdiction for at least seven days before the day of the meeting. The secretary of state shall

provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view notices of meetings posted by the secretary of state.

(b) Subsection (a) does not apply to:

(1) the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation; or

(2) the governing board of an institution of higher education.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 622 (S.B. 916), § 1, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 265 (H.B. 7), § 6.006, effective September 1, 2005.

Sec. 551.045. Exception to General Rule: Notice of Emergency Meeting or Emergency Addition to Agenda.

(a) In an emergency or when there is an urgent public necessity, the notice of a meeting to deliberate or take action on the emergency or urgent public necessity, or the supplemental notice to add the deliberation or taking of action on the emergency or urgent public necessity as an item to the agenda for a meeting for which notice has been posted in accordance with this subchapter, is sufficient if the notice or supplemental notice is posted for at least one hour before the meeting is convened.

(a-1) A governmental body may not deliberate or take action on a matter at a meeting for which notice or supplemental notice is posted under Subsection (a) other than:

(1) a matter directly related to responding to the emergency or urgent public necessity identified in the notice or supplemental notice of the meeting as provided by Subsection (c); or

(2) an agenda item listed on a notice of the meeting before the supplemental notice was posted.

(b) An emergency or an urgent public necessity exists only if immediate action is required of a governmental body because of:

(1) an imminent threat to public health and safety, including a threat described by Subdivision (2) if imminent; or

(2) a reasonably unforeseeable situation, including:

(A) fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;

(B) power failure, transportation failure, or interruption of communication facilities;

(C) epidemic; or

(D) riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

(c) The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice under this section.

(d) A person who is designated or authorized to post notice of a meeting by a governmental body under this subchapter shall post the notice taking at face value the governmental body's stated reason for the emergency or urgent public necessity.

(e) For purposes of Subsection (b)(2), the sudden relocation of a large number of residents from the area of a declared disaster to a governmental body's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 3.06, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1325 (S.B. 1499), § 1, effective June 15, 2007; am. Acts 2019, 86th Leg., ch. 462 (S.B. 494), § 1, effective September 1, 2019.

Sec. 551.046. Exception to General Rule: Committee of Legislature.

The notice of a legislative committee meeting shall be as provided by the rules of the house of representatives or of the senate.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.047. Special Notice to News Media of Emergency Meeting or Emergency Addition to Agenda.

(a) The presiding officer of a governmental body, or the member of a governmental body who calls an emergency meeting of the governmental body or adds an emergency item to the agenda of a meeting of the governmental body, shall notify the news media of the emergency meeting or emergency item as required by this section.

(b) The presiding officer or member is required to notify only those members of the news media that have previously:

(1) filed at the headquarters of the governmental body a request containing all pertinent information for the special notice; and

(2) agreed to reimburse the governmental body for the cost of providing the special notice.

(c) The presiding officer or member shall give the notice by telephone, facsimile transmission, or electronic mail at least one hour before the meeting is convened.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 380 (S.B. 592), § 1, effective June 15, 2007; am. Acts 2019, 86th Leg., ch. 462 (S.B. 494), § 2, effective September 1, 2019.

Sec. 551.048. State Governmental Body: Notice to Secretary of State; Place of Posting Notice.

(a) A state governmental body shall provide notice of each meeting to the secretary of state.

(b) The secretary of state shall post the notice on the Internet. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view the notice.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 622 (S.B. 916), § 2, effective September 1, 1999.

Sec. 551.049. County Governmental Body: Place of Posting Notice.

A county governmental body shall post notice of each meeting on a bulletin board at a place convenient to the public in the county courthouse.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.050. Municipal Governmental Body: Place of Posting Notice.

(a) In this section, "electronic bulletin board" means an electronic communication system that includes a perpetually illuminated screen on which the governmental body can post messages or notices viewable without manipulation by the public.

(b) A municipal governmental body shall post notice of each meeting on a physical or electronic bulletin board at a place convenient to the public in the city hall.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2011, 82nd Leg., ch. 1007 (H.B. 2313), § 2, effective June 17, 2011.

Sec. 551.0501. Joint Board: Place of Posting Notice.

(a) In this section, "electronic bulletin board" means an electronic communication system that includes a perpetually illuminated screen on which the governmental body can post messages or notices viewable without manipulation by the public.

(b) A joint board created under Section 22.074, Transportation Code, shall post notice of each meeting on a physical or electronic bulletin board at a place convenient to the public in the board's administrative offices.

HISTORY: Enacted by Acts 2015, 84th Leg., ch. 115 (S.B. 679), § 2, effective May 23, 2015.

Sec. 551.051. School District: Place of Posting Notice.

A school district shall post notice of each meeting on a bulletin board at a place convenient to the public in the central administrative office of the district.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.052. School District: Special Notice to News Media.

(a) A school district shall provide special notice of each meeting to any news media that has:

(1) requested special notice; and

(2) agreed to reimburse the district for the cost of providing the special notice.

(b) The notice shall be by telephone, facsimile transmission, or electronic mail.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 380 (S.B. 592), § 2, effective June 15, 2007.

Sec. 551.053. District or Political Subdivision Extending into Four or More Counties: Notice to Public, Secretary of State, and County Clerk; Place of Posting Notice.

(a) The governing body of a water district or other district or political subdivision that extends into four or more counties shall:

(1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision;

(2) provide notice of each meeting to the secretary of state; and

(3) either provide notice of each meeting to the county clerk of the county in which the administrative office of the district or political subdivision is located or post notice of each meeting on the district's or political subdivision's Internet website.

(b) The secretary of state shall post the notice provided under Subsection (a)(2) on the Internet. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view the notice.

(c) A county clerk shall post a notice provided to the clerk under Subsection (a)(3) on a bulletin board at a place convenient to the public in the county courthouse.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 622 (S.B. 916), § 3, effective September 1, 1999; am. Acts 2015, 84th Leg., ch. 809 (H.B. 3357), § 1, effective September 1, 2015.

Sec. 551.054. District or Political Subdivision Extending Into Fewer Than Four Counties: Notice to Public and County Clerks; Place of Posting Notice.

(a) The governing body of a water district or other district or political subdivision that extends into fewer than four counties shall:

(1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision; and

(2) either provide notice of each meeting to the county clerk of each county in which the district or political subdivision is located or post notice of each meeting on the district's or political subdivision's Internet website.

(b) A county clerk shall post a notice provided to the clerk under Subsection (a)(2) on a bulletin board at a place convenient to the public in the county courthouse.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2015, 84th Leg., ch. 809 (H.B. 3357), § 2, effective September 1, 2015.

Sec. 551.055. Institution of Higher Education.

In addition to providing any other notice required by this subchapter, the governing board of a single institution of higher education:

(1) shall post notice of each meeting at the county courthouse of the county in which the meeting will be held;

(2) shall publish notice of a meeting in a student newspaper of the institution if an issue of the newspaper is published between the time of the posting and the time of the meeting; and

(3) may post notice of a meeting at another place convenient to the public.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 209 (H.B. 1664), § 1, effective May 23, 1995.

Sec. 551.056. Additional Posting Requirements for Certain Municipalities, Counties, School Districts, Junior College Districts, Development Corporations, Authorities, and Joint Boards.

(a) This section applies only to a governmental body or economic development corporation that maintains an Internet website or for which an Internet website is maintained. This section does not apply to a governmental body described by Section 551.001(3)(D).

(b) In addition to the other place at which notice is required to be posted by this subchapter, the following governmental bodies and economic development corporations must also concurrently post notice of a meeting on the Internet website of the governmental body or economic development corporation:

(1) a municipality;

(2) a county;

(3) a school district;

(4) the governing body of a junior college or junior college district, including a college or district that has changed its name in accordance with Chapter 130, Education Code;

(5) a development corporation organized under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code);

(6) a regional mobility authority included within the meaning of an "authority" as defined by Section 370.003, Transportation Code; and

(7) a joint board created under Section 22.074, Transportation Code.

(c) The following governmental bodies and economic development corporations must also concurrently post the agenda for the meeting on the Internet website of the governmental body or economic development corporation:

(1) a municipality with a population of 48,000 or more;

(2) a county with a population of 65,000 or more;

(3) a school district that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more;

(4) the governing body of a junior college district, including a district that has changed its name in accordance with Chapter 130, Education Code, that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more;

(5) a development corporation organized under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code) that was created by or for:

(A) a municipality with a population of 48,000 or more; or

(B) a county or district that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more; and

(6) a regional mobility authority included within the meaning of an "authority" as defined by Section 370.003, Transportation Code.

(d) The validity of a posted notice of a meeting or an agenda by a governmental body or economic development corporation subject to this section that made a good faith attempt to comply with the requirements of this section is not affected by a failure to comply with a requirement of this section that is due to a technical problem beyond the control of the governmental body or economic development corporation.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 340 (S.B. 1133), § 1, effective January 1, 2006; am. Acts 2007, 80th Leg., ch. 814 (S.B. 1548), § 1, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 885 (H.B. 2278), § 3.10, effective April 1, 2009; am. Acts 2015, 84th Leg., ch. 115 (S.B. 679), §§ 3, 4, effective May 23, 2015.

Secs. 551.057 to 551.070. [Reserved for expansion].

Subchapter D

Exceptions to Requirement That Meetings Be Open

Sec. 551.071. Consultation with Attorney; Closed Meeting.

A governmental body may not conduct a private consultation with its attorney except:

(1) when the governmental body seeks the advice of its attorney about:

(A) pending or contemplated litigation; or

(B) a settlement offer; or

(2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.072. Deliberation Regarding Real Property; Closed Meeting.

A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.0725. Commissioners Courts: Deliberation Regarding Contract Being Negotiated; Closed Meeting.

(a) The commissioners court of a county may conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the closed meeting:

(1) the commissioners court votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person; and

(2) the attorney advising the commissioners court issues a written determination that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person.

(b) Notwithstanding Section 551.103(a), Government Code, the commissioners court must make a recording of the proceedings of a closed meeting to deliberate the information.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1287 (H.B. 2004), § 1, effective June 21, 2003; am. Acts 2011, 82nd Leg., ch. 758 (H.B. 1500), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1341 (S.B. 1233), § 15, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 6, effective May 18, 2013.

Sec. 551.0726. Texas Facilities Commission: Deliberation Regarding Contract Being Negotiated; Closed Meeting.

(a) The Texas Facilities Commission may conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the closed meeting:

(1) the commission votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the state in negotiations with a third person; and

(2) the attorney advising the commission issues a written determination finding that deliberation in an open meeting would have a detrimental effect on the position of the state in negotiations with a third person and setting forth that finding therein.

(b) Notwithstanding Section 551.103(a), the commission must make a recording of the proceedings of a closed meeting held under this section.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 535 (H.B. 976), § 1, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 3.05, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 11.011, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 7, effective May 18, 2013.

Sec. 551.073. Deliberation Regarding Prospective Gift; Closed Meeting.

A governmental body may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.074. Personnel Matters; Closed Meeting.

(a) This chapter does not require a governmental body to conduct an open meeting:

(1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or

(2) to hear a complaint or charge against an officer or employee.

(b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.0745. Personnel Matters Affecting County Advisory Body; Closed Meeting.

(a) This chapter does not require the commissioners court of a county to conduct an open meeting:

(1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of an advisory body; or

(2) to hear a complaint or charge against a member of an advisory body.

(b) Subsection (a) does not apply if the individual who is the subject of the deliberation or hearing requests a public hearing.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 659 (H.B. 3448), § 1, effective September 1, 1997.

Sec. 551.075. Conference Relating to Investments and Potential Investments Attended by Board of Trustees of Texas Growth Fund; Closed Meeting.

(a) This chapter does not require the board of trustees of the Texas growth fund to confer with one or more employees of the Texas growth fund or with a third party in an open meeting if the only purpose of the conference is to:

(1) receive information from the employees of the Texas growth fund or the third party relating to an investment or a potential investment by the Texas growth fund in:

(A) a private business entity, if disclosure of the information would give advantage to a competitor; or

(B) a business entity whose securities are publicly traded, if the investment or potential investment is not required to be registered under the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.), and its subsequent amendments, and if disclosure of the information would give advantage to a competitor; or

(2) question the employees of the Texas growth fund or the third party regarding an investment or potential investment described by Subdivision (1), if disclosure of the information contained in the questions or answers would give advantage to a competitor.

(b) During a conference under Subsection (a), members of the board of trustees of the Texas growth fund may not deliberate public business or agency policy that affects public business.

(c) In this section, "Texas growth fund" means the fund created by Section 70, Article XVI, Texas Constitution.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 647 (H.B. 156), § 2, effective August 30, 1999.

Sec. 551.076. Deliberation Regarding Security Devices or Security Audits; Closed Meeting.

This chapter does not require a governmental body to conduct an open meeting to deliberate:

(1) the deployment, or specific occasions for implementation, of security personnel or devices; or

(2) a security audit.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 3.07, effective September 1, 2007.

Sec. 551.077. Agency Financed by Federal Government.

This chapter does not require an agency financed entirely by federal money to conduct an open meeting.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.078. Medical Board or Medical Committee.

This chapter does not require a medical board or medical committee to conduct an open meeting to deliberate the medical or psychiatric records of an individual applicant for a disability benefit from a public retirement system.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.0785. Deliberations Involving Medical or Psychiatric Records of Individuals.

This chapter does not require a benefits appeals committee for a public self-funded health plan or a governmental body that administers a public insurance, health, or retirement plan to conduct an open meeting to deliberate:

(1) the medical records or psychiatric records of an individual applicant for a benefit from the plan; or

(2) a matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 158 (S.B. 984), § 1, effective May 28, 2003.

Sec. 551.079. Texas Department of Insurance.

(a) The requirements of this chapter do not apply to a meeting of the commissioner of insurance or the commissioner's designee with the board of directors of a guaranty association established under Chapter 2602, Insurance Code, or Article 21.28-C or 21.28-D, Insurance Code, in the discharge of the commissioner's duties and responsibilities to regulate and maintain the solvency of a person regulated by the Texas Department of Insurance.

(b) The commissioner of insurance may deliberate and determine the appropriate action to be taken concerning the solvency of a person regulated by the Texas Department of Insurance in a closed meeting with persons in one or more of the following categories:

(1) staff of the Texas Department of Insurance;

(2) a regulated person;

(3) representatives of a regulated person; or

(4) members of the board of directors of a guaranty association established under Chapter 2602, Insurance Code, or Article 21.28-C or 21.28-D, Insurance Code.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 628 (S.B. 1793), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 11.120, effective September 1, 2005.

Sec. 551.080. Board of Pardons and Paroles.

This chapter does not require the Board of Pardons and Paroles to conduct an open meeting to interview or counsel an inmate of the Texas Department of Criminal Justice.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 25.071, effective September 1, 2009.

Sec. 551.081. Credit Union Commission.

This chapter does not require the Credit Union Commission to conduct an open meeting to deliberate a matter made confidential by law.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.0811. The Finance Commission of Texas.

This chapter does not require The Finance Commission of Texas to conduct an open meeting to deliberate a matter made confidential by law.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.01(a), effective September 1, 1995.

Sec. 551.0812. State Banking Board [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 11.012, effective September 1, 2009.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.01(a), effective September 1, 1995.

Sec. 551.082. School Children; School District Employees; Disciplinary Matter or Complaint.

(a) This chapter does not require a school board to conduct an open meeting to deliberate in a case:

(1) involving discipline of a public school child; or

(2) in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in a need for a hearing.

(b) Subsection (a) does not apply if an open hearing is requested in writing by a parent or guardian of the child or by the employee against whom the complaint or charge is brought.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.0821. School Board: Personally Identifiable Information About Public School Student.

(a) This chapter does not require a school board to conduct an open meeting to deliberate a matter regarding a public school student if personally identifiable information about the student will necessarily be revealed by the deliberation.

(b) Directory information about a public school student is considered to be personally identifiable information about the student for purposes of Subsection (a) only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the school board, the school district, or a school in the school district that the directory information should not be released without prior consent. In this subsection, "directory information" has the meaning assigned by the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), as amended.

(c) Subsection (a) does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 190 (H.B. 1226), § 1, effective June 2, 2003.

Sec. 551.083. Certain School Boards; Closed Meeting Regarding Consultation with Representative of Employee Group.

This chapter does not require a school board operating under a consultation agreement authorized by Section 13.901, Education Code, to conduct an open meeting to deliberate the standards, guidelines, terms, or conditions the board will follow, or instruct its representatives to follow, in a consultation with a representative of an employee group.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.084. Investigation; Exclusion of Witness from Hearing.

A governmental body that is investigating a matter may exclude a witness from a hearing during the examination of another witness in the investigation.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.085. Governing Board of Certain Providers of Health Care Services.

(a) This chapter does not require the governing board of a municipal hospital, municipal hospital authority, county hospital, county hospital authority, hospital district created under general or special law, or nonprofit health maintenance organization created under Section 534.101, Health and Safety Code, to conduct an open meeting to deliberate:

(1) pricing or financial planning information relating to a bid or negotiation for the arrangement or provision of services or product lines to another person if disclosure of the information would give advantage to competitors of the hospital, hospital district, or nonprofit health maintenance organization; or

(2) information relating to a proposed new service or product line of the hospital, hospital district, or nonprofit health maintenance organization before publicly announcing the service or product line.

(b) The governing board of a health maintenance organization created under Section 281.0515, Health and Safety Code, that is subject to this chapter is not required to conduct an open meeting to deliberate information described by Subsection (a).

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.02(a), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 778 (H.B. 2328), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1229 (S.B. 753), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 7 (S.B. 121), § 1, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 342 (H.B. 2978), § 1, effective September 1, 2011.

Sec. 551.086. Certain Public Power Utilities: Competitive Matters.

(a) Notwithstanding anything in this chapter to the contrary, the rules provided by this section apply to competitive matters of a public power utility.

(b) In this section:

(1) "Public power utility" means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(2) "Public power utility governing body" means the board of trustees or other applicable governing body, including a city council, of a public power utility.

(3) [Repealed by Acts 2011, 82nd Leg., ch. 925 (S.B. 1613), § 3, effective June 17, 2011.]

(c) This chapter does not require a public power utility governing body to conduct an open meeting to deliberate, vote, or take final action on any competitive matter, as that term is defined by Section 552.133. This section does not limit the right of a public power utility governing body to hold a closed session under any other exception provided for in this chapter.

(d) For purposes of Section 551.041, the notice of the subject matter of an item that may be considered as a competitive matter under this section is required to contain no more than a general representation of the subject matter

to be considered, such that the competitive activity of the public power utility with respect to the issue in question is not compromised or disclosed.

(e) With respect to municipally owned utilities subject to this section, this section shall apply whether or not the municipally owned utility has adopted customer choice or serves in a multiply certificated service area under the Utilities Code.

(f) Nothing in this section is intended to preclude the application of the enforcement and remedies provisions of Subchapter G.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 405 (S.B. 7), effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 925 (S.B. 1613), §§ 1, 3, effective June 17, 2011.

Sec. 551.087. Deliberation Regarding Economic Development Negotiations; Closed Meeting.

This chapter does not require a governmental body to conduct an open meeting:

(1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or

(2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 32, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(49), effective September 1, 2001 (renumbered from Sec. 551.086).

Sec. 551.088. Deliberation Regarding Test Item.

This chapter does not require a governmental body to conduct an open meeting to deliberate a test item or information related to a test item if the governmental body believes that the test item may be included in a test the governmental body administers to individuals who seek to obtain or renew a license or certificate that is necessary to engage in an activity.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 312 (H.B. 595), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(50), effective September 1, 2001 (renumbered from Sec. 551.086).

Sec. 551.089. Deliberation regarding Security Devices or Security Audits; Closed Meeting.

This chapter does not require a governmental body to conduct an open meeting to deliberate:

(1) security assessments or deployments relating to information resources technology;

(2) network security information as described by Section 2059.055(b); or

(3) the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 183 (H.B. 1830), § 3, effective September 1, 2009; am. Acts 2017, 85th Leg., ch. 560 (S.B. 564), § 1, effective September 1, 2017; am. Acts 2017, 85th Leg., ch. 683 (H.B. 8), § 3, effective September 1, 2017.

Sec. 551.090. Enforcement Committee Appointed by Texas State Board of Public Accountancy.

This chapter does not require an enforcement committee appointed by the Texas State Board of Public Accountancy to conduct an open meeting to investigate and deliberate a disciplinary action under Subchapter K, Chapter 901, Occupations Code, relating to the enforcement of Chapter 901 or the rules of the Texas State Board of Public Accountancy.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 36 (S.B. 228), § 3, effective September 1, 2013.

Secs. 551.091 to 551.100. [Reserved for expansion].

Subchapter E

Procedures Relating to Closed Meeting

Sec. 551.101. Requirement to First Convene in Open Meeting.

If a closed meeting is allowed under this chapter, a governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by this chapter and during which the presiding officer publicly:

(1) announces that a closed meeting will be held; and

(2) identifies the section or sections of this chapter under which the closed meeting is held.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.102. Requirement to Vote or Take Final Action in Open Meeting.

A final action, decision, or vote on a matter deliberated in a closed meeting under this chapter may only be made in an open meeting that is held in compliance with the notice provisions of this chapter.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.103. Certified Agenda or Recording Required.

(a) A governmental body shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for a private consultation permitted under Section 551.071.

(b) The presiding officer shall certify that an agenda kept under Subsection (a) is a true and correct record of the proceedings.

(c) The certified agenda must include:

(1) a statement of the subject matter of each deliberation;

(2) a record of any further action taken; and

(3) an announcement by the presiding officer at the beginning and the end of the meeting indicating the date and time.

(d) A recording made under Subsection (a) must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), §§ 8, 9, effective May 18, 2013.

Sec. 551.104. Certified Agenda or Recording; Preservation; Disclosure.

(a) A governmental body shall preserve the certified agenda or recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the governmental body shall preserve the certified agenda or recording while the action is pending.

(b) In litigation in a district court involving an alleged violation of this chapter, the court:

(1) is entitled to make an in camera inspection of the certified agenda or recording;

(2) may admit all or part of the certified agenda or recording as evidence, on entry of a final judgment; and

(3) may grant legal or equitable relief it considers appropriate, including an order that the governmental body make available to the public the certified agenda or recording of any part of a meeting that was required to be open under this chapter.

(c) The certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3).

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 10, effective May 18, 2013.

Secs. 551.105 to 551.120. [Reserved for expansion].

Subchapter F

Meetings Using Telephone, Videoconference, or Internet

Sec. 551.121. Governing Board of Institution of Higher Education; Board for Lease of University Lands; Texas Higher Education Coordinating Board: Special Meeting for Immediate Action.

(a) In this section, "governing board," "institution of higher education," and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) This chapter does not prohibit the governing board of an institution of higher education, the Board for Lease of University Lands, or the Texas Higher Education Coordinating Board from holding an open or closed meeting by telephone conference call.

(c) A meeting held by telephone conference call authorized by this section may be held only if:

(1) the meeting is a special called meeting and immediate action is required; and

(2) the convening at one location of a quorum of the governing board, the Board for Lease of University Lands, or the Texas Higher Education Coordinating Board, as applicable, is difficult or impossible.

(d) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(e) The notice of a telephone conference call meeting of a governing board must specify as the location of the meeting the location where meetings of the governing board are usually held. For a meeting of the governing board of a university system, the notice must specify as the location of the meeting the board's conference room at the university system office. For a meeting of the Board for Lease of University Lands, the notice must specify as the location of the meeting a suitable conference or meeting room at The University of Texas System office. For a meeting of the Texas Higher Education Coordinating Board, the notice must specify as the location of the meeting a suitable conference or meeting room at the offices of the Texas Higher Education Coordinating Board or at an institution of higher education.

(f) Each part of the telephone conference call meeting that is required to be open to the public must be:

(1) audible to the public at the location specified in the notice of the meeting as the location of the meeting;

(2) broadcast over the Internet in the manner prescribed by Section 551.128; and

(3) recorded and made available to the public in an online archive located on the Internet website of the entity holding the meeting.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 1266 (S.B. 1652), §§ 4.05, 4.06, effective June 21, 2003; am. Acts 2007, 80th Leg., ch. 538 (S.B. 1046), § 3, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 778 (H.B. 3827), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 11.014, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 11, effective May 18, 2013; am. Acts 2015, 84th Leg., ch. 1127 (S.B. 27), § 1, effective September 1, 2015.

Sec. 551.122. Governing Board of Junior College District: Quorum Present at One Location.

(a) This chapter does not prohibit the governing board of a junior college district from holding an open or closed meeting by telephone conference call.

(b) A meeting held by telephone conference call authorized by this section may be held only if a quorum of the governing board is physically present at the location where meetings of the board are usually held.

(c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(d) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location where the quorum is present and shall be recorded. The recording shall be made available to the public.

(e) The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference shall be clearly stated before the party speaks.

(f) The authority provided by this section is in addition to the authority provided by Section 551.121.

(g) A member of a governing board of a junior college district who participates in a board meeting by telephone conference call but is not physically present at the location of the meeting is considered to be absent from the meeting for purposes of Section 130.0845, Education Code.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 778 (H.B. 3827), § 1, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 12, effective May 18, 2013.

Sec. 551.123. Texas Board of Criminal Justice.

(a) The Texas Board of Criminal Justice may hold an open or closed emergency meeting by telephone conference call.

(b) The portion of the telephone conference call meeting that is open shall be recorded. The recording shall be made available to be heard by the public at one or more places designated by the board. (Government Code, Sec. 492.006(c).)

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.124. Board of Pardons and Paroles.

At the call of the presiding officer of the Board of Pardons and Paroles, the board may hold a hearing on clemency matters by telephone conference call.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 12.16, effective September 1, 1997.

Sec. 551.125. Other Governmental Body.

(a) Except as otherwise provided by this subchapter, this chapter does not prohibit a governmental body from holding an open or closed meeting by telephone conference call.

(b) A meeting held by telephone conference call may be held only if:

(1) an emergency or public necessity exists within the meaning of Section 551.045 of this chapter; and

(2) the convening at one location of a quorum of the governmental body is difficult or impossible; or

(3) the meeting is held by an advisory board.

(c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(d) The notice of the telephone conference call meeting must specify as the location of the meeting the location where meetings of the governmental body are usually held.

(e) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be recorded. The recording shall be made available to the public.

(f) The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 1046 (H.B. 2508), § 1, effective August 28, 1995; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 13, effective May 18, 2013.

Sec. 551.126. Higher Education Coordinating Board.

(a) In this section, "board" means the Texas Higher Education Coordinating Board.

(b) The board may hold an open meeting by telephone conference call or video conference call in order to consider a higher education impact statement if the preparation of a higher education impact statement by the board is to be provided under the rules of either the house of representatives or the senate.

(c) A meeting held by telephone conference call must comply with the procedures described in Section 551.125.

(d) A meeting held by video conference call is subject to the notice requirements applicable to other meetings. In addition, a meeting held by video conference call shall:

(1) be visible and audible to the public at the location specified in the notice of the meeting as the location of the meeting;

(2) be recorded by audio and video; and

(3) have two-way audio and video communications with each participant in the meeting during the entire meeting.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 944 (S.B. 1578), § 1, effective June 18, 1997.

Sec. 551.127. Videoconference Call.

(a) Except as otherwise provided by this section, this chapter does not prohibit a governmental body from holding an open or closed meeting by videoconference call.

(a-1) A member or employee of a governmental body may participate remotely in a meeting of the governmental body by means of a videoconference call if the video and audio feed of the member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions of this section.

(a-2) A member of a governmental body who participates in a meeting as provided by Subsection (a-1) shall be counted as present at the meeting for all purposes.

(a-3) A member of a governmental body who participates in a meeting by videoconference call shall be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected. The governmental body may continue the meeting only if a quorum of the body remains present at the meeting location or, if applicable, continues to participate in a meeting conducted under Subsection (c).

(b) A meeting may be held by videoconference call only if a quorum of the governmental body is physically present at one location of the meeting, except as provided by Subsection (c).

(c) A meeting of a state governmental body or a governmental body that extends into three or more counties may be held by videoconference call only if the member of the governmental body presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting.

(d) A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section.

(e) The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the governmental body will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call under Subsection (c) must specify as a location of the meeting the location where the member of the governmental body presiding over the meeting will be physically present and specify the intent to have the member of the governmental body presiding over the meeting present at that location. The location where the member of the governmental body presiding over the meeting is physically present shall be open to the public during the open portions of the meeting.

(f) Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at the location specified under Subsection (e). If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

(g) The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public.

(h) The location specified under Subsection (e), and each remote location from which a member of the governmental body participates, shall have two-way audio and video communication with each other location during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by Subsection (e) and at any other location of the meeting that is open to the public.

(i) The Department of Information Resources by rule shall specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards.

(j) The audio and video signals perceptible by members of the public at each location of the meeting described by Subsection (h) must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

(k) Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1038 (S.B. 839), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(50), effective September 1, 1999 (renumbered from Sec. 551.126); am. Acts 2001, 77th Leg., ch. 630 (H.B. 35), § 1, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 159 (S.B. 984), § 1, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 685 (H.B. 2414), § 2, effective June 14, 2013; am. Acts 2017, 85th Leg., ch. 884 (H.B. 3047), § 1, effective September 1, 2017.

Sec. 551.128. Internet Broadcast of Open Meeting.

(a) In this section, "Internet" means the largest nonproprietary cooperative public computer network, popularly known as the Internet.

(b) Except as provided by Subsection (b-1) and subject to the requirements of this section, a governmental body may broadcast an open meeting over the Internet.

(b-1) A transit authority or department subject to Chapter 451, 452, 453, or 460, Transportation Code, an elected school district board of trustees for a school district that has a student enrollment of 10,000 or more, an elected governing body of a home-rule municipality that has a population of 50,000 or more, or a county commissioners court for a county that has a population of 125,000 or more shall:

(1) make a video and audio recording of reasonable quality of each:

(A) regularly scheduled open meeting that is not a work session or a special called meeting; and

(B) open meeting that is a work session or special called meeting if:

(i) the governmental body is an elected school district board of trustees for a school district that has a student enrollment of 10,000 or more; and

(ii) at the work session or special called meeting, the board of trustees votes on any matter or allows public comment or testimony; and

(2) make available an archived copy of the video and audio recording of each meeting described by Subdivision (1) on the Internet.

(b-2) A governmental body described by Subsection (b-1) may make available the archived recording of a meeting required by Subsection (b-1) on an existing Internet site, including a publicly accessible video-sharing or social networking site. The governmental body is not required to establish a separate Internet site and provide access to archived recordings of meetings from that site.

(b-3) A governmental body described by Subsection (b-1) that maintains an Internet site shall make available on that site, in a conspicuous manner:

(1) the archived recording of each meeting to which Subsection (b-1) applies; or

(2) an accessible link to the archived recording of each such meeting.

(b-4) A governmental body described by Subsection (b-1) shall:

(1) make the archived recording of each meeting to which Subsection (b-1) applies available on the Internet not later than seven days after the date the recording was made; and

(2) maintain the archived recording on the Internet for not less than two years after the date the recording was first made available.

(b-5) A governmental body described by Subsection (b-1) is exempt from the requirements of Subsections (b-2) and (b-4) if the governmental body's failure to make the required recording of a meeting available is the result of a catastrophe, as defined by Section 551.0411, or a technical breakdown. Following a catastrophe or breakdown, a governmental body must make all reasonable efforts to make the required recording available in a timely manner.

(b-6) A governmental body described by Subsection (b-1) may broadcast a regularly scheduled open meeting of the body on television.

(c) Except as provided by Subsection (b-2), a governmental body that broadcasts a meeting over the Internet shall establish an Internet site and provide access to the broadcast from that site. The governmental body shall provide on the Internet site the same notice of the meeting that the governmental body is required to post under Subchapter C. The notice on the Internet must be posted within the time required for posting notice under Subchapter C.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 100 (S.B. 1252), § 1, effective September 1, 1999; am. Acts 2015, 84th Leg., ch. 681 (H.B. 283), § 1, effective January 1, 2016; am. Acts 2017, 85th Leg., ch. 1147 (H.B. 523), § 1, effective September 1, 2017.

Sec. 551.1281. Governing Board of General Academic Teaching Institution or University System: Internet Posting of Meeting Materials and Broadcast of Open Meeting.

(a) In this section, "general academic teaching institution" and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) The governing board of a general academic teaching institution or of a university system that includes one or more component general academic teaching institutions, for any regularly scheduled meeting of the governing board for which notice is required under this chapter, shall:

(1) post as early as practicable in advance of the meeting on the Internet website of the institution or university system, as applicable, any written agenda and related supplemental written materials provided to the governing board members in advance of the meeting by the institution or system for the members' use during the meeting;

(2) broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the Internet in the manner prescribed by Section 551.128; and

(3) record the broadcast and make that recording publicly available in an online archive located on the institution's or university system's Internet website.

(c) Subsection (b)(1) does not apply to written materials that the general counsel or other appropriate attorney for the institution or university system certifies are confidential or may be withheld from public disclosure under Chapter 552.

(d) The governing board of a general academic teaching institution or of a university system is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 842 (H.B. 31), § 1, effective June 14, 2013.

Sec. 551.1282. Governing Board of Junior College District: Internet Posting of Meeting Materials and Broadcast of Open Meeting.

(a) This section applies only to the governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year.

(b) A governing board to which this section applies, for any regularly scheduled meeting of the governing board for which notice is required under this chapter, shall:

(1) post as early as practicable in advance of the meeting on the Internet website of the district any written agenda and related supplemental written materials provided by the district to the board members for the members' use during the meeting;

(2) broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the Internet in the manner prescribed by Section 551.128; and

(3) record the broadcast and make that recording publicly available in an online archive located on the district's Internet website.

(c) Subsection (b)(1) does not apply to written materials that the general counsel or other appropriate attorney for the district certifies are confidential or may be withheld from public disclosure under Chapter 552.

(d) The governing board of a junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 690 (H.B. 2668), § 1, effective June 14, 2013.

Sec. 551.1283. Governing Body of Certain Water Districts: Internet Posting of Meeting Materials; Recording of Certain Hearings.

(a) This section only applies to a special purpose district subject to Chapter 51, 53, 54, or 55, Water Code, that has a population of 500 or more.

(b) On written request of a district resident made to the district not later than the third day before a public hearing to consider the adoption of an ad valorem tax rate, the district shall make an audio recording of reasonable quality of the hearing and provide the recording to the resident in an electronic format not later than the fifth business day after the date of the hearing. The district shall maintain a copy of the recording for at least one year after the date of the hearing.

(c) A district shall post the minutes of the meeting of the governing body to the district's Internet website if the district maintains an Internet website.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 105 (S.B. 239), § 2, effective September 1, 2019.

Sec. 551.129. Consultations Between Governmental Body and Its Attorney.

(a) A governmental body may use a telephone conference call, video conference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the governmental body or a private consultation with its attorney in a closed meeting of the governmental body.

(b) Each part of a public consultation by a governmental body with its attorney in an open meeting of the governmental body under Subsection (a) must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

(c) Subsection (a) does not:

(1) authorize the members of a governmental body to conduct a meeting of the governmental body by telephone conference call, video conference call, or communications over the Internet; or

(2) create an exception to the application of this subchapter.

(d) Subsection (a) does not apply to a consultation with an attorney who is an employee of the governmental body.

(e) For purposes of Subsection (d), an attorney who receives compensation for legal services performed, from which employment taxes are deducted by the governmental body, is an employee of the governmental body.

(f) Subsection (d) does not apply to:

(1) the governing board of an institution of higher education as defined by Section 61.003, Education Code; or

(2) the Texas Higher Education Coordinating Board.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 50 (S.B. 695), § 1, effective May 7, 2001; am. Acts 2007, 80th Leg., ch. 538 (S.B. 1046), § 4, effective September 1, 2007.

Sec. 551.130. Board of Trustees of Teacher Retirement System of Texas: Quorum Present at One Location.

(a) In this section, "board" means the board of trustees of the Teacher Retirement System of Texas.

(b) This chapter does not prohibit the board or a board committee from holding an open or closed meeting by telephone conference call.

(c) The board or a board committee may hold a meeting by telephone conference call only if a quorum of the applicable board or board committee is physically present at one location of the meeting.

(d) A telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must also specify:

(1) the location of the meeting where a quorum of the board or board committee, as applicable, will be physically present; and

(2) the intent to have a quorum present at that location.

(e) The location where a quorum is physically present must be open to the public during the open portions of a telephone conference call meeting. The open portions of the meeting must be audible to the public at the location where the quorum is present and be recorded at that location. The recording shall be made available to the public.

(f) The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference call must be clearly stated before the party speaks.

(g) The authority provided by this section is in addition to the authority provided by Section 551.125.

(h) A member of the board who participates in a board or board committee meeting by telephone conference call but is not physically present at the location of the meeting is not considered to be absent from the meeting for any purpose. The vote of a member of the board who participates in a board or board committee meeting by telephone conference call is counted for the purpose of determining the number of votes cast on a motion or other proposition before the board or board committee.

(i) A member of the board may participate remotely by telephone conference call instead of by being physically present at the location of a board meeting for not more than one board meeting per calendar year. A board member who participates remotely in any portion of a board meeting by telephone conference call is considered to have participated in the entire board meeting by telephone conference call. For purposes of the limit provided by this subsection, remote participation by telephone conference call in a meeting of a board committee does not count as remote participation by telephone conference call in a meeting of the board, even if:

(1) a quorum of the full board attends the board committee meeting; or

(2) notice of the board committee meeting is also posted as notice of a board meeting.

(j) A person who is not a member of the board may speak at the meeting from a remote location by telephone conference call.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 3, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 14, effective May 18, 2013; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 1, effective June 14, 2013.

Sec. 551.131. Water Districts.

(a) In this section, "water district" means a river authority, groundwater conservation district, water control and improvement district, or other district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) This section applies only to a water district whose territory includes land in three or more counties.

(c) A meeting held by telephone conference call or video conference call authorized by this section may be held only if:

(1) the meeting is a special called meeting and immediate action is required; and

(2) the convening at one location of a quorum of the governing body of the applicable water district is difficult or impossible.

(d) A meeting held by telephone conference call must otherwise comply with the procedures under Sections 551.125(c), (d), (e), and (f).

(e) A meeting held by video conference call is subject to the notice requirements applicable to other meetings. In addition, a meeting held by video conference call shall:

(1) be visible and audible to the public at the location specified in the notice of the meeting as the location of the meeting;

(2) be recorded by audio and video; and

(3) have two-way audio and video communications with each participant in the meeting during the entire meeting.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 20 (S.B. 293), § 1, effective May 10, 2013.

Secs. 551.132 to 551.140. [Reserved for expansion].

Subchapter G

Enforcement and Remedies; Criminal Violations

Sec. 551.141. Action Voidable.

An action taken by a governmental body in violation of this chapter is voidable.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 551.142. Mandamus; Injunction.

(a) An interested person, including a member of the news media, may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of this chapter by members of a governmental body.

(b) The court may assess costs of litigation and reasonable attorney fees incurred by a plaintiff or defendant who substantially prevails in an action under Subsection (a). In exercising its discretion, the court shall consider whether the action was brought in good faith and whether the conduct of the governmental body had a reasonable basis in law.

(c) The attorney general may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of Section 551.045(a-1) by members of a governmental body.

(d) A suit filed by the attorney general under Subsection (c) must be filed in a district court of Travis County.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2019, 86th Leg., ch. 462 (S.B. 494), § 3, effective September 1, 2019.

Sec. 551.143. Prohibited Series of Communications; Offense; Penalty.

(a) A member of a governmental body commits an offense if the member:

(1) knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by this chapter and that concern an issue within the jurisdiction of the governmental body in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members; and

(2) knew at the time the member engaged in the communication that the series of communications:

(A) involved or would involve a quorum; and

(B) would constitute a deliberation once a quorum of members engaged in the series of communications.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine of not less than $100 or more than $500;

(2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2019, 86th Leg., ch. 645 (S.B. 1640), §§ 2, 3, effective June 10, 2019.

Sec. 551.144. Closed Meeting; Offense; Penalty.

(a) A member of a governmental body commits an offense if a closed meeting is not permitted under this chapter and the member knowingly:

(1) calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;

(2) closes or aids in closing the meeting to the public, if it is a regular meeting; or

(3) participates in the closed meeting, whether it is a regular, special, or called meeting.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine of not less than $100 or more than $500;

(2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.

(c) It is an affirmative defense to prosecution under Subsection (a) that the member of the governmental body acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record, the attorney general, or the attorney for the governmental body.

HISTORY: Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 647 (H.B. 156), § 3, effective August 30, 1999.

Sec. 551.145. Closed Meeting Without Certified Agenda or Recording; Offense; Penalty.

(a) A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a recording of the closed meeting is not being made.

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

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), §§ 15, 16, effective May 18, 2013.

Sec. 551.146. Disclosure of Certified Agenda or Recording of Closed Meeting; Offense; Penalty; Civil Liability.

(a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public under this chapter:

(1) commits an offense; and

(2) is liable to a person injured or damaged by the disclosure for:

(A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(B) reasonable attorney fees and court costs; and

(C) at the discretion of the trier of fact, exemplary damages.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection (a)(2) that:

(1) the defendant had good reason to believe the disclosure was lawful; or

(2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or recording.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), §§ 17, 18, effective May 18, 2013.

CHAPTER 552

Public Information

Subchapter A. General Provisions

Subchapter B. Right of Access to Public Information

Subchapter C. Information Excepted From Required Disclosure

Subchapter A

General Provisions

Sec. 552.001. Policy; Construction.

(a) Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.

(b) This chapter shall be liberally construed in favor of granting a request for information.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 552.002. Definition of Public Information; Media Containing Public Information.

(a) In this chapter, "public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

(a-1) Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

(a-2) The definition of "public information" provided by Subsection (a) applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

(b) The media on which public information is recorded include:

(1) paper;

(2) film;

(3) a magnetic, optical, solid state, or other device that can store an electronic signal;

(4) tape;

(5) Mylar; and

(6) any physical material on which information may be recorded, including linen, silk, and vellum.

(c) The general forms in which the media containing public information exist include a book, paper, letter, document, e-mail, Internet posting, text message, instant message, other electronic communication, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, and drawing and a voice, data, or video representation held in computer memory.

(d) "Protected health information" as defined by Section 181.006, Health and Safety Code, is not public information and is not subject to disclosure under this chapter.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995; am. Acts 2013, 83rd Leg., ch. 1204 (S.B. 1368), § 1, effective September 1, 2013; am. Acts 2019, 86th Leg., ch. 1340 (S.B. 944), § 1, effective September 1, 2019.

Sec. 552.003. Definitions.

In this chapter:

(1) "Governmental body":

(A) means:

(i) a board, commission, department, committee, institution, agency, or office that is within or is created by the executive or legislative branch of state government and that is directed by one or more elected or appointed members;

(ii) a county commissioners court in the state;

(iii) a municipal governing body in the state;

(iv) a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(v) a school district board of trustees;

(vi) a county board of school trustees;

(vii) a county board of education;

(viii) the governing board of a special district;

(ix) the governing body of a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code;

(x) a local workforce development board created under Section 2308.253;

(xi) a nonprofit corporation that is eligible to receive funds under the federal community services block grant program and that is authorized by this state to serve a geographic area of the state;

(xii) a confinement facility operated under a contract with any division of the Texas Department of Criminal Justice;

(xiii) a civil commitment housing facility owned, leased, or operated by a vendor under contract with the state as provided by Chapter 841, Health and Safety Code;

(xiv) an entity that receives public funds in the current or preceding state fiscal year to manage the daily operations or restoration of the Alamo, or an entity that oversees such an entity; and

(xv) the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds; and

(B) does not include:

(i) the judiciary; or

(ii) an economic development entity whose mission or purpose is to develop and promote the economic growth of a state agency or political subdivision with which the entity contracts if:

(a) the entity does not receive $1 million or more in public funds from a single state agency or political subdivision in the current or preceding state fiscal year; or

(b) the entity:

(1) either:

(A) does not have the authority to make decisions or recommendations on behalf of a state agency or political subdivision regarding tax abatements or tax incentives; or

(B) does not require an officer of the state agency or political subdivision to hold office as a member of the board of directors of the entity;

(2) does not use staff or office space of the state agency or political subdivision for no or nominal consideration, unless the space is available to the public;

(3) to a reasonable degree, tracks the entity's receipt and expenditure of public funds separately from the entity's receipt and expenditure of private funds; and

(4) provides at least quarterly public reports to the state agency or political subdivision regarding work performed on behalf of the state agency or political subdivision.

(2) "Manipulation" means the process of modifying, reordering, or decoding of information with human intervention.

(2-a) "Official business" means any matter over which a governmental body has any authority, administrative duties, or advisory duties.

(3) "Processing" means the execution of a sequence of coded instructions by a computer producing a result.

(4) "Programming" means the process of producing a sequence of coded instructions that can be executed by a computer.

(5) "Public funds" means funds of the state or of a governmental subdivision of the state.

(6) "Requestor" means a person who submits a request to a governmental body for inspection or copies of public information.

(7) **[2 versions: As added by Acts 2019, 86th Leg., ch. 1340 (S.B. 944)]** "Temporary custodian" means an officer or employee of a governmental body who, in the transaction of official business, creates or receives public information that the officer or employee has not provided to the officer for public information of the governmental body or the officer's agent. The term includes a former officer or employee of a governmental body who created or received public information in the officer's or employee's official capacity that has not been provided to the officer for public information of the governmental body or the officer's agent.

(7) **[2 versions: As added by Acts 2019, 86th Leg., ch. 1216 (S.B. 943)]** "Contracting information" means the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor:

(A) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body;

(B) solicitation or bid documents relating to a contract with a governmental body;

(C) communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;

(D) documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and

(E) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 18.24, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 633 (H.B. 371), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.014, effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 1204 (S.B. 1368), § 2, effective September 1, 2013; am. Acts 2019, 86th Leg., ch. 1216 (S.B. 943), § 1, effective January 1, 2020; am. Acts 2019, 86th Leg., ch. 1340 (S.B. 944), § 2, effective September 1, 2019; am. Acts 2019, 86th Leg., ch. 1340 (S.B. 944), § 2, effective September 1, 2019.

Sec. 552.0035. Access to Information of Judiciary.

(a) Access to information collected, assembled, or maintained by or for the judiciary is governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules.

(b) This section does not address whether information is considered to be information collected, assembled, or maintained by or for the judiciary.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 1, effective September 1, 1999.

Sec. 552.0036. Certain Property Owners' Associations Subject to Law.

A property owners' association is subject to this chapter in the same manner as a governmental body:

(1) if:

(A) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more;

(B) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(C) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution; or

(2) if the property owners' association:

(A) provides maintenance, preservation, and architectural control of residential and commercial property within a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more; and

(B) is a corporation that:

(i) is governed by a board of trustees who may employ a general manager to execute the association's bylaws and administer the business of the corporation;

(ii) does not require membership in the corporation by the owners of the property within the defined area; and

(iii) was incorporated before January 1, 2006.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1084 (H.B. 3407), § 2, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(51), effective September 1, 2001 (renumbered from Sec. 552.0035); am. Acts 2007, 80th Leg., ch. 1367 (H.B. 3674), § 2, effective September 1, 2007.

Sec. 552.0037. Certain Entities Authorized to Take Property Through Eminent Domain [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 81 (S.B. 18), § 23, effective September 1, 2011.

HISTORY: Enacted by Acts 2005, 79th Leg., 2nd C.S., ch. 1 (S.B. 7), § 2, effective November 18, 2005.

Sec. 552.0038. Public Retirement Systems Subject to Law.

(a) In this section, "governing body of a public retirement system" and "public retirement system" have the meanings assigned those terms by Section 802.001.

(b) Except as provided by Subsections (c) through (i), the governing body of a public retirement system is subject to this chapter in the same manner as a governmental body.

(c) Records of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from a retirement system under a retirement plan or program administered by the retirement system that are in the custody of the system or in the custody of an administering firm, a carrier, or another governmental agency, including the comptroller, acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure. The retirement system, administering firm, carrier, or governmental agency is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general because the records are exempt from the provisions of this chapter, except as otherwise provided by this section.

(d) Records may be released to a member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system or to an authorized attorney, family member, or representative acting on behalf of the member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits. The retirement system may release the records to:

(1) an administering firm, carrier, or agent or attorney acting on behalf of the retirement system;

(2) another governmental entity having a legitimate need for the information to perform the purposes of the retirement system; or

(3) a party in response to a subpoena issued under applicable law.

(e) A record released or received by the retirement system under this section may be transmitted electronically, including through the use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a law or rule relating to the protection of confidential information.

(f) The records of an individual member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system remain confidential after release to a person as authorized by

this section. The records may become part of the public record of an administrative or judicial proceeding related to a contested case, and the member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits waives the confidentiality of the records, including medical records, unless the records are closed to public access by a protective order issued under applicable law.

(g) The retirement system may require a person to provide the person's social security number as the system considers necessary to ensure the proper administration of all services, benefits, plans, and programs under the retirement system's administration, oversight, or participation or as otherwise required by state or federal law.

(h) The retirement system has sole discretion in determining whether a record is subject to this section. For purposes of this section, a record includes any identifying information about a person, living or deceased, who is or was a member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system under any retirement plan or program administered by the retirement system.

(i) To the extent of a conflict between this section and any other law with respect to the confidential information held by a public retirement system or other entity described by Subsection (c) concerning an individual member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system, the prevailing provision is the provision that provides the greater substantive and procedural protection for the privacy of information concerning that individual member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 809 (H.B. 2460), § 1, effective June 17, 2011.

Sec. 552.004. Preservation of Information.

(a) A governmental body or, for information of an elective county office, the elected county officer, may determine a time for which information that is not currently in use will be preserved, subject to Subsection (b) and to any applicable rule or law governing the destruction and other disposition of state and local government records or public information.

(b) A current or former officer or employee of a governmental body who maintains public information on a privately owned device shall:

(1) forward or transfer the public information to the governmental body or a governmental body server to be preserved as provided by Subsection (a); or

(2) preserve the public information in its original form in a backup or archive and on the privately owned device for the time described under Subsection (a).

(c) The provisions of Chapter 441 of this code and Title 6, Local Government Code, governing the preservation, destruction, or other disposition of records or public information apply to records and public information held by a temporary custodian.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995; am. Acts 2019, 86th Leg., ch. 1340 (S.B. 944), § 3, effective September 1, 2019.

Sec. 552.005. Effect of Chapter on Scope of Civil Discovery.

(a) This chapter does not affect the scope of civil discovery under the Texas Rules of Civil Procedure.

(b) Exceptions from disclosure under this chapter do not create new privileges from discovery.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 552.0055. Subpoena Duces Tecum or Discovery Request.

A subpoena duces tecum or a request for discovery that is issued in compliance with a statute or a rule of civil or criminal procedure is not considered to be a request for information under this chapter.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 2, effective September 1, 1999.

Sec. 552.006. Effect of Chapter on Withholding Public Information.

This chapter does not authorize the withholding of public information or limit the availability of public information to the public, except as expressly provided by this chapter.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995.

Sec. 552.007. Voluntary Disclosure of Certain Information When Disclosure Not Required.

(a) This chapter does not prohibit a governmental body or its officer for public information from voluntarily making part or all of its information available to the public, unless the disclosure is expressly prohibited by law or the information is confidential under law.

(b) Public information made available under Subsection (a) must be made available to any person.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995.

Sec. 552.008. Information for Legislative Purposes.

(a) This chapter does not grant authority to withhold information from individual members, agencies, or committees of the legislature to use for legislative purposes.

(b) A governmental body on request by an individual member, agency, or committee of the legislature shall provide public information, including confidential information, to the requesting member, agency, or committee for inspection or duplication in accordance with this chapter if the requesting member, agency, or committee states that the public information is requested under this chapter for legislative purposes. A governmental body, by providing public information under this section that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right to assert exceptions to required disclosure of the information in the future. The governmental body may require the requesting individual member of the legislature, the requesting legislative agency or committee, or the members or employees of the requesting entity who will view or handle information that is received under this section and that is confidential under law to sign a confidentiality agreement that covers the information and requires that:

(1) the information not be disclosed outside the requesting entity, or within the requesting entity for purposes other than the purpose for which it was received;

(2) the information be labeled as confidential;

(3) the information be kept securely; or

(4) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned to the governmental body remaining confidential and subject to the confidentiality agreement.

(b-1) A member, committee, or agency of the legislature required by a governmental body to sign a confidentiality agreement under Subsection (b) may seek a decision as provided by Subsection (b-2) about whether the information covered by the confidentiality agreement is confidential under law. A confidentiality agreement signed under Subsection (b) is void to the extent that the agreement covers information that is finally determined under Subsection (b-2) to not be confidential under law.

(b-2) The member, committee, or agency of the legislature may seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the information covered by the confidentiality agreement is confidential under law, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court. A person may appeal a decision of the attorney general under this subsection to a Travis County district court if the person claims a proprietary interest in the information affected by the decision or a privacy interest in the information that a confidentiality law or judicial decision is designed to protect.

(c) This section does not affect:

(1) the right of an individual member, agency, or committee of the legislature to obtain information from a governmental body under other law, including under the rules of either house of the legislature;

(2) the procedures under which the information is obtained under other law; or

(3) the use that may be made of the information obtained under other law.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 1364 (S.B. 671), § 1, effective September 1, 2010; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 2, effective September 1, 2010.

Sec. 552.009. Open Records Steering Committee: Advice to Attorney General; Electronic Availability of Public Information.

(a) The open records steering committee is composed of two representatives of the attorney general's office and:

(1) a representative of each of the following, appointed by its governing entity:

(A) the comptroller's office;

(B) the Department of Public Safety;

(C) the Department of Information Resources; and

(D) the Texas State Library and Archives Commission;

(2) five public members, appointed by the attorney general; and

(3) a representative of each of the following types of local governments, appointed by the attorney general:

(A) a municipality;

(B) a county; and

(C) a school district.

(b) The representative of the attorney general designated by the attorney general is the presiding officer of the committee. The committee shall meet as prescribed by committee procedures or at the call of the presiding officer.

(c) The committee shall advise the attorney general regarding the office of the attorney general's performance of its duties under Sections 552.010, 552.205, 552.262, 552.269, and 552.274.

(d) The members of the committee who represent state governmental bodies and the public members of the committee shall periodically study and determine the types of public information for which it would be useful to the public or cost-effective for the government if the type of information were made available by state governmental bodies by means of the Internet or another electronic format. The committee shall report its findings and recommendations to the governor, the presiding officer of each house of the legislature, and the budget committee and state affairs committee of each house of the legislature.

(e) Chapter 2110 does not apply to the size, composition, or duration of the committee. Chapter 2110 applies to the reimbursement of a public member's expenses related to service on the committee. Any reimbursement of the expenses of a member who represents a state or local governmental body may be paid only from funds available to the state or local governmental body the member represents.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 3, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 1, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 3.06, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 3, effective September 1, 2009.

Sec. 552.010. State Governmental Bodies: Fiscal and Other Information Relating to Making Information Accessible.

(a) Each state governmental body shall report to the attorney general the information the attorney general requires regarding:

(1) the number and nature of requests for information the state governmental body processes under this chapter in the period covered by the report; and

(2) the cost to the state governmental body in that period in terms of capital expenditures and personnel time of:

(A) responding to requests for information under this chapter; and

(B) making information available to the public by means of the Internet or another electronic format.

(b) The attorney general shall design and phase in the reporting requirements in a way that:

(1) minimizes the reporting burden on state governmental bodies; and

(2) allows the legislature and state governmental bodies to estimate the extent to which it is cost-effective for state government, and if possible the extent to which it is cost-effective or useful for members of the public, to make information available to the public by means of the Internet or another electronic format as a supplement or alternative to publicizing the information only in other ways or making the information available only in response to requests made under this chapter.

(c) The attorney general shall share the information reported under this section with the open records steering committee.

HISTORY: Enacted by Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 27.01, effective January 11, 2004; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 2, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 2, effective September 1, 2005.

Sec. 552.011. Uniformity.

The attorney general shall maintain uniformity in the application, operation, and interpretation of this chapter. To perform this duty, the attorney general may prepare, distribute, and publish any materials, including detailed and comprehensive written decisions and opinions, that relate to or are based on this chapter.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 4, effective September 1, 1999.

Sec. 552.012. Open Records Training.

(a) This section applies to an elected or appointed public official who is:

(1) a member of a multimember governmental body;

(2) the governing officer of a governmental body that is headed by a single officer rather than by a multimember governing body; or

(3) the officer for public information of a governmental body, without regard to whether the officer is elected or appointed to a specific term.

(b) Each public official shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body with which the official serves and its officers and employees under this chapter not later than the 90th day after the date the public official:

(1) takes the oath of office, if the person is required to take an oath of office to assume the person's duties as a public official; or

(2) otherwise assumes the person's duties as a public official, if the person is not required to take an oath of office to assume the person's duties.

(c) A public official may designate a public information coordinator to satisfy the training requirements of this section for the public official if the public information coordinator is primarily responsible for administering the responsibilities of the public official or governmental body under this chapter. Designation of a public information coordinator under this subsection does not relieve a public official from the duty to comply with any other requirement of this chapter that applies to the public official. The designated public information coordinator shall complete the training course regarding the responsibilities of the governmental body with which the coordinator serves and of its officers and employees under this chapter not later than the 90th day after the date the coordinator assumes the person's duties as coordinator.

(d) The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The attorney general shall ensure that at least one course of training approved or provided by the attorney general is available on videotape or a functionally similar and widely available medium at no cost. The training must include instruction in:

(1) the general background of the legal requirements for open records and public information;

(2) the applicability of this chapter to governmental bodies;

(3) procedures and requirements regarding complying with a request for information under this chapter;

(4) the role of the attorney general under this chapter; and

(5) penalties and other consequences for failure to comply with this chapter.

(e) The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training required by this section. A governmental body shall maintain and make available for public inspection the record of its public officials' or, if applicable, the public information coordinator's completion of the training.

(f) Completing the required training as a public official of the governmental body satisfies the requirements of this section with regard to the public official's service on a committee or subcommittee of the governmental body and the public official's ex officio service on any other governmental body.

(g) The training required by this section may be used to satisfy any corresponding training requirements concerning this chapter or open records required by law for a public official or public information coordinator. The attorney general shall attempt to coordinate the training required by this section with training required by other law to the extent practicable.

(h) A certificate of course completion is admissible as evidence in a criminal prosecution under this chapter. However, evidence that a defendant completed a course of training offered under this section is not prima facie evidence that the defendant knowingly violated this chapter.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 105 (S.B. 286), § 2, effective January 1, 2006.

Secs. 552.013 to 522.020. [Reserved for expansion].

Subchapter B

Right of Access to Public Information

Sec. 552.021. Availability of Public Information.

Public information is available to the public at a minimum during the normal business hours of the governmental body.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995.

Sec. 552.0215. Right of Access to Certain Information After 75 Years.

(a) Except as provided by Section 552.147, the confidentiality provisions of this chapter, or other law, information that is not confidential but is excepted from required disclosure under Subchapter C is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by the governmental body.

(b) This section does not limit the authority of a governmental body to establish retention periods for records under applicable law.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 462 (S.B. 1907), § 1, effective September 1, 2011.

Sec. 552.022. Categories of Public Information; Examples.

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108;

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body;

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;

(4) the name of each official and the final record of voting on all proceedings in a governmental body;

(5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate;

(6) the name, place of business, and the name of the municipality to which local sales and use taxes are credited, if any, for the named person, of a person reporting or paying sales and use taxes under Chapter 151, Tax Code;

(7) a description of an agency's central and field organizations, including:

(A) the established places at which the public may obtain information, submit information or requests, or obtain decisions;

(B) the employees from whom the public may obtain information, submit information or requests, or obtain decisions;

(C) in the case of a uniformed service, the members from whom the public may obtain information, submit information or requests, or obtain decisions; and

(D) the methods by which the public may obtain information, submit information or requests, or obtain decisions;

(8) a statement of the general course and method by which an agency's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures;

(9) a rule of procedure, a description of forms available or the places at which forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations;

(10) a substantive rule of general applicability adopted or issued by an agency as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by an agency;

(11) each amendment, revision, or repeal of information described by Subdivisions (7)—(10);

(12) final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases;

(13) a policy statement or interpretation that has been adopted or issued by an agency;

(14) administrative staff manuals and instructions to staff that affect a member of the public;

(15) information regarded as open to the public under an agency's policies;

(16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege;

(17) information that is also contained in a public court record; and

(18) a settlement agreement to which a governmental body is a party.

(b) A court in this state may not order a governmental body or an officer for public information to withhold from public inspection any category of public information described by Subsection (a) or to not produce the category of public information for inspection or duplication, unless the category of information is confidential under this chapter or other law.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 3, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 5, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 2, effective September 1, 2011.

Sec. 552.0221. Employee or Trustee of Public Employee Pension System.

(a) Information concerning the employment of an employee of a public employee pension system is public information under the terms of this chapter, including information concerning the income, salary, benefits, and bonuses received from the pension system by the employee in the person's capacity as an employee of the system, and is not removed from the application of this chapter, made confidential, or otherwise excepted from the requirements of Section 552.021 by any statute intended to protect the records of persons as members, beneficiaries, or retirees of a public employee pension system in their capacity as such.

(b) Information concerning the service of a trustee of a public employee pension system is public information under the terms of this chapter, including information concerning the income, salary, benefits, and bonuses received from the pension system by the trustee in the person's capacity as a trustee of the system, and is not removed from the application of this chapter, made confidential, or otherwise excepted from the requirements of Section 552.021 by any statute intended to protect the records of persons as members, beneficiaries, or retirees of a public employee pension system in their capacity as such.

(c) Information subject to Subsections (a) and (b) must be released only to the extent the information is not excepted from required disclosure under this subchapter or Subchapter C.

(d) For purposes of this section, "benefits" does not include pension benefits provided to an individual by a pension system under the statutory plan covering the individual as a member, beneficiary, or retiree of the pension system.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 58 (S.B. 1071), § 1, effective September 1, 2009.

Sec. 552.0222. Disclosure of Contracting Information. [Effective January 1, 2020]

(a) Contracting information is public and must be released unless excepted from disclosure under this chapter.

(b) The exceptions to disclosure provided by Sections 552.110 and 552.1101 do not apply to the following types of contracting information:

(1) a contract described by Section 2261.253(a), excluding any information that was properly redacted under Subsection (e) of that section;

(2) a contract described by Section 322.020(c), excluding any information that was properly redacted under Subsection (d) of that section;

(3) the following contract or offer terms or their functional equivalent:

(A) any term describing the overall or total price the governmental body will or could potentially pay, including overall or total value, maximum liability, and final price;

(B) a description of the items or services to be delivered with the total price for each if a total price is identified for the item or service in the contract;

(C) the delivery and service deadlines;

(D) the remedies for breach of contract;

(E) the identity of all parties to the contract;

(F) the identity of all subcontractors in a contract;

(G) the affiliate overall or total pricing for a vendor, contractor, potential vendor, or potential contractor;

(H) the execution dates;

(I) the effective dates; and

(J) the contract duration terms, including any extension options; or

(4) information indicating whether a vendor, contractor, potential vendor, or potential contractor performed its duties under a contract, including information regarding:

(A) a breach of contract;

(B) a contract variance or exception;

(C) a remedial action;

(D) an amendment to a contract;

(E) any assessed or paid liquidated damages;

(F) a key measures report;

(G) a progress report; and

(H) a final payment checklist.

(c) Notwithstanding Subsection (b), information described by Subdivisions (3)(A) and (B) of that subsection that relates to a retail electricity contract may not be disclosed until the delivery start date.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1216 (S.B. 943), § 2, effective January 1, 2020.

Sec. 552.0225. Right of Access to Investment Information.

(a) Under the fundamental philosophy of American government described by Section 552.001, it is the policy of this state that investments of government are investments of and for the people and the people are entitled to information regarding those investments. The provisions of this section shall be liberally construed to implement this policy.

(b) The following categories of information held by a governmental body relating to its investments are public information and not excepted from disclosure under this chapter:

(1) the name of any fund or investment entity the governmental body is or has invested in;

(2) the date that a fund or investment entity described by Subdivision (1) was established;

(3) each date the governmental body invested in a fund or investment entity described by Subdivision (1);

(4) the amount of money, expressed in dollars, the governmental body has committed to a fund or investment entity;

(5) the amount of money, expressed in dollars, the governmental body is investing or has invested in any fund or investment entity;

(6) the total amount of money, expressed in dollars, the governmental body received from any fund or investment entity in connection with an investment;

(7) the internal rate of return or other standard used by a governmental body in connection with each fund or investment entity it is or has invested in and the date on which the return or other standard was calculated;

(8) the remaining value of any fund or investment entity the governmental body is or has invested in;

(9) the total amount of fees, including expenses, charges, and other compensation, assessed against the governmental body by, or paid by the governmental body to, any fund or investment entity or principal of any fund or investment entity in which the governmental body is or has invested;

(10) the names of the principals responsible for managing any fund or investment entity in which the governmental body is or has invested;

(11) each recusal filed by a member of the governing board in connection with a deliberation or action of the governmental body relating to an investment;

(12) a description of all of the types of businesses a governmental body is or has invested in through a fund or investment entity;

(13) the minutes and audio or video recordings of each open portion of a meeting of the governmental body at which an item described by this subsection was discussed;

(14) the governmental body's percentage ownership interest in a fund or investment entity the governmental body is or has invested in;

(15) any annual ethics disclosure report submitted to the governmental body by a fund or investment entity the governmental body is or has invested in; and

(16) the cash-on-cash return realized by the governmental body for a fund or investment entity the governmental body is or has invested in.

(c) This section does not apply to the Texas Mutual Insurance Company or a successor to the company.

(d) This section does not apply to a private investment fund's investment in restricted securities, as defined in Section 552.143.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1338 (S.B. 121), § 1, effective June 18, 2005.

Sec. 552.023. Special Right of Access to Confidential Information.

(a) A person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests.

(b) A governmental body may not deny access to information to the person, or the person's representative, to whom the information relates on the grounds that the information is considered confidential by privacy principles under this chapter but may assert as grounds for denial of access other provisions of this chapter or other law that are not intended to protect the person's privacy interests.

(c) A release of information under Subsections (a) and (b) is not an offense under Section 552.352.

(d) A person who receives information under this section may disclose the information to others only to the extent consistent with the authorized purposes for which consent to release the information was obtained.

(e) Access to information under this section shall be provided in the manner prescribed by Sections 552.229 and 552.307.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 4, effective September 1, 1995.

Sec. 552.024. Electing to Disclose Address and Telephone Number.

(a) Except as provided by Subsection (a-1), each employee or official of a governmental body and each former employee or official of a governmental body shall choose whether to allow public access to the information in the custody of the governmental body that relates to the person's home address, home telephone number, emergency contact information, or social security number, or that reveals whether the person has family members.

(a-1) A school district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number.

(b) Each employee and official and each former employee and official shall state that person's choice under Subsection (a) to the main personnel officer of the governmental body in a signed writing not later than the 14th day after the date on which:

(1) the employee begins employment with the governmental body;

(2) the official is elected or appointed; or

(3) the former employee or official ends service with the governmental body.

(c) If the employee or official or former employee or official chooses not to allow public access to the information:

(1) the information is protected under Subchapter C; and

(2) the governmental body may redact the information from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(c-1) If, under Subsection (c)(2), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(c-2) A governmental body that redacts or withholds information under Subsection (c)(2) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

(d) If an employee or official or a former employee or official fails to state the person's choice within the period established by this section, the information is subject to public access.

(e) An employee or official or former employee or official of a governmental body who wishes to close or open public access to the information may request in writing that the main personnel officer of the governmental body close or open access.

(f) This section does not apply to a person to whom Section 552.1175 applies.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 5, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 119 (S.B. 247), § 1, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 283 (S.B. 1068), § 1, effective June 4, 2009; am. Acts 2011, 82nd Leg., ch. 927 (S.B. 1638), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 183 (H.B. 2961), § 1, effective September 1, 2013.

Sec. 552.025. Tax Rulings and Opinions.

(a) A governmental body with taxing authority that issues a written determination letter, technical advice memorandum, or ruling that concerns a tax matter shall index the letter, memorandum, or ruling by subject matter.

(b) On request, the governmental body shall make the index prepared under Subsection (a) and the document itself available to the public, subject to the provisions of this chapter.

(c) Subchapter C does not authorize withholding from the public or limiting the availability to the public of a written determination letter, technical advice memorandum, or ruling that concerns a tax matter and that is issued by a governmental body with taxing authority.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 552.026. Education Records.

This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 552.027. Exception: Information Available Commercially; Resource Material.

(a) A governmental body is not required under this chapter to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the governmental body for research purposes if the book or publication is commercially available to the public.

(b) Although information in a book or publication may be made available to the public as a resource material, such as a library book, a governmental body is not required to make a copy of the information in response to a request for public information.

(c) A governmental body shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of a governmental body.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 12, effective September 1, 1995.

Sec. 552.028. Request for Information from Incarcerated Individual.

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

(c) In this section, "correctional facility" means:

(1) a secure correctional facility, as defined by Section 1.07, Penal Code;

(2) a secure correctional facility and a secure detention facility, as defined by Section 51.02, Family Code; and

(3) a place designated by the law of this state, another state, or the federal government for the confinement of a person arrested for, charged with, or convicted of a criminal offense.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 302 (H.B. 949), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(44), effective September 1, 1997 (renumbered from Sec. 552.027); am. Acts 1999, 76th Leg., ch. 154 (S.B. 744), § 1,

effective May 21, 1999; am. Acts 2001, 77th Leg., ch. 735 (S.B. 840), § 1, effective June 13, 2001; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 45, effective September 1, 2003.

Sec. 552.029. Right of Access to Certain Information Relating to Inmate of Department of Criminal Justice.

Notwithstanding Section 508.313 or 552.134, the following information about an inmate who is confined in a facility operated by or under a contract with the Texas Department of Criminal Justice is subject to required disclosure under Section 552.021:

(1) the inmate's name, identification number, age, birthplace, department photograph, physical description, or general state of health or the nature of an injury to or critical illness suffered by the inmate;

(2) the inmate's assigned unit or the date on which the unit received the inmate, unless disclosure of the information would violate federal law relating to the confidentiality of substance abuse treatment;

(3) the offense for which the inmate was convicted or the judgment and sentence for that offense;

(4) the county and court in which the inmate was convicted;

(5) the inmate's earliest or latest possible release dates;

(6) the inmate's parole date or earliest possible parole date;

(7) any prior confinement of the inmate by the Texas Department of Criminal Justice or its predecessor; or

(8) basic information regarding the death of an inmate in custody, an incident involving the use of force, or an alleged crime involving the inmate.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 783 (H.B. 1379), § 2, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.002(7), effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1271 (H.B. 2197), § 1, effective June 18, 2005.

Secs. 552.030 to 522.100. [Reserved for expansion].

Subchapter C

Information Excepted From Required Disclosure

Sec. 552.101. Exception: Confidential Information.

Information is excepted from the requirements of Section 552.021 if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 552.102. Exception: Confidentiality of Certain Personnel Information.

(a) Information is excepted from the requirements of Section 552.021 if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the personnel file of an employee of a governmental body is to be made available to that employee or the employee's designated representative as public information is made available under this chapter. The exception to public disclosure created by this subsection is in addition to any exception created by Section 552.024. Public access to personnel information covered by Section 552.024 is denied to the extent provided by that section.

(b) Information is excepted from the requirements of Section 552.021 if it is a transcript from an institution of higher education maintained in the personnel file of a professional public school employee, except that this section does not exempt from disclosure the degree obtained or the curriculum on a transcript in the personnel file of the employee.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 6, effective September 1, 1995; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 3, effective September 1, 2011.

Sec. 552.103. Exception: Litigation or Settlement Negotiations Involving the State or a Political Subdivision.

(a) Information is excepted from the requirements of Section 552.021 if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

(b) For purposes of this section, the state or a political subdivision is considered to be a party to litigation of a criminal nature until the applicable statute of limitations has expired or until the defendant has exhausted all appellate and postconviction remedies in state and federal court.

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 6, effective September 1, 1999.

Sec. 552.104. Exception: Information Related to Competition or Bidding.

(a) **[Effective until January 1, 2020]** Information is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder.

(a) **[Effective January 1, 2020]** Information is excepted from the requirements of Section 552.021 if a governmental body demonstrates that release of the information would harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future.

(b) Except as provided by Subsection (c), the requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

(c) Subsection (b) does not apply to information described by Section 552.022(a) relating to the receipt or expenditure of public or other funds by a governmental body for a parade, concert, or other entertainment event paid for in whole or part with public funds. A person, including a governmental body, may not include a provision in a contract related to an event described by this subsection that prohibits or would otherwise prevent the disclosure of information described by this subsection. A contract provision that violates this subsection is void.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 1272 (S.B. 1458), § 7.01, effective June 15, 2001; am. Acts 2019, 86th Leg., ch. SB943 (S.B. 943), § 3, effective January 1, 2020; am. Acts 2019, 86th Leg., ch. 45 (H.B. 81), § 1, effective May 17, 2019.

Sec. 552.105. Exception: Information Related to Location or Price of Property.

Information is excepted from the requirements of Section 552.021 if it is information relating to:

(1) the location of real or personal property for a public purpose prior to public announcement of the project; or

(2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 552.106. Exception: Certain Legislative Documents.

(a) A draft or working paper involved in the preparation of proposed legislation is excepted from the requirements of Section 552.021.

(b) An internal bill analysis or working paper prepared by the governor's office for the purpose of evaluating proposed legislation is excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1437 (H.B. 3157), § 1, effective June 20, 1997.

Sec. 552.107. Exception: Certain Legal Matters.

Information is excepted from the requirements of Section 552.021 if:

(1) it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct; or

(2) a court by order has prohibited disclosure of the information.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 7, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.014, effective September 1, 2005.

Sec. 552.108. Exception: Certain Law Enforcement, Corrections, and Prosecutorial Information.

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

(3) it is information relating to a threat against a peace officer or detention officer collected or disseminated under Section 411.048; or

(4) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 7, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 1, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 474 (H.B. 776), § 6, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 557 (H.B. 1262), § 3, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 557 (H.B. 1262), § 4, effective September 1, 2005.

Sec. 552.1081. Exception: Confidentiality of Certain Information Regarding Execution of Convict.

Information is excepted from the requirements of Section 552.021 if it contains identifying information under Article 43.14, Code of Criminal Procedure, including that of:

(1) any person who participates in an execution procedure, including a person who uses, supplies, or administers a substance during the execution; and

(2) any person or entity that manufactures, transports, tests, procures, compounds, prescribes, dispenses, or provides a substance or supplies used in an execution.

HISTORY: Enacted by Acts 2015, 84th Leg., ch. 209 (S.B. 1697), § 1, effective September 1, 2015.

Sec. 552.1085. Confidentiality of Sensitive Crime Scene Image.

(a) In this section:

(1) "Deceased person's next of kin" means:

(A) the surviving spouse of the deceased person;

(B) if there is no surviving spouse of the deceased, an adult child of the deceased person; or

(C) if there is no surviving spouse or adult child of the deceased, a parent of the deceased person.

(2) "Defendant" means a person being prosecuted for the death of the deceased person or a person convicted of an offense in relation to that death and appealing that conviction.

(3) "Expressive work" means:

(A) a fictional or nonfictional entertainment, dramatic, literary, or musical work that is a play, book, article, musical composition, audiovisual work, radio or television program, work of art, or work of political, educational, or newsworthy value;

(B) a work the primary function of which is the delivery of news, information, current events, or other matters of public interest or concern; or

(C) an advertisement or commercial announcement of a work described by Paragraph (A) or (B).

(4) "Local governmental entity" means a county, municipality, school district, charter school, junior college district, or other political subdivision of this state.

(5) "Public or private institution of higher education" means:

(A) an institution of higher education, as defined by Section 61.003, Education Code; or

(B) a private or independent institution of higher education, as defined by Section 61.003, Education Code.

(6) "Sensitive crime scene image" means a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia.

(7) "State agency" means a department, commission, board, office, or other agency that is a part of state government and that is created by the constitution or a statute of this state. The term includes an institution of higher education as defined by Section 61.003, Education Code.

(b) For purposes of this section, an Internet website, the primary function of which is not the delivery of news, information, current events, or other matters of public interest or concern, is not an expressive work.

(c) A sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 and a governmental body may not permit a person to view or copy the image except as provided by this section. This section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

(d) Notwithstanding Subsection (c) and subject to Subsection (e), the following persons may view or copy information that constitutes a sensitive crime scene image from a governmental body:

(1) the deceased person's next of kin;

(2) a person authorized in writing by the deceased person's next of kin;

(3) a defendant or the defendant's attorney;

(4) a person who establishes to the governmental body an interest in a sensitive crime scene image that is based on, connected with, or in support of the creation, in any medium, of an expressive work;

(5) a person performing bona fide research sponsored by a public or private institution of higher education with approval of a supervisor of the research or a supervising faculty member;

(6) a state agency;

(7) an agency of the federal government; or

(8) a local governmental entity.

(e) This section does not prohibit a governmental body from asserting an exception to disclosure of a sensitive crime scene image to a person identified in Subsection (d) on the grounds that the image is excepted from the requirements of Section 552.021 under another provision of this chapter or another law.

(f) Not later than the 10th business day after the date a governmental body receives a request for a sensitive crime scene image from a person described by Subsection (d)(4) or (5), the governmental body shall notify the deceased person's next of kin of the request in writing. The notice must be sent to the next of kin's last known address.

(g) A governmental body that receives a request for information that constitutes a sensitive crime scene image shall allow a person described in Subsection (d) to view or copy the image not later than the 10th business day after the date the governmental body receives the request unless the governmental body files a request for an attorney general decision under Subchapter G regarding whether an exception to public disclosure applies to the information.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 1360 (S.B. 1512), § 1, effective September 1, 2013.

Sec. 552.109. Exception: Confidentiality of Certain Private Communications of an Elected Office Holder.

Private correspondence or communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 4, effective September 1, 2011.

Sec. 552.110. Exception: Confidentiality of Trade Secrets; Confidentiality of Certain Commercial or Financial Information. [Effective until January 1, 2020]

(a) A trade secret obtained from a person and privileged or confidential by statute or judicial decision is excepted from the requirements of Section 552.021.

(b) Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 7, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 5, effective September 1, 2011.

Sec. 552.110. Exception: Confidentiality of Trade Secrets; Confidentiality of Certain Commercial or Financial Information. [Effective January 1, 2020]

(a) In this section, "trade secret" means all forms and types of information, including business, scientific, technical, economic, or engineering information, and any formula, design, prototype, pattern, plan, compilation, program device, program, code, device, method, technique, process, procedure, financial data, or list of actual or potential customers or suppliers, whether tangible or intangible and whether or however stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if:

(1) the owner of the trade secret has taken reasonable measures under the circumstances to keep the information secret; and

(2) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

(b) Except as provided by Section 552.0222, information is excepted from the requirements of Section 552.021 if it is demonstrated based on specific factual evidence that the information is a trade secret.

(c) Except as provided by Section 552.0222, commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 7, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 5, effective September 1, 2011; am. Acts 2019, 86th Leg., ch. 1216 (S.B. 943), § 4, effective January 1, 2020.

Sec. 552.1101. Exception: Confidentiality of Proprietary Information. [Effective January 1, 2020]

(a) Except as provided by Section 552.0222, information submitted to a governmental body by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification is excepted from the

requirements of Section 552.021 if the vendor, contractor, potential vendor, or potential contractor that the information relates to demonstrates based on specific factual evidence that disclosure of the information would:

(1) reveal an individual approach to:

(A) work;

(B) organizational structure;

(C) staffing;

(D) internal operations;

(E) processes; or

(F) discounts, pricing methodology, pricing per kilowatt hour, cost data, or other pricing information that will be used in future solicitation or bid documents; and

(2) give advantage to a competitor.

(b) The exception to disclosure provided by Subsection (a) does not apply to:

(1) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body; or

(2) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

(c) The exception to disclosure provided by Subsection (a) may be asserted only by a vendor, contractor, potential vendor, or potential contractor in the manner described by Section 552.305(b) for the purpose of protecting the interests of the vendor, contractor, potential vendor, or potential contractor. A governmental body shall decline to release information as provided by Section 552.305(a) to the extent necessary to allow a vendor, contractor, potential vendor, or potential contractor to assert the exception to disclosure provided by Subsection (a).

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1216 (S.B. 943), § 5, effective January 1, 2020.

Sec. 552.111. Exception: Agency Memoranda.

An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency is excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 552.112. Exception: Certain Information Relating to Regulation of Financial Institutions or Securities.

(a) Information is excepted from the requirements of Section 552.021 if it is information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.

(b) **[Effective until January 1, 2022]** In this section, "securities" has the meaning assigned by The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes).

(b) **[Effective January 1, 2022]** In this section, "securities" has the meaning assigned by The Securities Act (Title 12, Government Code).

(c) Information is excepted from the requirements of Section 552.021 if it is information submitted by an individual or other entity to the Texas Legislative Council, or to any state agency or department overseen by the Finance Commission of Texas and the information has been or will be sent to the Texas Legislative Council, for the purpose of performing a statistical or demographic analysis of information subject to Section 323.020. However, this subsection does not except from the requirements of Section 552.021 information that does not identify or tend to identify an individual or other entity and that is subject to required public disclosure under Section 323.020(e).

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 918 (S.B. 1000), § 2, effective June 20, 2003; am. Acts 2019, 86th Leg., ch. 491 (H.B. 4171), § 2.19, effective January 1, 2022.

Sec. 552.113. Exception: Confidentiality of Geological or Geophysical Information.

(a) Information is excepted from the requirements of Section 552.021 if it is:

(1) an electric log confidential under Subchapter M, Chapter 91, Natural Resources Code;

(2) geological or geophysical information or data, including maps concerning wells, except information filed in connection with an application or proceeding before an agency; or

(3) confidential under Subsections (c) through (f).

(b) Information that is shown to or examined by an employee of the General Land Office, but not retained in the land office, is not considered to be filed with the land office.

(c) In this section:

(1) "Confidential material" includes all well logs, geological, geophysical, geochemical, and other similar data, including maps and other interpretations of the material filed in the General Land Office:

(A) in connection with any administrative application or proceeding before the land commissioner, the school land board, any board for lease, or the commissioner's or board's staff; or

(B) in compliance with the requirements of any law, rule, lease, or agreement.

(2) "Electric logs" has the same meaning as it has in Chapter 91, Natural Resources Code.

(3) "Administrative applications" and "administrative proceedings" include applications for pooling or unitization, review of shut-in royalty payments, review of leases or other agreements to determine their validity, review of any plan of operations, review of the obligation to drill offset wells, or an application to pay compensatory royalty.

(d) Confidential material, except electric logs, filed in the General Land Office on or after September 1, 1985, is public information and is available to the public under Section 552.021 on and after the later of:

(1) five years from the filing date of the confidential material; or

(2) one year from the expiration, termination, or forfeiture of the lease in connection with which the confidential material was filed.

(e) Electric logs filed in the General Land Office on or after September 1, 1985, are either public information or confidential material to the same extent and for the same periods provided for the same logs by Chapter 91, Natural Resources Code. A person may request that an electric log that has been filed in the General Land Office be made confidential by filing with the land office a copy of the written request for confidentiality made to the Railroad Commission of Texas for the same log.

(f) The following are public information:

(1) electric logs filed in the General Land Office before September 1, 1985; and

(2) confidential material, except electric logs, filed in the General Land Office before September 1, 1985, provided, that Subsection (d) governs the disclosure of that confidential material filed in connection with a lease that is a valid and subsisting lease on September 1, 1995.

(g) Confidential material may be disclosed at any time if the person filing the material, or the person's successor in interest in the lease in connection with which the confidential material was filed, consents in writing to its release. A party consenting to the disclosure of confidential material may restrict the manner of disclosure and the person or persons to whom the disclosure may be made.

(h) Notwithstanding the confidential nature of the material described in this section, the material may be used by the General Land Office in the enforcement, by administrative proceeding or litigation, of the laws governing the sale and lease of public lands and minerals, the regulations of the land office, the school land board, or of any board for lease, or the terms of any lease, pooling or unitization agreement, or any other agreement or grant.

(i) An administrative hearings officer may order that confidential material introduced in an administrative proceeding remain confidential until the proceeding is finally concluded, or for the period provided in Subsection (d), whichever is later.

(j) Confidential material examined by an administrative hearings officer during the course of an administrative proceeding for the purpose of determining its admissibility as evidence shall not be considered to have been filed in the General Land Office to the extent that the confidential material is not introduced into evidence at the proceeding.

(k) This section does not prevent a person from asserting that any confidential material is exempt from disclosure as a trade secret or commercial information under Section 552.110 or under any other basis permitted by law.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 8, effective September 1, 1995; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 6, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 279 (H.B. 878), §§ 4, 5, effective September 1, 2013.

Sec. 552.114. Exception: Confidentiality of Student Records.

(a) In this section, "student record" means:

(1) information that constitutes education records as that term is defined by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g(a)(4)); or

(2) information in a record of an applicant for admission to an educational institution, including a transfer applicant.

(b) Information is confidential and excepted from the requirements of Section 552.021 if it is information in a student record at an educational institution funded wholly or partly by state revenue. This subsection does not prohibit the disclosure or provision of information included in an education record if the disclosure or provision is authorized by 20 U.S.C. Section 1232g or other federal law.

(c) A record covered by Subsection (b) shall be made available on the request of:

(1) educational institution personnel;

(2) the student involved or the student's parent, legal guardian, or spouse; or

(3) a person conducting a child abuse investigation required by Subchapter D, Chapter 261, Family Code.

(d) Except as provided by Subsection (e), an educational institution may redact information covered under Subsection (b) from information disclosed under Section 552.021 without requesting a decision from the attorney general.

(e) If an applicant for admission to an educational institution described by Subsection (b) or a parent or legal guardian of a minor applicant to an educational institution described by Subsection (b) requests information in the record of the applicant, the educational institution shall disclose any information that:

(1) is related to the applicant's application for admission; and

(2) was provided to the educational institution by the applicant.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 7.38, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 7, effective September 1, 2011; am. Acts 2015, 84th Leg., ch. 828 (H.B. 4046), § 1, effective September 1, 2015.

Sec. 552.115. Exception: Confidentiality of Birth and Death Records.

(a) A birth or death record maintained by the vital statistics unit of the Department of State Health Services or a local registration official is excepted from the requirements of Section 552.021, except that:

(1) a birth record is public information and available to the public on and after the 75th anniversary of the date of birth as shown on the record filed with the vital statistics unit or local registration official;

(2) a death record is public information and available to the public on and after the 25th anniversary of the date of death as shown on the record filed with the vital statistics unit or local registration official, except that if the decedent is unidentified, the death record is public information and available to the public on and after the first anniversary of the date of death;

(3) a general birth index or a general death index established or maintained by the vital statistics unit or a local registration official is public information and available to the public to the extent the index relates to a birth record or death record that is public information and available to the public under Subdivision (1) or (2);

(4) a summary birth index or a summary death index prepared or maintained by the vital statistics unit or a local registration official is public information and available to the public; and

(5) a birth or death record is available to the chief executive officer of a home-rule municipality or the officer's designee if:

(A) the record is used only to identify a property owner or other person to whom the municipality is required to give notice when enforcing a state statute or an ordinance;

(B) the municipality has exercised due diligence in the manner described by Section 54.035(e), Local Government Code, to identify the person; and

(C) the officer or designee signs a confidentiality agreement that requires that:

(i) the information not be disclosed outside the office of the officer or designee, or within the office for a purpose other than the purpose described by Paragraph (A);

(ii) the information be labeled as confidential;

(iii) the information be kept securely; and

(iv) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned remaining confidential and subject to the confidentiality agreement.

(b) Notwithstanding Subsection (a), a general birth index or a summary birth index is not public information and is not available to the public if:

(1) the fact of an adoption or paternity determination can be revealed by the index; or

(2) the index contains specific identifying information relating to the parents of a child who is the subject of an adoption placement.

(c) Subsection (a)(1) does not apply to the microfilming agreement entered into by the Genealogical Society of Utah, a nonprofit corporation organized under the laws of the State of Utah, and the Archives and Information Services Division of the Texas State Library and Archives Commission.

(d) For the purposes of fulfilling the terms of the agreement in Subsection (c), the Genealogical Society of Utah shall have access to birth records on and after the 50th anniversary of the date of birth as shown on the record filed with the bureau of vital statistics or local registration official, but such birth records shall not be made available to the public until the 75th anniversary of the date of birth as shown on the record.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 706 (H.B. 836), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 413 (H.B. 1833), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1192 (S.B. 861), § 1, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 8, effective September 1, 2011; am. Acts 2015, 84th Leg., ch. 311 (S.B. 1485), § 1, effective June 1, 2015.

Sec. 552.116. Exception: Audit Working Papers.

(a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by Section 61.003, Education Code, a county, a municipality, a school district, a hospital district, or a joint board operating under Section 22.074, Transportation Code, including any audit relating to the criminal history background check of a public school employee, is excepted from the requirements of Section 552.021. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of Section 552.021 by this section.

(b) In this section:

(1) "Audit" means an audit authorized or required by a statute of this state or the United States, the charter or an ordinance of a municipality, an order of the commissioners court of a county, the bylaws adopted by or other action

of the governing board of a hospital district, a resolution or other action of a board of trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, or a resolution or other action of a joint board described by Subsection (a) and includes an investigation.

(2) "Audit working paper" includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including:

(A) intra-agency and interagency communications; and

(B) drafts of the audit report or portions of those drafts.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1122 (H.B. 2906), § 10, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 8, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 379 (S.B. 1581), § 1, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 202 (H.B. 1285), § 1, effective May 27, 2005; am. Acts 2005, 79th Leg., ch. 202 (H.B. 1285), § 2, effective May 27, 2005; am. Acts 2007, 80th Leg., ch. 1372 (S.B. 9), §§ 24, 25, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 1170 (H.B. 2947), §§ 1, 2, effective June 17, 2011.

Sec. 552.117. Exception: Confidentiality of Certain Addresses, Telephone Numbers, Social Security Numbers, and Personal Family Information.

(a) Information is excepted from the requirements of Section 552.021 if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the following person or that reveals whether the person has family members:

(1) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024;

(2) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(3) a current or former employee of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department, regardless of whether the current or former employee complies with Section 552.1175;

(4) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or other law, a reserve law enforcement officer, a commissioned deputy game warden, or a corrections officer in a municipal, county, or state penal institution in this state who was killed in the line of duty, regardless of whether the deceased complied with Section 552.024 or 552.1175;

(5) a commissioned security officer as defined by Section 1702.002, Occupations Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(6) an officer or employee of a community supervision and corrections department established under Chapter 76 who performs a duty described by Section 76.004(b), regardless of whether the officer or employee complies with Section 552.024 or 552.1175;

(7) a current or former employee of the office of the attorney general who is or was assigned to a division of that office the duties of which involve law enforcement, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(8) a current or former employee of the Texas Juvenile Justice Department or of the predecessors in function of the department, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(9) a current or former juvenile probation or supervision officer certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code, regardless of whether the current or former officer complies with Section 552.024 or 552.1175;

(10) a current or former employee of a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(11) a current or former member of the United States Army, Navy, Air Force, Coast Guard, or Marine Corps, an auxiliary service of one of those branches of the armed forces, or the Texas military forces, as that term is defined by Section 437.001;

(12) a current or former district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters, regardless of whether the current or former attorney complies with Section 552.024 or 552.1175;

(13) a current or former employee of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(14) a current or former employee of the Texas Civil Commitment Office or of the predecessor in function of the office or a division of the office, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(15) a current or former federal judge or state judge, as those terms are defined by Section 13.0021(a), Election Code, or a spouse of a current or former federal judge or state judge.

(16) **[4 versions: As amended by Acts 2019, 86th Leg., Ch. 633 (S.B. 1494)]** a current or former child protective services caseworker, adult protective services caseworker, or investigator for the Department of Family and

Protective Services, regardless of whether the caseworker or investigator complies with Section 552.024 or 552.1175, or a current or former employee of a department contractor performing child protective services caseworker, adult protective services caseworker, or investigator functions for the contractor on behalf of the department; or

(16) **[4 versions: As amended by Acts 2019, 86th Leg., Ch. 1245 (H.B. 2446)]** a firefighter or volunteer firefighter or emergency medical services personnel as defined by Section 773.003, Health and Safety Code, regardless of whether the firefighter or volunteer firefighter or emergency medical services personnel comply with Section 552.024 or 552.1175, as applicable.

(16) **[4 versions: As amended by Acts 2019, 86th Leg., Ch. 1213 (S.B. 662)]**a state officer elected statewide or a member of the legislature, regardless of whether the officer or member complies with Section 552.024 or 552.1175.

(16) **[4 version: As amended by Acts 2019, 86th Leg., Ch. 1146 (H.B. 2910)]** a current or former United States attorney or assistant United States attorney and the spouse or child of the attorney.

(17) a state officer elected statewide or a member of the legislature, regardless of whether the officer or member complies with Section 552.024 or 552.1175.

(b) All documents filed with a county clerk and all documents filed with a district clerk are exempt from this section.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 9, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 512 (S.B. 1544), § 1, effective May 31, 1997; am. Acts 1999, 76th Leg., ch. 1318 (S.B. 1846), § 1, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 119 (S.B. 247), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 947 (S.B. 1388), § 1, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 621 (H.B. 455), § 1, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 927 (S.B. 1638), § 2, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 953 (H.B. 1046), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 9, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1033 (H.B. 2733), § 2, effective September 1, 2013; am. Acts 2015, 84th Leg., ch. 170 (H.B. 2152), § 2, effective September 1, 2015; am. Acts 2015, 84th Leg., ch. 527 (H.B. 1311), § 1, effective June 16, 2015; am. Acts 2017, 85th Leg., ch. 34 (S.B. 1576), § 12, effective September 1, 2017; am. Acts 2017, 85th Leg., ch. 190 (S.B. 42), § 17, effective September 1, 2017; am. Acts 2017, 85th Leg., ch. 1006 (H.B. 1278), § 1, effective June 15, 2017; am. Acts 2019, 86th Leg., ch. 1213 (S.B. 662), § 1, effective June 14, 2019; am. Acts 2019, 86th Leg., ch. 367 (H.B. 1351), § 2, effective September 1, 2019; am. Acts 2019, 86th Leg., ch. 633 (S.B. 1494), § 1, effective June 10, 2019; am. Acts 2019, 86th Leg., ch. 1146 (H.B. 2910), § 7, effective September 1, 2019; am. Acts 2019, 86th Leg., ch. 1245 (H.B. 2446), § 4, effective June 14, 2019.

Sec. 552.1175. Exception: Confidentiality of Certain Personal Identifying Information of Peace Officers and Other Officials Performing Sensitive Governmental Functions.

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure, or special investigators as described by Article 2.122, Code of Criminal Procedure;

(2) county jailers as defined by Section 1701.001, Occupations Code;

(3) current or former employees of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department;

(4) commissioned security officers as defined by Section 1702.002, Occupations Code;

(5) a current or former district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;

(5-a) a current or former employee of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;

(6) officers and employees of a community supervision and corrections department established under Chapter 76 who perform a duty described by Section 76.004(b);

(7) criminal investigators of the United States as described by Article 2.122(a), Code of Criminal Procedure;

(8) police officers and inspectors of the United States Federal Protective Service;

(9) current and former employees of the office of the attorney general who are or were assigned to a division of that office the duties of which involve law enforcement;

(10) current or former juvenile probation and detention officers certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code;

(11) current or former employees of a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code;

(12) current or former employees of the Texas Juvenile Justice Department or the predecessors in function of the department;

(13) federal judges and state judges as defined by Section 1.005, Election Code; and

(14) current or former employees of the Texas Civil Commitment Office or of the predecessor in function of the office or a division of the office;

(15) **[4 versions: As amended by Acts 2019, 86th Leg., Ch. 1245 (H.B. 2446)]** a firefighter or volunteer firefighter or emergency medical services personnel as defined by Section 773.003, Health and Safety Code.

(15) **[4 versions: As amended by Acts 2019, 86th Leg., Ch. 1213 (S.B. 662)]** state officers elected statewide and members of the legislature.

(15) **[4 versions: As amended by Acts 2019, 86th Leg., Ch. 633 (S.B. 1494)]** a current or former child protective services caseworker, adult protective services caseworker, or investigator for the Department of Family and Protective Services or a current or former employee of a department contractor performing child protective services

caseworker, adult protective services caseworker, or investigator functions for the contractor on behalf of the department; and

(15) **[4 versions: As amended by Acts 2019, 86th Leg., Ch. 367 (H.B. 1351)]** a current or former member of the United States Army, Navy, Air Force, Coast Guard, or Marine Corps, an auxiliary service of one of those branches of the armed forces, or the Texas military forces, as that term is defined by Section 437.001.

(16) state officers elected statewide and members of the legislature.

(b) Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

(c) A choice made under Subsection (b) remains valid until rescinded in writing by the individual.

(d) This section does not apply to information in the tax appraisal records of an appraisal district to which Section 25.025, Tax Code, applies.

(e) All documents filed with a county clerk and all documents filed with a district clerk are exempt from this section.

(f) A governmental body may redact information that must be withheld under Subsection (b) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(g) If, under Subsection (f), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(h) A governmental body that redacts or withholds information under Subsection (f) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 119 (S.B. 247), § 3, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 947 (S.B. 1388), § 2, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 715 (S.B. 450), §§ 1, 2, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 621 (H.B. 455), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 283 (S.B. 1068), § 2, effective June 4, 2009; am. Acts 2009, 81st Leg., ch. 732 (S.B. 390), § 2, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 927 (S.B. 1638), § 3, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 953 (H.B. 1046), § 2, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 937 (H.B. 1632), §§ 2, 3, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1033 (H.B. 2733), §§ 3, 4, effective September 1, 2013; am. Acts 2015, 84th Leg., ch. 527 (H.B. 1311), § 2, effective June 16, 2015; am. Acts 2015, 84th Leg., ch. 1236 (S.B. 1296), § 9.008, effective September 1, 2015; am. Acts 2017, 85th Leg., ch. 1006 (H.B. 1278), § 2, effective June 15, 2017; am. Acts 2019, 86th Leg., ch. 1213 (S.B. 662), §§ 2, 3, effective June 14, 2019; am. Acts 2019, 86th Leg., ch. 367 (H.B. 1351), §§ 3, 4, effective September 1, 2019; am. Acts 2019, 86th Leg., ch. 633 (S.B. 1494), §§ 2, 3, effective June 10, 2019; am. Acts 2019, 86th Leg., ch. 1245 (H.B. 2446), §§ 5, 6, effective June 14, 2019.

Sec. 552.1176. Confidentiality of Certain Information Maintained by State Bar.

(a) Information that relates to the home address, home telephone number, electronic mail address, social security number, or date of birth of a person licensed to practice law in this state that is maintained under Chapter 81 is confidential and may not be disclosed to the public under this chapter if the person to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the State Bar of Texas of the person's choice, in writing or electronically, on a form provided by the state bar.

(b) A choice made under Subsection (a) remains valid until rescinded in writing or electronically by the person.

(c) All documents filed with a county clerk and all documents filed with a district clerk are exempt from this section.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 95 (H.B. 1237), § 1, effective September 1, 2007.

Sec. 552.1177. Exception: Confidentiality of Certain Information Related to Humane Disposition of Animal.

(a) Except as provided by Subsection (b), information is confidential and excepted from the requirements of Section 552.021 if the information relates to the name, address, telephone number, e-mail address, driver's license number,

social security number, or other personally identifying information of a person who obtains ownership or control of an animal from a municipality or county making a humane disposition of the animal under a municipal ordinance or an order of the commissioners court.

(b) A governmental body may disclose information made confidential by Subsection (a) to a governmental entity, or to a person who under a contract with a governmental entity provides animal control services, animal registration services, or related services to the governmental entity, for purposes related to the protection of public health and safety.

(c) A governmental entity or other person that receives information under Subsection (b):

(1) must maintain the confidentiality of the information;

(2) may not disclose the information under this chapter; and

(3) may not use the information for a purpose that does not directly relate to the protection of public health and safety.

(d) A governmental body, by providing public information under Subsection (b) that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right to assert exceptions to required disclosure of the information in the future.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 858 (H.B. 2828), § 1, effective June 10, 2019.

Sec. 552.118. Exception: Confidentiality of Official Prescription Program Information.

Information is excepted from the requirements of Section 552.021 if it is:

(1) information on or derived from an official prescription form filed with the Texas State Board of Pharmacy under Section 481.0755, Health and Safety Code, or an electronic prescription record filed with the Texas State Board of Pharmacy under Section 481.075, Health and Safety Code; or

(2) other information collected under Section 481.075 or 481.0755 of that code.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 745 (H.B. 1070), § 35, effective January 1, 1998; am. Acts 2001, 77th Leg., ch. 251 (S.B. 753), § 30, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 1228 (S.B. 594), § 6, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 10, effective September 1, 2011; am. Acts 2019, 86th Leg., ch. 1105 (H.B. 2174), § 1, effective September 1, 2019.

Sec. 552.119. Exception: Confidentiality of Certain Photographs of Peace Officers.

(a) A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, the release of which would endanger the life or physical safety of the officer, is excepted from the requirements of Section 552.021 unless:

(1) the officer is under indictment or charged with an offense by information;

(2) the officer is a party in a civil service hearing or a case in arbitration; or

(3) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph excepted from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2005, 79th Leg., ch. 8 (S.B. 148), § 1, effective May 3, 2005; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 11, effective September 1, 2011.

Sec. 552.120. Exception: Confidentiality of Certain Rare Books and Original Manuscripts.

A rare book or original manuscript that was not created or maintained in the conduct of official business of a governmental body and that is held by a private or public archival and manuscript repository for the purpose of historical research is excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 12, effective September 1, 2011.

Sec. 552.121. Exception: Confidentiality of Certain Documents Held for Historical Research.

An oral history interview, personal paper, unpublished letter, or organizational record of a nongovernmental entity that was not created or maintained in the conduct of official business of a governmental body and that is held by a private or public archival and manuscript repository for the purpose of historical research is excepted from the requirements of Section 552.021 to the extent that the archival and manuscript repository and the donor of the interview, paper, letter, or record agree to limit disclosure of the item.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 13, effective September 1, 2011.

Sec. 552.122. Exception: Test Items.

(a) A test item developed by an educational institution that is funded wholly or in part by state revenue is excepted from the requirements of Section 552.021.

(b) A test item developed by a licensing agency or governmental body is excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.05(a), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 10, effective September 1, 1995.

Sec. 552.123. Exception: Confidentiality of Name of Applicant for Chief Executive Officer of Institution of Higher Education.

The name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, is excepted from the requirements of Section 552.021, except that the governing body of the institution must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the person.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2011, 82nd Leg., ch. 1049 (S.B. 5), § 5.01, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 14, effective September 1, 2011.

Sec. 552.1235. Exception: Confidentiality of Identity of Private Donor to Institution of Higher Education.

(a) The name or other information that would tend to disclose the identity of a person, other than a governmental body, who makes a gift, grant, or donation of money or property to an institution of higher education or to another person with the intent that the money or property be transferred to an institution of higher education is excepted from the requirements of Section 552.021.

(b) Subsection (a) does not except from required disclosure other information relating to gifts, grants, and donations described by Subsection (a), including the amount or value of an individual gift, grant, or donation.

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

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1266 (S.B. 1652), § 4.07, effective June 21, 2003; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 15, effective September 1, 2011.

Sec. 552.124. Exception: Confidentiality of Records of Library or Library System.

(a) A record of a library or library system, supported in whole or in part by public funds, that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from the requirements of Section 552.021 unless the record is disclosed:

(1) because the library or library system determines that disclosure is reasonably necessary for the operation of the library or library system and the record is not confidential under other state or federal law;

(2) under Section 552.023; or

(3) to a law enforcement agency or a prosecutor under a court order or subpoena obtained after a showing to a district court that:

(A) disclosure of the record is necessary to protect the public safety; or

(B) the record is evidence of an offense or constitutes evidence that a particular person committed an offense.

(b) A record of a library or library system that is excepted from required disclosure under this section is confidential.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.03(a), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 11, effective September 1, 1995; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 16, effective September 1, 2011.

Sec. 552.125. Exception: Certain Audits.

Any documents or information privileged under Chapter 1101, Health and Safety Code, are excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 219 (H.B. 2473), § 14, effective May 23, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(45), effective September 1, 1997 (renumbered from Sec. 552.124); am. Acts 2017, 85th Leg., ch. 324 (S.B. 1488), § 20.002(c), effective September 1, 2017.

Sec. 552.126. Exception: Confidentiality of Name of Applicant for Superintendent of Public School District.

The name of an applicant for the position of superintendent of a public school district is excepted from the requirements of Section 552.021, except that the board of trustees must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which a final action or vote is to be taken on the employment of the person.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 31, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(46), effective September 1, 1997 (renumbered from Sec. 552.124); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 17, effective September 1, 2011.

Sec. 552.127. Exception: Confidentiality of Personal Information Relating to Participants in Neighborhood Crime Watch Organization.

(a) Information is excepted from the requirements of Section 552.021 if the information identifies a person as a participant in a neighborhood crime watch organization and relates to the name, home address, business address, home telephone number, or business telephone number of the person.

(b) In this section, "neighborhood crime watch organization" means a group of residents of a neighborhood or part of a neighborhood that is formed in affiliation or association with a law enforcement agency in this state to observe activities within the neighborhood or part of a neighborhood and to take other actions intended to reduce crime in that area.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 719 (H.B. 273), § 1, effective June 17, 1997; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 18, effective September 1, 2011.

Sec. 552.128. Exception: Confidentiality of Certain Information Submitted by Potential Vendor or Contractor.

(a) Information submitted by a potential vendor or contractor to a governmental body in connection with an application for certification as a historically underutilized or disadvantaged business under a local, state, or federal certification program is excepted from the requirements of Section 552.021, except as provided by this section.

(b) Notwithstanding Section 552.007 and except as provided by Subsection (c), the information may be disclosed only:

(1) to a state or local governmental entity in this state, and the state or local governmental entity may use the information only:

(A) for purposes related to verifying an applicant's status as a historically underutilized or disadvantaged business; or

(B) for the purpose of conducting a study of a public purchasing program established under state law for historically underutilized or disadvantaged businesses; or

(2) with the express written permission of the applicant or the applicant's agent.

(c) Information submitted by a vendor or contractor or a potential vendor or contractor to a governmental body in connection with a specific proposed contractual relationship, a specific contract, or an application to be placed on a bidders list, including information that may also have been submitted in connection with an application for certification as a historically underutilized or disadvantaged business, is subject to required disclosure, excepted from required disclosure, or confidential in accordance with other law.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1227 (H.B. 625), § 1, effective June 30, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(51), effective September 1, 1999 (renumbered from Sec. 552.127); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 19, effective September 1, 2011.

Sec. 552.129. Confidentiality of Certain Motor Vehicle Inspection Information.

A record created during a motor vehicle emissions inspection under Subchapter F, Chapter 548, Transportation Code, that relates to an individual vehicle or owner of an individual vehicle is excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1069 (S.B. 1856), § 17, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(52), effective September 1, 1999 (renumbered from Sec. 552.127); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 20, effective September 1, 2011.

Sec. 552.130. Exception: Confidentiality of Certain Motor Vehicle Records.

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;

(2) a motor vehicle title or registration issued by an agency of this state or another state or country; or

(3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

(c) Subject to Chapter 730, Transportation Code, a governmental body may redact information described by Subsection (a) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(d) If, under Subsection (c), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the

requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) A governmental body that redacts or withholds information under Subsection (c) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1187 (S.B. 1069), § 4, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 927 (S.B. 1638), § 4, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), §§ 21, 22, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 85 (S.B. 458), § 1, effective May 18, 2013.

Sec. 552.131. Exception: Confidentiality of Certain Economic Development Information.

(a) Information is excepted from the requirements of Section 552.021 if the information relates to economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and the information relates to:

(1) a trade secret of the business prospect; or

(2) commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

(b) Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from the requirements of Section 552.021.

(b-1) **[Effective January 1, 2020]** An economic development entity whose mission or purpose is to develop and promote the economic growth of a state agency or political subdivision with which the entity contracts may assert the exceptions under this section in the manner described by Section 552.305(b) with respect to information that is in the economic development entity's custody or control.

(c) After an agreement is made with the business prospect, this section does not except from the requirements of Section 552.021 information about a financial or other incentive being offered to the business prospect:

(1) by the governmental body; or

(2) by another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by a governmental body or a reduction in revenue received by a governmental body from any source.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 9, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 23, effective September 1, 2011; am. Acts 2019, 86th Leg., ch. SB943 (S.B. 943), § 6, effective January 1, 2020.

Sec. 552.132. Confidentiality of Crime Victim or Claimant Information.

(a) **[Effective until January 1, 2021]** Except as provided by Subsection (d), in this section, "crime victim or claimant" means a victim or claimant under Subchapter B, Chapter 56, Code of Criminal Procedure, who has filed an application for compensation under that subchapter.

(a) **[Effective January 1, 2021]** Except as provided by Subsection (d), in this section, "crime victim or claimant" means a victim or claimant under Chapter 56B, Code of Criminal Procedure, who has filed an application for compensation under that chapter.

(b) The following information held by the crime victim's compensation division of the attorney general's office is confidential:

(1) the name, social security number, address, or telephone number of a crime victim or claimant; or

(2) any other information the disclosure of which would identify or tend to identify the crime victim or claimant.

(c) **[Effective until January 1, 2021]** If the crime victim or claimant is awarded compensation under Section 56.34, Code of Criminal Procedure, as of the date of the award of compensation, the name of the crime victim or claimant and the amount of compensation awarded to that crime victim or claimant are public information and are not excepted from the requirements of Section 552.021.

(c) **[Effective January 1, 2021]** If the crime victim or claimant is awarded compensation under Article 56B.103 or 56B.104, Code of Criminal Procedure, as of the date of the award of compensation, the name of the crime victim or claimant and the amount of compensation awarded to that crime victim or claimant are public information and are not excepted from the requirements of Section 552.021.

(d) **[Effective until January 1, 2021]** An employee of a governmental body who is also a victim under Subchapter B, Chapter 56, Code of Criminal Procedure, regardless of whether the employee has filed an application for compensation under that subchapter, may elect whether to allow public access to information held by the attorney general's office or other governmental body that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. An election under this subsection must be made in writing on a form developed

by the governmental body, be signed by the employee, and be filed with the governmental body before the third anniversary of the latest to occur of one of the following:

(1) the date the crime was committed;

(2) the date employment begins; or

(3) the date the governmental body develops the form and provides it to employees.

(d) **[Effective January 1, 2021]** An employee of a governmental body who is also a victim under Chapter 56B, Code of Criminal Procedure, regardless of whether the employee has filed an application for compensation under that chapter, may elect whether to allow public access to information held by the attorney general's office or other governmental body that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. An election under this subsection must be made in writing on a form developed by the governmental body, be signed by the employee, and be filed with the governmental body before the third anniversary of the latest to occur of one of the following:

(1) the date the crime was committed;

(2) the date employment begins; or

(3) the date the governmental body develops the form and provides it to employees.

(e) If the employee fails to make an election under Subsection (d), the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 10, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1039 (H.B. 1027), § 1, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 290 (H.B. 1042), § 1, effective September 1, 2007; am. Acts 2019, 86th Leg., ch. 469 (H.B. 4173), § 2.49, effective January 1, 2021.

Sec. 552.1325. Crime Victim Impact Statement: Certain Information Confidential.

(a) In this section:

(1) **[Effective until January 1, 2021]** "Crime victim" means a person who is a victim as defined by Article 56.32, Code of Criminal Procedure.

(1) **[Effective January 1, 2021]** "Crime victim" means a person who is a victim as defined by Article 56B.003, Code of Criminal Procedure.

(2) **[Effective until January 1, 2021]** "Victim impact statement" means a victim impact statement under Article 56.03, Code of Criminal Procedure.

(2) **[Effective January 1, 2021]** "Victim impact statement" means a victim impact statement under Subchapter D, Chapter 56A, Code of Criminal Procedure.

(b) The following information that is held by a governmental body or filed with a court and that is contained in a victim impact statement or was submitted for purposes of preparing a victim impact statement is confidential:

(1) the name, social security number, address, and telephone number of a crime victim; and

(2) any other information the disclosure of which would identify or tend to identify the crime victim.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1303 (S.B. 1015), § 1, effective June 21, 2003; am. Acts 2019, 86th Leg., ch. 469 (H.B. 4173), § 2.50, effective January 1, 2021.

Sec. 552.133. Exception: Confidentiality of Public Power Utility Competitive Matters.

(a) In this section, "public power utility" means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(a-1) For purposes of this section, "competitive matter" means a utility-related matter that is related to the public power utility's competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors. The term:

(1) means a matter that is reasonably related to the following categories of information:

(A) generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;

(B) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;

(C) effective fuel and purchased power agreements and fuel transportation arrangements and contracts;

(D) risk management information, contracts, and strategies, including fuel hedging and storage;

(E) plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider; and

(F) customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies; and

(2) does not include the following categories of information:

(A) information relating to the provision of distribution access service, including the terms and conditions of the service and the rates charged for the service but not including information concerning utility-related services or products that are competitive;

(B) information relating to the provision of transmission service that is required to be filed with the Public Utility Commission of Texas, subject to any confidentiality provided for under the rules of the commission;

(C) information for the distribution system pertaining to reliability and continuity of service, to the extent not security-sensitive, that relates to emergency management, identification of critical loads such as hospitals and police, records of interruption, and distribution feeder standards;

(D) any substantive rule or tariff of general applicability regarding rates, service offerings, service regulation, customer protections, or customer service adopted by the public power utility as authorized by law;

(E) aggregate information reflecting receipts or expenditures of funds of the public power utility, of the type that would be included in audited financial statements;

(F) information relating to equal employment opportunities for minority groups, as filed with local, state, or federal agencies;

(G) information relating to the public power utility's performance in contracting with minority business entities;

(H) information relating to nuclear decommissioning trust agreements, of the type required to be included in audited financial statements;

(I) information relating to the amount and timing of any transfer to an owning city's general fund;

(J) information relating to environmental compliance as required to be filed with any local, state, or national environmental authority, subject to any confidentiality provided under the rules of those authorities;

(K) names of public officers of the public power utility and the voting records of those officers for all matters other than those within the scope of a competitive resolution provided for by this section;

(L) a description of the public power utility's central and field organization, including the established places at which the public may obtain information, submit information and requests, or obtain decisions and the identification of employees from whom the public may obtain information, submit information or requests, or obtain decisions;

(M) information identifying the general course and method by which the public power utility's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures;

(N) salaries and total compensation of all employees of a public power utility; or

(O) information publicly released by the Electric Reliability Council of Texas in accordance with a law, rule, or protocol generally applicable to similarly situated market participants.

(b) Information or records are excepted from the requirements of Section 552.021 if the information or records are reasonably related to a competitive matter, as defined in this section. Information or records of a municipally owned utility that are reasonably related to a competitive matter are not subject to disclosure under this chapter, whether or not, under the Utilities Code, the municipally owned utility has adopted customer choice or serves in a multiply certificated service area. This section does not limit the right of a public power utility governing body to withhold from disclosure information deemed to be within the scope of any other exception provided for in this chapter, subject to the provisions of this chapter.

(c) The requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 405 (S.B. 7), § 46, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1272 (S.B. 1458), § 7.02, effective June 15, 2001; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(52), effective September 1, 2001 (renumbered from Sec. 552.131); am. Acts 2011, 82nd Leg., ch. 925 (S.B. 1613), § 2, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 24, effective September 1, 2011.

Sec. 552.134. Exception: Confidentiality of Certain Information Relating to Inmate of Department of Criminal Justice.

(a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the Texas Department of Criminal Justice is excepted from the requirements of Section 552.021 if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

(b) Subsection (a) does not apply to:

(1) statistical or other aggregated information relating to inmates confined in one or more facilities operated by or under a contract with the department; or

(2) information about an inmate sentenced to death.

(c) This section does not affect whether information is considered confidential or privileged under Section 508.313.

(d) A release of information described by Subsection (a) to an eligible entity, as defined by Section 508.313(d), for a purpose related to law enforcement, prosecution, corrections, clemency, or treatment is not considered a release of information to the public for purposes of Section 552.007 and does not waive the right to assert in the future that the information is excepted from required disclosure under this section or other law.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 783 (H.B. 1379), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(53), effective September 1, 2001 (renumbered from Sec. 552.131); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 25, effective September 1, 2011.

Sec. 552.135. Exception: Confidentiality of Certain Information Held by School District.

(a) "Informer" means a student or a former student or an employee or former employee of a school district who has furnished a report of another person's or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from the requirements of Section 552.021.

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student's or former student's name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee's or former employee's name; or

(3) if the informer planned, initiated, or participated in the possible violation.

(d) Information excepted under Subsection (b) may be made available to a law enforcement agency or prosecutor for official purposes of the agency or prosecutor upon proper request made in compliance with applicable law and procedure.

(e) This section does not infringe on or impair the confidentiality of information considered to be confidential by law, whether it be constitutional, statutory, or by judicial decision, including information excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1335 (H.B. 211), § 6, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(54), effective September 1, 2001 (renumbered from Sec. 552.131); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 26, effective September 1, 2011.

Sec. 552.136. Confidentiality of Credit Card, Debit Card, Charge Card, and Access Device Numbers.

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

(c) A governmental body may redact information that must be withheld under Subsection (b) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(d) If, under Subsection (c), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) A governmental body that redacts or withholds information under Subsection (c) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 356 (S.B. 694), § 1, effective May 26, 2001; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 27, effective September 1, 2011.

Sec. 552.137. Confidentiality of Certain E-mail Addresses.

(a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract;

(4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public; or

(5) provided to a governmental body for the purpose of providing public comment on or receiving notices related to an application for a license as defined by Section 2001.003(2) of this code, or receiving orders or decisions from a governmental body.

(d) Subsection (a) does not prevent a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 356 (S.B. 694), § 1, effective May 26, 2001; am. Acts 2003, 78th Leg., ch. 1089 (H.B. 2032), § 1, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 962 (H.B. 3544), § 7, effective September 1, 2009.

Sec. 552.138. Exception: Confidentiality of Family Violence Shelter Center, Victims of Trafficking Shelter Center, and Sexual Assault Program Information.

(a) In this section:

(1) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

(2) "Sexual assault program" has the meaning assigned by Section 420.003.

(3) "Victims of trafficking shelter center" means:

(A) a program that:

(i) is operated by a public or private nonprofit organization; and

(ii) provides comprehensive residential and nonresidential services to persons who are victims of trafficking under Section 20A.02, Penal Code; or

(B) a child-placing agency, as defined by Section 42.002, Human Resources Code, that provides services to persons who are victims of trafficking under Section 20A.02, Penal Code.

(b) Information maintained by a family violence shelter center, victims of trafficking shelter center, or sexual assault program is excepted from the requirements of Section 552.021 if it is information that relates to:

(1) the home address, home telephone number, or social security number of an employee or a volunteer worker of a family violence shelter center, victims of trafficking shelter center, or sexual assault program, regardless of whether the employee or worker complies with Section 552.024;

(2) the name, home address, home telephone number, or numeric identifier of a current or former client of a family violence shelter center, victims of trafficking shelter center, or sexual assault program;

(3) the provision of services, including counseling and sheltering, to a current or former client of a family violence shelter center, victims of trafficking shelter center, or sexual assault program;

(4) the name, home address, or home telephone number of a private donor to a family violence shelter center, victims of trafficking shelter center, or sexual assault program; or

(5) the home address or home telephone number of a member of the board of directors or the board of trustees of a family violence shelter center, victims of trafficking shelter center, or sexual assault program, regardless of whether the board member complies with Section 552.024.

(b-1) Information that relates to the location or physical layout of a family violence shelter center or victims of trafficking shelter center is confidential.

(c) A governmental body may redact information maintained by a family violence shelter center, victims of trafficking shelter center, or sexual assault program that may be withheld under Subsection (b)(1) or (5) or that is confidential under Subsection (b-1) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(d) If, under Subsection (c), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) A governmental body that redacts or withholds information under Subsection (c) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 143 (S.B. 15), § 1, effective May 16, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(75), effective September 1, 2003 (renumbered from Sec. 552.136); am. Acts 2009, 81st Leg., ch. 283 (S.B. 1068), § 3, effective June 4, 2009; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 28, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 365 (H.B. 2725), §§ 1—3, effective June 14, 2013; am. Acts 2019, 86th Leg., ch. 1152 (H.B. 3091), § 1, effective September 1, 2019.

Sec. 552.139. Exception: Confidentiality of Government Information Related to Security or Infrastructure Issues for Computers.

(a) Information is excepted from the requirements of Section 552.021 if it is information that relates to computer network security, to restricted information under Section 2059.055, or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

(1) a computer network vulnerability report;

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use;

(3) a photocopy or other copy of an identification badge issued to an official or employee of a governmental body; and

(4) information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a computer security incident, including information contained in or derived from an information security log.

(b-1) Subsection (b)(4) does not affect the notification requirements related to a breach of system security as defined by Section 521.053, Business & Commerce Code.

(c) Notwithstanding the confidential nature of the information described in this section, the information may be disclosed to a bidder if the governmental body determines that providing the information is necessary for the bidder to provide an accurate bid. A disclosure under this subsection is not a voluntary disclosure for purposes of Section 552.007.

(d) A state agency shall redact from a contract posted on the agency's Internet website under Section 2261.253 information that is made confidential by, or excepted from required public disclosure under, this section. The redaction of information under this subsection does not exempt the information from the requirements of Section 552.021 or 552.221.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1272 (S.B. 1458), § 4.03, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(76), effective September 1, 2003 (renumbered from Sec. 552.136); am. Acts 2009, 81st Leg., ch. 183 (H.B. 1830), § 4, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 927 (S.B. 1638), § 5, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 29, effective September 1, 2011; am. Acts 2017, 85th Leg., ch. 555 (S.B. 532), § 1, effective September 1, 2017; am. Acts 2017, 85th Leg., ch. 683 (H.B. 8), § 4, effective September 1, 2017; am. Acts 2017, 85th Leg., ch. 1042 (H.B. 1861), § 1, effective June 15, 2017; am. Acts 2019, 86th Leg., ch. 467 (H.B. 4170), § 8.015, effective September 1, 2019.

Sec. 552.140. Exception: Confidentiality of Military Discharge Records.

(a) This section applies only to a military veteran's Department of Defense Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003.

(b) The record is confidential for the 75 years following the date it is recorded with or otherwise first comes into the possession of a governmental body. During that period the governmental body may permit inspection or copying of the record or disclose information contained in the record only in accordance with this section or in accordance with a court order.

(c) On request and the presentation of proper identification, the following persons may inspect the military discharge record or obtain from the governmental body free of charge a copy or certified copy of the record:

(1) the veteran who is the subject of the record;

(2) the legal guardian of the veteran;

(3) the spouse or a child or parent of the veteran or, if there is no living spouse, child, or parent, the nearest living relative of the veteran;

(4) the personal representative of the estate of the veteran;

(5) the person named by the veteran, or by a person described by Subdivision (2), (3), or (4), in an appropriate power of attorney executed in accordance with Subchapters A and B, Chapter 752, Estates Code;

(6) another governmental body; or

(7) an authorized representative of the funeral home that assists with the burial of the veteran.

(d) A court that orders the release of information under this section shall limit the further disclosure of the information and the purposes for which the information may be used.

(e) A governmental body that obtains information from the record shall limit the governmental body's use and disclosure of the information to the purpose for which the information was obtained.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 438 (H.B. 545), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 124 (H.B. 18), § 1, effective May 24, 2005; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 30, effective September 1, 2011; am. Acts 2017, 85th Leg., ch. 324 (S.B. 1488), § 22.040, effective September 1, 2017.

Sec. 552.141. Confidentiality of Information in Application for Marriage License.

(a) Information that relates to the social security number of an individual that is maintained by a county clerk and that is on an application for a marriage license, including information in an application on behalf of an absent applicant and the affidavit of an absent applicant, or is on a document submitted with an application for a marriage license is confidential and may not be disclosed by the county clerk to the public under this chapter.

(b) If the county clerk receives a request to make information in a marriage license application available under this chapter, the county clerk shall redact the portion of the application that contains an individual's social security number and release the remainder of the information in the application.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 804 (S.B. 174), § 1, effective September 1, 2003.

Sec. 552.142. Exception: Confidentiality of Records Subject to Order of Nondisclosure.

(a) Information is excepted from the requirements of Section 552.021 if an order of nondisclosure of criminal history record information with respect to the information has been issued under Subchapter E-1, Chapter 411.

(b) A person who is the subject of information that is excepted from the requirements of Section 552.021 under this section may deny the occurrence of the criminal proceeding to which the information relates and the exception of the information under this section, unless the information is being used against the person in a subsequent criminal proceeding.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1236 (S.B. 1477), § 5, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 780 (S.B. 1056), §§ 3, 4, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 731 (H.B. 961), §§ 9, 10, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 31, effective September 1, 2011; am. Acts 2015, 84th Leg., ch. 1070 (H.B. 2286), § 2.02, effective September 1, 2015; am. Acts 2015, 84th Leg., ch. 1279 (S.B. 1902), §§ 26, 27, effective September 1, 2015.

Sec. 552.1425. Civil Penalty: Dissemination of Certain Criminal History Information.

(a) A private entity that compiles and disseminates for compensation criminal history record information may not compile or disseminate information with respect to which the entity has received notice that:

(1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(2) an order of nondisclosure of criminal history record information has been issued under Subchapter E-1, Chapter 411.

(b) A district court may issue a warning to a private entity for a first violation of Subsection (a). After receiving a warning for the first violation, the private entity is liable to the state for a civil penalty not to exceed $1,000 for each subsequent violation.

(c) The attorney general or an appropriate prosecuting attorney may sue to collect a civil penalty under this section.

(d) A civil penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1236 (S.B. 1477), § 5, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1017 (H.B. 1303), §§ 9, 10, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 780 (S.B. 1056), § 5, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 731 (H.B. 961), § 11, effective June 17, 2011; am. Acts 2015, 84th Leg., ch. 1279 (S.B. 1902), § 28, effective September 1, 2015.

Sec. 552.143. Confidentiality of Certain Investment Information.

(a) All information prepared or provided by a private investment fund and held by a governmental body that is not listed in Section 552.0225(b) is confidential and excepted from the requirements of Section 552.021.

(b) Unless the information has been publicly released, pre-investment and post-investment diligence information, including reviews and analyses, prepared or maintained by a governmental body or a private investment fund is confidential and excepted from the requirements of Section 552.021, except to the extent it is subject to disclosure under Subsection (c).

(c) All information regarding a governmental body's direct purchase, holding, or disposal of restricted securities that is not listed in Section 552.0225(b)(2)—(9), (11), or (13)—(16) is confidential and excepted from the requirements of Section 552.021. This subsection does not apply to a governmental body's purchase, holding, or disposal of restricted securities for the purpose of reinvestment nor does it apply to a private investment fund's investment in restricted securities. This subsection applies to information regarding a direct purchase, holding, or disposal of restricted securities by the Texas growth fund, created under Section 70, Article XVI, Texas Constitution, that is not listed in Section 552.0225(b).

(d) For the purposes of this chapter:

(1) "Private investment fund" means an entity, other than a governmental body, that issues restricted securities to a governmental body to evidence the investment of public funds for the purpose of reinvestment.

(2) "Reinvestment" means investment in a person that makes or will make other investments.

(3) "Restricted securities" has the meaning assigned by 17 C.F.R. Section 230.144(a)(3).

(e) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 17.05(1), effective September 28, 2011.]

(f) This section does not apply to the Texas Mutual Insurance Company or a successor to the company.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1338 (S.B. 121), § 2, effective June 18, 2005; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 17.05(1), effective September 28, 2011.

Sec. 552.144. Exception: Working Papers and Electronic Communications of Administrative Law Judges at State Office of Administrative Hearings.

The following working papers and electronic communications of an administrative law judge at the State Office of Administrative Hearings are excepted from the requirements of Section 552.021:

(1) notes and electronic communications recording the observations, thoughts, questions, deliberations, or impressions of an administrative law judge;

(2) drafts of a proposal for decision;

(3) drafts of orders made in connection with conducting contested case hearings; and

(4) drafts of orders made in connection with conducting alternative dispute resolution procedures.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 23.001(35), effective September 1, 2005 (renumbered from Sec. 552.141); am. Acts 2007, 80th Leg., ch. 350 (S.B. 178), § 1, effective June 15, 2007.

Sec. 552.145. Exception: Confidentiality of Texas No-Call List.

The Texas no-call list created under Subchapter B, Chapter 304, Business & Commerce Code, and any information provided to or received from the administrator of the national do-not-call registry maintained by the United States government, as provided by Sections 304.051 and 304.056, Business & Commerce Code, are excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 401 (H.B. 149), § 2, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 171 (H.B. 210), § 2, effective May 27, 2005; am. Acts 2007, 80th Leg., ch. 885 (H.B. 2278), § 2.20, effective April 1, 2009; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(39), effective September 1, 2007 (renumbered from Sec. 552.141); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 32, effective September 1, 2011.

Sec. 552.146. Exception: Certain Communications with Assistant or Employee of Legislative Budget Board.

(a) All written or otherwise recorded communications, including conversations, correspondence, and electronic communications, between a member of the legislature or the lieutenant governor and an assistant or employee of the Legislative Budget Board are excepted from the requirements of Section 552.021.

(b) Memoranda of a communication between a member of the legislature or the lieutenant governor and an assistant or employee of the Legislative Budget Board are excepted from the requirements of Section 552.021 without regard to the method used to store or maintain the memoranda.

(c) This section does not except from required disclosure a record or memoranda of a communication that occurs in public during an open meeting or public hearing conducted by the Legislative Budget Board.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 741 (H.B. 2753), § 9, effective June 17, 2005.

Sec. 552.147. Social Security Numbers.

(a) Except as provided by Subsection (a-1), the social security number of a living person is excepted from the requirements of Section 552.021, but is not confidential under this section and this section does not make the social security number of a living person confidential under another provision of this chapter or other law.

(a-1) The social security number of an employee of a school district in the custody of the district is confidential.

(b) A governmental body may redact the social security number of a living person from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(c) Notwithstanding any other law, a county or district clerk may disclose in the ordinary course of business a social security number that is contained in information held by the clerk's office, and that disclosure is not official misconduct and does not subject the clerk to civil or criminal liability of any kind under the law of this state, including any claim for damages in a lawsuit or the criminal penalty imposed by Section 552.352.

(d) Unless another law requires a social security number to be maintained in a government document, on written request from an individual or the individual's representative the clerk shall redact within a reasonable amount of time all but the last four digits of the individual's social security number from information maintained in the clerk's official

public records, including electronically stored information maintained by or under the control of the clerk. The individual or the individual's representative must identify, using a form provided by the clerk, the specific document or documents from which the partial social security number shall be redacted.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 397 (S.B. 1485), § 1, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 3 (H.B. 2061), § 1, effective March 28, 2007; am. Acts 2013, 83rd Leg., ch. 183 (H.B. 2961), § 2, effective September 1, 2013.

Sec. 552.148. Exception: Confidentiality of Certain Personal Information Maintained by Municipality Pertaining to a Minor.

(a) In this section, "minor" means a person younger than 18 years of age.

(b) The following information maintained by a municipality for purposes related to the participation by a minor in a recreational program or activity is excepted from the requirements of Section 552.021:

(1) the name, age, home address, home telephone number, or social security number of the minor;

(2) a photograph of the minor; and

(3) the name of the minor's parent or legal guardian.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 114 (S.B. 123), § 1, effective May 17, 2007; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 33, effective September 1, 2011.

Sec. 552.149. Exception: Confidentiality of Records of Comptroller or Appraisal District Received from Private Entity.

(a) Information relating to real property sales prices, descriptions, characteristics, and other related information received from a private entity by the comptroller or the chief appraiser of an appraisal district under Chapter 6, Tax Code, is excepted from the requirements of Section 552.021.

(b) Notwithstanding Subsection (a), the property owner or the owner's agent may, on request, obtain from the chief appraiser of the applicable appraisal district a copy of each item of information described by Section 41.461(a)(2), Tax Code, and a copy of each item of information that the chief appraiser took into consideration but does not plan to introduce at the hearing on the protest. In addition, the property owner or agent may, on request, obtain from the chief appraiser comparable sales data from a reasonable number of sales that is relevant to any matter to be determined by the appraisal review board at the hearing on the property owner's protest. Information obtained under this subsection:

(1) remains confidential in the possession of the property owner or agent; and

(2) may not be disclosed or used for any purpose except as evidence or argument at the hearing on the protest.

(c) Notwithstanding Subsection (a) or Section 403.304, so as to assist a property owner or an appraisal district in a protest filed under Section 403.303, the property owner, the district, or an agent of the property owner or district may, on request, obtain from the comptroller any information, including confidential information, obtained by the comptroller in connection with the comptroller's finding that is being protested. Confidential information obtained by a property owner, an appraisal district, or an agent of the property owner or district under this subsection:

(1) remains confidential in the possession of the property owner, district, or agent; and

(2) may not be disclosed to a person who is not authorized to receive or inspect the information.

(d) Notwithstanding Subsection (a) or Section 403.304, so as to assist a school district in the preparation of a protest filed or to be filed under Section 403.303, the school district or an agent of the school district may, on request, obtain from the comptroller or the appraisal district any information, including confidential information, obtained by the comptroller or the appraisal district that relates to the appraisal of property involved in the comptroller's finding that is being protested. Confidential information obtained by a school district or an agent of the school district under this subsection:

(1) remains confidential in the possession of the school district or agent; and

(2) may not be disclosed to a person who is not authorized to receive or inspect the information.

(e) This section applies to information described by Subsections (a), (c), and (d) and to an item of information or comparable sales data described by Subsection (b) only if the information, item of information, or comparable sales data relates to real property that is located in a county having a population of more than 50,000.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 471 (H.B. 2188), § 1, effective June 16, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(39), effective September 1, 2009 (renumbered from Sec. 552.148); am. Acts 2009, 81st Leg., ch. 555 (S.B. 1813), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1153 (H.B. 2941), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 11.013, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1079 (S.B. 1130), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 34, effective September 1, 2011.

Sec. 552.150. Exception: Confidentiality of Information That Could Compromise Safety of Officer or Employee of Hospital District.

(a) Information in the custody of a hospital district that relates to an employee or officer of the hospital district is excepted from the requirements of Section 552.021 if:

(1) it is information that, if disclosed under the specific circumstances pertaining to the individual, could reasonably be expected to compromise the safety of the individual, such as information that describes or depicts the

likeness of the individual, information stating the times that the individual arrives at or departs from work, a description of the individual's automobile, or the location where the individual works or parks; and

(2) the employee or officer applies in writing to the hospital district's officer for public information to have the information withheld from public disclosure under this section and includes in the application:

(A) a description of the information; and

(B) the specific circumstances pertaining to the individual that demonstrate why disclosure of the information could reasonably be expected to compromise the safety of the individual.

(b) On receiving a written request for information described in an application submitted under Subsection (a)(2), the officer for public information shall:

(1) request a decision from the attorney general in accordance with Section 552.301 regarding withholding the information; and

(2) include a copy of the application submitted under Subsection (a)(2) with the request for the decision.

(c) [Repealed by Acts 2011, 82nd Leg., ch. 609 (S.B. 470), § 1, effective June 17, 2011.]

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 4, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 609 (S.B. 470), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 35, effective September 1, 2011.

Sec. 552.151. Exception: Confidentiality of Information Regarding Select Agents.

(a) The following information that pertains to a biological agent or toxin identified or listed as a select agent under federal law, including under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Pub. L. No. 107-188) and regulations adopted under that Act, is excepted from the requirements of Section 552.021:

(1) the specific location of a select agent within an approved facility;

(2) personal identifying information of an individual whose name appears in documentation relating to the chain of custody of select agents, including a materials transfer agreement; and

(3) the identity of an individual authorized to possess, use, or access a select agent.

(b) This section does not except from disclosure the identity of the select agents present at a facility.

(c) This section does not except from disclosure the identity of an individual faculty member or employee whose name appears or will appear on published research.

(d) This section does not except from disclosure otherwise public information relating to contracts of a governmental body.

(e) If a resident of another state is present in Texas and is authorized to possess, use, or access a select agent in conducting research or other work at a Texas facility, information relating to the identity of that individual is subject to disclosure under this chapter only to the extent the information would be subject to disclosure under the laws of the state of which the person is a resident.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 5, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 36, effective September 1, 2011.

Sec. 552.152. Exception: Confidentiality of Information Concerning Public Employee or Officer Personal Safety.

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 283 (S.B. 1068), § 4, effective June 4, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 27.001(20), effective September 1, 2011 (renumbered from Sec. 552.151); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 37, effective September 1, 2011.

Sec. 552.153. Proprietary Records and Trade Secrets Involved in Certain Partnerships.

(a) In this section, "affected jurisdiction," "comprehensive agreement," "contracting person," "interim agreement," "qualifying project," and "responsible governmental entity" have the meanings assigned those terms by Section 2267.001.

(b) Information in the custody of a responsible governmental entity that relates to a proposal for a qualifying project authorized under Chapter 2267 is excepted from the requirements of Section 552.021 if:

(1) the information consists of memoranda, staff evaluations, or other records prepared by the responsible governmental entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under Chapter 2267 for which:

(A) disclosure to the public before or after the execution of an interim or comprehensive agreement would adversely affect the financial interest or bargaining position of the responsible governmental entity; and

(B) the basis for the determination under Paragraph (A) is documented in writing by the responsible governmental entity; or

(2) the records are provided by a proposer to a responsible governmental entity or affected jurisdiction under Chapter 2267 and contain:

(A) trade secrets of the proposer;

(B) financial records of the proposer, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or other means; or

(C) work product related to a competitive bid or proposal submitted by the proposer that, if made public before the execution of an interim or comprehensive agreement, would provide a competing proposer an unjust advantage or adversely affect the financial interest or bargaining position of the responsible governmental entity or the proposer.

(c) Except as specifically provided by Subsection (b), this section does not authorize the withholding of information concerning:

(1) the terms of any interim or comprehensive agreement, service contract, lease, partnership, or agreement of any kind entered into by the responsible governmental entity and the contracting person or the terms of any financing arrangement that involves the use of any public money; or

(2) the performance of any person developing or operating a qualifying project under Chapter 2267.

(d) In this section, "proposer" has the meaning assigned by Section 2267.001.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 2, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 4, effective June 14, 2013.

Sec. 552.154. Exception: Name of Applicant for Executive Director, Chief Investment Officer, or Chief Audit Executive of Teacher Retirement System of Texas.

The name of an applicant for the position of executive director, chief investment officer, or chief audit executive of the Teacher Retirement System of Texas is excepted from the requirements of Section 552.021, except that the board of trustees of the Teacher Retirement System of Texas must give public notice of the names of three finalists being considered for one of those positions at least 21 days before the date of the meeting at which the final action or vote is to be taken on choosing a finalist for employment.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 4, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(22), effective September 1, 2013 (renumbered from Sec. 552.153).

Sec. 552.155. Exception: Confidentiality of Certain Property Tax Appraisal Photographs.

(a) Except as provided by Subsection (b) or (c), a photograph that is taken by the chief appraiser of an appraisal district or the chief appraiser's authorized representative for property tax appraisal purposes and that shows the interior of an improvement to property is confidential and excepted from the requirements of Section 552.021.

(b) A governmental body shall disclose a photograph described by Subsection (a) to a requestor who had an ownership interest in the improvement to property shown in the photograph on the date the photograph was taken.

(c) A photograph described by Subsection (a) may be used as evidence in and provided to the parties to a protest under Chapter 41, Tax Code, or an appeal of a determination by the appraisal review board under Chapter 42, Tax Code, if it is relevant to the determination of a matter protested or appealed. A photograph that is used as evidence:

(1) remains confidential in the possession of the person to whom it is disclosed; and

(2) may not be disclosed or used for any other purpose.

(c-1) Notwithstanding any other law, a photograph described by Subsection (a) may be used to ascertain the location of equipment used to produce or transmit oil and gas for purposes of taxation if that equipment is located on January 1 in the appraisal district that appraises property for the equipment for the preceding 365 consecutive days.

HISTORY: Enacted by Acts 2015, 84th Leg., ch. 835 (S.B. 46), § 1, effective September 1, 2015.

Sec. 552.156. Exception: Confidentiality of Continuity of Operations Plan.

(a) Except as otherwise provided by this section, the following information is excepted from disclosure under this chapter:

(1) a continuity of operations plan developed under Section 412.054, Labor Code; and

(2) all records written, produced, collected, assembled, or maintained as part of the development or review of a continuity of operations plan developed under Section 412.054, Labor Code.

(b) Forms, standards, and other instructional, informational, or planning materials adopted by the office to provide guidance or assistance to a state agency in developing a continuity of operations plan under Section 412.054, Labor Code, are public information subject to disclosure under this chapter.

(c) A governmental body may disclose or make available information that is confidential under this section to another governmental body or a federal agency.

(d) Disclosing information to another governmental body or a federal agency under this section does not waive or affect the confidentiality of that information.

HISTORY: Enacted by Acts 2015, 84th Leg., ch. 1045 (H.B. 1832), § 5, effective June 19, 2015.

Sec. 552.157. [Reserved for expansion].

Sec. 552.158. Exception: Confidentiality of Personal Information Regarding Applicant for Appointment by Governor.

The following information obtained by the governor or senate in connection with an applicant for an appointment by the governor is excepted from the requirements of Section 552.021:

(1) the applicant's home address;
(2) the applicant's home telephone number; and
(3) the applicant's social security number.

HISTORY: Enacted by Acts 2017, 85th Leg., ch. 303 (S.B. 705), § 1, effective May 29, 2017.

Sec. 552.159. [3 Versions: As added by Acts 2019, 86th Leg., Ch. 1245 (H.B. 2446)]; Exception: Confidentiality of Certain Work Schedules.

A work schedule or a time sheet of a firefighter or volunteer firefighter or emergency medical services personnel as defined by Section 773.003, Health and Safety Code, is confidential and excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1245 (H.B. 2446), § 7, effective June 14, 2019.

Sec. 552.159. [3 Versions: As added by Acts 2019, 86th Leg., Ch. 300 (H.B. 3913)]; Exception: Certain Personal Information Obtained by Flood Control District.

The following information obtained by a flood control district located in a county with a population of 3.3 million or more in connection with operations related to a declared disaster or flooding is excepted from the requirements of Section 552.021:

(1) a person's name;
(2) a home address;
(3) a business address;
(4) a home telephone number;
(5) a mobile telephone number;
(6) an electronic mail address;
(7) social media account information; and
(8) a social security number.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 300 (H.B. 3913), § 1, effective September 1, 2019.

Sec. 552.159. [3 Versions: As added by Acts 2019, 86th Leg., Ch. 1340 (S.B. 944)]; Exception: Confidentiality of Certain Information Provided by Out-Of-State Health Care Provider.

Information obtained by a governmental body that was provided by an out-of-state health care provider in connection with a quality management, peer review, or best practices program that the out-of-state health care provider pays for is confidential and excepted from the requirements of Section 552.021.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1340 (S.B. 944), § 4, effective September 1, 2019.

Sec. 552.160. Confidentiality of Personal Information of Applicant for Disaster Recovery Funds.

(a) In this section, "disaster" has the meaning assigned by Section 418.004.

(b) Except as provided by Subsection (c), the following information maintained by a governmental body is confidential:

(1) the name, social security number, house number, street name, and telephone number of an individual or household that applies for state or federal disaster recovery funds;

(2) the name, tax identification number, address, and telephone number of a business entity or an owner of a business entity that applies for state or federal disaster recovery funds; and

(3) any other information the disclosure of which would identify or tend to identify a person or household that applies for state or federal disaster recovery funds.

(c) The street name and census block group of and the amount of disaster recovery funds awarded to a person or household are not confidential after the date on which disaster recovery funds are awarded to the person or household.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 883 (H.B. 3175), § 1, effective September 1, 2019.

Secs. 552.161 to 552.200. [Reserved].

Subchapter D

Officer for Public Information

Sec. 552.201. Identity of Officer for Public Information.

(a) The chief administrative officer of a governmental body is the officer for public information, except as provided by Subsection (b).

(b) Each elected county officer is the officer for public information and the custodian, as defined by Section 201.003, Local Government Code, of the information created or received by that county officer's office.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 14, effective September 1, 1995.

Sec. 552.202. Department Heads.

Each department head is an agent of the officer for public information for the purposes of complying with this chapter.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 14, effective September 1, 1995.

Sec. 552.203. General Duties of Officer for Public Information.

Each officer for public information, subject to penalties provided in this chapter, shall:

(1) make public information available for public inspection and copying;

(2) carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal;

(3) repair, renovate, or rebind public information as necessary to maintain it properly; and

(4) make reasonable efforts to obtain public information from a temporary custodian if:

(A) the information has been requested from the governmental body;

(B) the officer for public information is aware of facts sufficient to warrant a reasonable belief that the temporary custodian has possession, custody, or control of the information;

(C) the officer for public information is unable to comply with the duties imposed by this chapter without obtaining the information from the temporary custodian; and

(D) the temporary custodian has not provided the information to the officer for public information or the officer's agent.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 14, effective September 1, 1995; am. Acts 2019, 86th Leg., ch. 1340 (S.B. 944), § 5, effective September 1, 2019.

Sec. 552.204. Scope of Responsibility of Officer for Public Information.

An officer for public information is responsible for the release of public information as required by this chapter. The officer is not responsible for:

(1) the use made of the information by the requestor; or

(2) the release of information after it is removed from a record as a result of an update, a correction, or a change of status of the person to whom the information pertains.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 14, effective September 1, 1995.

Sec. 552.205. Informing Public of Basic Rights and Responsibilities Under This Chapter.

(a) An officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of a governmental body, and the procedures for inspecting or obtaining a copy of public information under this chapter. The officer shall display the sign at one or more places in the administrative offices of the governmental body where it is plainly visible to:

(1) members of the public who request public information in person under this chapter; and

(2) employees of the governmental body whose duties include receiving or responding to requests under this chapter.

(b) The attorney general by rule shall prescribe the content of the sign and the size, shape, and other physical characteristics of the sign. In prescribing the content of the sign, the attorney general shall include plainly written basic information about the rights of a requestor, the responsibilities of a governmental body, and the procedures for inspecting or obtaining a copy of public information under this chapter that, in the opinion of the attorney general, is most useful for requestors to know and for employees of governmental bodies who receive or respond to requests for public information to know.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 11, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 3, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 3, effective September 1, 2005.

Secs. 552.206 to 522.220. [Reserved for expansion].

Subchapter E

Procedures Related to Access

Sec. 552.221. Application for Public Information; Production of Public Information.

(a) An officer for public information of a governmental body shall promptly produce public information for inspection, duplication, or both on application by any person to the officer. In this subsection, "promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay.

(b) An officer for public information complies with Subsection (a) by:

(1) providing the public information for inspection or duplication in the offices of the governmental body; or

(2) sending copies of the public information by first class United States mail if the person requesting the information requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F.

(b-1) In addition to the methods of production described by Subsection (b), an officer for public information for a governmental body complies with Subsection (a) by referring a requestor to an exact Internet location or uniform resource locator (URL) address on a website maintained by the governmental body and accessible to the public if the requested information is identifiable and readily available on that website. If the person requesting the information prefers a manner other than access through the URL, the governmental body must supply the information in the manner required by Subsection (b).

(b-2) If an officer for public information for a governmental body provides by e-mail an Internet location or uniform resource locator (URL) address as permitted by Subsection (b-1), the e-mail must contain a statement in a conspicuous font clearly indicating that the requestor may nonetheless access the requested information by inspection or duplication or by receipt through United States mail, as provided by Subsection (b).

(c) If the requested information is unavailable at the time of the request to examine because it is in active use or in storage, the officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

(d) If an officer for public information cannot produce public information for inspection or duplication within 10 business days after the date the information is requested under Subsection (a), the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

(e) A request is considered to have been withdrawn if the requestor fails to inspect or duplicate the public information in the offices of the governmental body on or before the 60th day after the date the information is made available or fails to pay the postage and any other applicable charges accrued under Subchapter F on or before the 60th day after the date the requestor is informed of the charges.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 12, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 791 (S.B. 84), § 1, effective June 20, 2003; am. Acts 2015, 84th Leg., ch. 692 (H.B. 685), § 1, effective September 1, 2015; am. Acts 2017, 85th Leg., ch. 520 (S.B. 79), § 1, effective September 1, 2017; am. Acts 2017, 85th Leg., ch. 894 (H.B. 3107), § 1, effective September 1, 2017.

Sec. 552.222. Permissible Inquiry by Governmental Body to Requestor.

(a) The officer for public information and the officer's agent may not make an inquiry of a requestor except to establish proper identification or except as provided by Subsection (b), (c), or (c-1).

(b) If what information is requested is unclear to the governmental body, the governmental body may ask the requestor to clarify the request. If a large amount of information has been requested, the governmental body may discuss with the requestor how the scope of a request might be narrowed, but the governmental body may not inquire into the purpose for which information will be used.

(c) If the information requested relates to a motor vehicle record, the officer for public information or the officer's agent may require the requestor to provide additional identifying information sufficient for the officer or the officer's agent to determine whether the requestor is eligible to receive the information under Chapter 730, Transportation Code. In this subsection, "motor vehicle record" has the meaning assigned that term by Section 730.003, Transportation Code.

(c-1) If the information requested includes a photograph described by Section 552.155(a), the officer for public information or the officer's agent may require the requestor to provide additional information sufficient for the officer or the officer's agent to determine whether the requestor is eligible to receive the information under Section 552.155(b).

(d) If by the 61st day after the date a governmental body sends a written request for clarification or discussion under Subsection (b) or an officer for public information or agent sends a written request for additional information under Subsection (c) the governmental body, officer for public information, or agent, as applicable, does not receive a written response from the requestor, the underlying request for public information is considered to have been withdrawn by the requestor.

(e) A written request for clarification or discussion under Subsection (b) or a written request for additional information under Subsection (c) must include a statement as to the consequences of the failure by the requestor to timely respond to the request for clarification, discussion, or additional information.

(f) Except as provided by Subsection (g), if the requestor's request for public information included the requestor's physical or mailing address, the request may not be considered to have been withdrawn under Subsection (d) unless the governmental body, officer for public information, or agent, as applicable, sends the request for clarification or discussion under Subsection (b) or the written request for additional information under Subsection (c) to that address by certified mail.

(g) If the requestor's request for public information was sent by electronic mail, the request may be considered to have been withdrawn under Subsection (d) if:

(1) the governmental body, officer for public information, or agent, as applicable, sends the request for clarification or discussion under Subsection (b) or the written request for additional information under Subsection (c) by electronic mail to the same electronic mail address from which the original request was sent or to another electronic mail address provided by the requestor; and

(2) the governmental body, officer for public information, or agent, as applicable, does not receive from the requestor a written response or response by electronic mail within the period described by Subsection (d).

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1187 (S.B. 1069), § 5, effective September 1, 1997; am. Acts 2007, 80th Leg., ch. 296 (H.B. 1497), § 1, effective September 1, 2007; am. Acts 2015, 84th Leg., ch. 762 (H.B. 2134), § 1, effective September 1, 2015; am. Acts 2015, 84th Leg., ch. 835 (S.B. 46), § 2, effective September 1, 2015.

Sec. 552.223. Uniform Treatment of Requests for Information.

The officer for public information or the officer's agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995.

Sec. 552.224. Comfort and Facility.

The officer for public information or the officer's agent shall give to a requestor all reasonable comfort and facility for the full exercise of the right granted by this chapter.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995.

Sec. 552.225. Time for Examination.

(a) A requestor must complete the examination of the information not later than the 10th business day after the date the custodian of the information makes it available. If the requestor does not complete the examination of the information within 10 business days after the date the custodian of the information makes the information available and does not file a request for additional time under Subsection (b), the requestor is considered to have withdrawn the request.

(b) The officer for public information shall extend the initial examination period by an additional 10 business days if, within the initial period, the requestor files with the officer for public information a written request for additional time. The officer for public information shall extend an additional examination period by another 10 business days if, within the additional period, the requestor files with the officer for public information a written request for more additional time.

(c) The time during which a person may examine information may be interrupted by the officer for public information if the information is needed for use by the governmental body. The period of interruption is not considered to be a part of the time during which the person may examine the information.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 4, effective September 1, 2005.

Sec. 552.226. Removal of Original Record.

This chapter does not authorize a requestor to remove an original copy of a public record from the office of a governmental body.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995.

Sec. 552.227. Research of State Library Holdings Not Required.

An officer for public information or the officer's agent is not required to perform general research within the reference and research archives and holdings of state libraries.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995.

Sec. 552.228. Providing Suitable Copy of Public Information Within Reasonable Time.

(a) It shall be a policy of a governmental body to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested.

(b) If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. A governmental body shall provide a copy in the requested medium if:

(1) the governmental body has the technological ability to produce a copy of the requested information in the requested medium;

(2) the governmental body is not required to purchase any software or hardware to accommodate the request; and

(3) provision of a copy of the information in the requested medium will not violate the terms of any copyright agreement between the governmental body and a third party.

(c) If a governmental body is unable to comply with a request to produce a copy of information in a requested medium for any of the reasons described by this section, the governmental body shall provide a copy in another medium that is acceptable to the requestor. A governmental body is not required to copy information onto a diskette or other material provided by the requestor but may use its own supplies.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 962 (H.B. 3544), § 8, effective September 1, 2009.

Sec. 552.229. Consent to Release Information Under Special Right of Access.

(a) Consent for the release of information excepted from disclosure to the general public but available to a specific person under Sections 552.023 and 552.307 must be in writing and signed by the specific person or the person's authorized representative.

(b) An individual under 18 years of age may consent to the release of information under this section only with the additional written authorization of the individual's parent or guardian.

(c) An individual who has been adjudicated incompetent to manage the individual's personal affairs or for whom an attorney ad litem has been appointed may consent to the release of information under this section only by the written authorization of the designated legal guardian or attorney ad litem.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 552.230. Rules of Procedure for Inspection and Copying of Public Information.

(a) A governmental body may promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay.

(b) A rule promulgated under Subsection (a) may not be inconsistent with any provision of this chapter.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 3, effective September 1, 1997.

Sec. 552.231. Responding to Requests for Information That Require Programming or Manipulation of Data.

(a) A governmental body shall provide to a requestor the written statement described by Subsection (b) if the governmental body determines:

(1) that responding to a request for public information will require programming or manipulation of data; and

(2) that:

(A) compliance with the request is not feasible or will result in substantial interference with its ongoing operations; or

(B) the information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

(b) The written statement must include:

(1) a statement that the information is not available in the requested form;

(2) a description of the form in which the information is available;

(3) a description of any contract or services that would be required to provide the information in the requested form;

(4) a statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general under Section 552.262; and

(5) a statement of the anticipated time required to provide the information in the requested form.

(c) The governmental body shall provide the written statement to the requestor within 20 days after the date of the governmental body's receipt of the request. The governmental body has an additional 10 days to provide the statement

if the governmental body gives written notice to the requestor, within 20 days after the date of receipt of the request, that the additional time is needed.

(d) On providing the written statement to the requestor as required by this section, the governmental body does not have any further obligation to provide the information in the requested form or in the form in which it is available unless within 30 days the requestor states in writing to the governmental body that the requestor:

(1) wants the governmental body to provide the information in the requested form according to the cost and time parameters set out in the statement or according to other terms to which the requestor and the governmental body agree; or

(2) wants the information in the form in which it is available.

(d-1) If a requestor does not make a timely written statement under Subsection (d), the requestor is considered to have withdrawn the request for information.

(e) The officer for public information of a governmental body shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A governmental body shall maintain a file containing all written statements issued under this section in a readily accessible location.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 5, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 4, effective September 1, 2005.

Sec. 552.232. Responding to Repetitious or Redundant Requests.

(a) A governmental body that determines that a requestor has made a request for information for which the governmental body has previously furnished copies to the requestor or made copies available to the requestor on payment of applicable charges under Subchapter F, shall respond to the request, in relation to the information for which copies have been already furnished or made available, in accordance with this section, except that:

(1) this section does not prohibit the governmental body from furnishing the information or making the information available to the requestor again in accordance with the request; and

(2) the governmental body is not required to comply with this section in relation to information that the governmental body simply furnishes or makes available to the requestor again in accordance with the request.

(b) The governmental body shall certify to the requestor that copies of all or part of the requested information, as applicable, were previously furnished to the requestor or made available to the requestor on payment of applicable charges under Subchapter F. The certification must include:

(1) a description of the information for which copies have been previously furnished or made available to the requestor;

(2) the date that the governmental body received the requestor's original request for that information;

(3) the date that the governmental body previously furnished copies of or made available copies of the information to the requestor;

(4) a certification that no subsequent additions, deletions, or corrections have been made to that information; and

(5) the name, title, and signature of the officer for public information or the officer's agent making the certification.

(c) A charge may not be imposed for making and furnishing a certification required under Subsection (b).

(d) This section does not apply to information for which the governmental body has not previously furnished copies to the requestor or made copies available to the requestor on payment of applicable charges under Subchapter F. A request by the requestor for information for which copies have not previously been furnished or made available to the requestor, including information for which copies were not furnished or made available because the information was redacted from other information that was furnished or made available or because the information did not yet exist at the time of an earlier request, shall be treated in the same manner as any other request for information under this chapter.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 13, effective September 1, 1999.

Sec. 552.233. [2 Versions: As added by Acts 2019, 86th Leg., Ch. 462 (S.B. 494)]; Temporary Suspension of Requirements for Governmental Body Impacted by Catastrophe.

(a) In this section:

(1) "Catastrophe" means a condition or occurrence that interferes with the ability of a governmental body to comply with the requirements of this chapter, including:

(A) fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;

(B) power failure, transportation failure, or interruption of communication facilities;

(C) epidemic; or

(D) riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

(2) "Suspension period" means the period of time during which a governmental body may suspend the applicability of the requirements of this chapter to the governmental body under this section.

(b) The requirements of this chapter do not apply to a governmental body during the suspension period determined by the governmental body under Subsections (d) and (e) if the governmental body:

(1) is currently impacted by a catastrophe; and

(2) complies with the requirements of this section.

(c) A governmental body that elects to suspend the applicability of the requirements of this chapter to the governmental body must submit notice to the office of the attorney general that the governmental body is currently impacted by a catastrophe and has elected to suspend the applicability of those requirements during the initial suspension period determined under Subsection (d). The notice must be on the form prescribed by the office of the attorney general under Subsection (j).

(d) A governmental body may suspend the applicability of the requirements of this chapter to the governmental body for an initial suspension period. The initial suspension period may not exceed seven consecutive days and must occur during the period that:

(1) begins not earlier than the second day before the date the governmental body submits notice to the office of the attorney general under Subsection (c); and

(2) ends not later than the seventh day after the date the governmental body submits that notice.

(e) A governmental body may extend an initial suspension period if the governing body determines that the governing body is still impacted by the catastrophe on which the initial suspension period was based. The initial suspension period may be extended one time for not more than seven consecutive days that begin on the day following the day the initial suspension period ends. The governing body must submit notice of the extension to the office of the attorney general on the form prescribed by the office under Subsection (j).

(f) A governmental body that suspends the applicability of the requirements of this chapter to the governmental body under this section must provide notice to the public of the suspension in a place readily accessible to the public and in each other location the governmental body is required to post a notice under Subchapter C, Chapter 551. The governmental body must maintain the notice of the suspension during the suspension period.

(g) Notwithstanding another provision of this chapter, a request for public information received by a governmental body during a suspension period determined by the governmental body is considered to have been received by the governmental body on the first business day after the date the suspension period ends.

(h) The requirements of this chapter related to a request for public information received by a governmental body before the date an initial suspension period determined by the governmental body begins are tolled until the first business day after the date the suspension period ends.

(i) The office of the attorney general shall continuously post on the Internet website of the office each notice submitted to the office under this section from the date the office receives the notice until the first anniversary of that date.

(j) The office of the attorney general shall prescribe the form of the notice that a governmental body must submit to the office under Subsections (c) and (e). The notice must require the governmental body to:

(1) identify and describe the catastrophe that the governmental body is currently impacted by;

(2) state the date the initial suspension period determined by the governmental body under Subsection (d) begins and the date that period ends;

(3) if the governmental body has determined to extend the initial suspension period under Subsection (e):

(A) state that the governmental body continues to be impacted by the catastrophe identified in Subdivision (1); and

(B) state the date the extension to the initial suspension period begins and the date the period ends; and

(4) provide any other information the office of the attorney general determines necessary.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 462 (S.B. 494), § 4, effective September 1, 2019.

Sec. 552.233. [2 Versions: As added by Acts 2019, 86th Leg., Ch. 1340 (S.B. 944)], Ownership of Public Information.

(a) A current or former officer or employee of a governmental body does not have, by virtue of the officer's or employee's position or former position, a personal or property right to public information the officer or employee created or received while acting in an official capacity.

(b) A temporary custodian with possession, custody, or control of public information shall surrender or return the information to the governmental body not later than the 10th day after the date the officer for public information of the governmental body or the officer's agent requests the temporary custodian to surrender or return the information.

(c) A temporary custodian's failure to surrender or return public information as required by Subsection (b) is grounds for disciplinary action by the governmental body that employs the temporary custodian or any other applicable penalties provided by this chapter or other law.

(d) For purposes of the application of Subchapter G to information surrendered or returned to a governmental body by a temporary custodian under Subsection (b), the governmental body is considered to receive the request for that information on the date the information is surrendered or returned to the governmental body.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1340 (S.B. 944), § 6, effective September 1, 2019.

Sec. 552.234. Method of Making Written Request for Public Information.

(a) A person may make a written request for public information under this chapter only by delivering the request by one of the following methods to the applicable officer for public information or a person designated by that officer:

(1) United States mail;
(2) electronic mail;
(3) hand delivery; or
(4) any other appropriate method approved by the governmental body, including:
(A) facsimile transmission; and
(B) electronic submission through the governmental body's Internet website.

(b) For the purpose of Subsection (a)(4), a governmental body is considered to have approved a method described by that subdivision only if the governmental body includes a statement that a request for public information may be made by that method on:

(1) the sign required to be displayed by the governmental body under Section 552.205; or
(2) the governmental body's Internet website.

(c) A governmental body may designate one mailing address and one electronic mail address for receiving written requests for public information. The governmental body shall provide the designated mailing address and electronic mailing address to any person on request.

(d) A governmental body that posts the mailing address and electronic mail address designated by the governmental body under Subsection (c) on the governmental body's Internet website or that prints those addresses on the sign required to be displayed by the governmental body under Section 552.205 is not required to respond to a written request for public information unless the request is received:

(1) at one of those addresses;
(2) by hand delivery; or
(3) by a method described by Subsection (a)(4) that has been approved by the governmental body.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1340 (S.B. 944), § 6, effective September 1, 2019.

Sec. 552.235. Public Information Request Form.

(a) The attorney general shall create a public information request form that provides a requestor the option of excluding from a request information that the governmental body determines is:

(1) confidential; or
(2) subject to an exception to disclosure that the governmental body would assert if the information were subject to the request.

(b) A governmental body that allows requestors to use the form described by Subsection (a) and maintains an Internet website shall post the form on its website.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1340 (S.B. 944), § 6, effective September 1, 2019.

Secs. 552.236 to 522.260. [Reserved for expansion].

Subchapter F

Charges for Providing Copies of Public Information

Sec. 552.261. Charge for Providing Copies of Public Information.

(a) The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead. If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the public information may not include costs of materials, labor, or overhead, but shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in:

(1) two or more separate buildings that are not physically connected with each other; or
(2) a remote storage facility.

(b) If the charge for providing a copy of public information includes costs of labor, the requestor may require the governmental body's officer for public information or the officer's agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer for public information or the officer's agent and the officer's or the agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

(c) For purposes of Subsection (a), a connection of two buildings by a covered or open sidewalk, an elevated or underground passageway, or a similar facility is insufficient to cause the buildings to be considered separate buildings.

(d) Charges for providing a copy of public information are considered to accrue at the time the governmental body advises the requestor that the copy is available on payment of the applicable charges.

(e) Except as otherwise provided by this subsection, all requests received in one calendar day from an individual may be treated as a single request for purposes of calculating costs under this chapter. A governmental body may not combine multiple requests under this subsection from separate individuals who submit requests on behalf of an organization.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 16, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts

1999, 76th Leg., ch. 1319 (S.B. 1851), § 14, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 864 (S.B. 653), § 1, effective September 1, 2003; am. Acts 2017, 85th Leg., ch. 894 (H.B. 3107), § 2, effective September 1, 2017.

Sec. 552.2611. Charges for Public Records by State Agency [Deleted].

Deleted by Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.04(a), effective September 1, 1995.

Sec. 552.2615. Required Itemized Estimate of Charges.

(a) If a request for a copy of public information will result in the imposition of a charge under this subchapter that exceeds $40, or a request to inspect a paper record will result in the imposition of a charge under Section 552.271 that exceeds $40, the governmental body shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the governmental body regarding the alternative method. The governmental body must inform the requestor of the responsibilities imposed on the requestor by this section and of the rights granted by this entire section and give the requestor the information needed to respond, including:

(1) that the requestor must provide the governmental body with a mailing, facsimile transmission, or electronic mail address to receive the itemized statement and that it is the requestor's choice which type of address to provide;

(2) that the request is considered automatically withdrawn if the requestor does not respond in writing to the itemized statement and any updated itemized statement in the time and manner required by this section; and

(3) that the requestor may respond to the statement by delivering the written response to the governmental body by mail, in person, by facsimile transmission if the governmental body is capable of receiving documents transmitted in that manner, or by electronic mail if the governmental body has an electronic mail address.

(b) A request described by Subsection (a) is considered to have been withdrawn by the requestor if the requestor does not respond in writing to the itemized statement by informing the governmental body within 10 business days after the date the statement is sent to the requestor that:

(1) the requestor will accept the estimated charges;

(2) the requestor is modifying the request in response to the itemized statement; or

(3) the requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

(c) If the governmental body later determines, but before it makes the copy or the paper record available, that the estimated charges will exceed the charges detailed in the written itemized statement by 20 percent or more, the governmental body shall send to the requestor a written updated itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If the requestor does not respond in writing to the updated estimate in the time and manner described by Subsection (b), the request is considered to have been withdrawn by the requestor.

(d) If the actual charges that a governmental body imposes for a copy of public information, or for inspecting a paper record under Section 552.271, exceeds $40, the charges may not exceed:

(1) the amount estimated in the updated itemized statement; or

(2) if an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the itemized statement.

(e) An itemized statement or updated itemized statement is considered to have been sent by the governmental body to the requestor on the date that:

(1) the statement is delivered to the requestor in person;

(2) the governmental body deposits the properly addressed statement in the United States mail; or

(3) the governmental body transmits the properly addressed statement by electronic mail or facsimile transmission, if the requestor agrees to receive the statement by electronic mail or facsimile transmission, as applicable.

(f) A requestor is considered to have responded to the itemized statement or the updated itemized statement on the date that:

(1) the response is delivered to the governmental body in person;

(2) the requestor deposits the properly addressed response in the United States mail; or

(3) the requestor transmits the properly addressed response to the governmental body by electronic mail or facsimile transmission.

(g) The time deadlines imposed by this section do not affect the application of a time deadline imposed on a governmental body under Subchapter G.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 15, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 864 (S.B. 653), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 6, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 5, effective September 1, 2005.

Sec. 552.262. Rules of the Attorney General.

(a) The attorney general shall adopt rules for use by each governmental body in determining charges for providing copies of public information under this subchapter and in determining the charge, deposit, or bond required for making

public information that exists in a paper record available for inspection as authorized by Sections 552.271(c) and (d). The rules adopted by the attorney general shall be used by each governmental body in determining charges for providing copies of public information and in determining the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. The charges for providing copies of public information may not be excessive and may not exceed the actual cost of producing the information or for making public information that exists in a paper record available for inspection. A governmental body, other than an agency of state government, may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection but may not charge an amount that is greater than 25 percent more than the amount established by the attorney general unless the governmental body requests an exemption under Subsection (c).

(b) The rules of the attorney general shall prescribe the methods for computing the charges for providing copies of public information in paper, electronic, and other kinds of media and the charge, deposit, or bond required for making public information that exists in a paper record available for inspection. The rules shall establish costs for various components of charges for providing copies of public information that shall be used by each governmental body in providing copies of public information or making public information that exists in a paper record available for inspection.

(c) A governmental body may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges for providing copies of public information or the charge, deposit, or bond required for making public information that exists in a paper record available for inspection. The request must be made in writing to the attorney general and must state the reason for the exemption. If the attorney general determines that good cause exists for exempting a governmental body from a part or all of the rules, the attorney general shall give written notice of the determination to the governmental body within 90 days of the request. On receipt of the determination, the governmental body may amend its charges for providing copies of public information or its charge, deposit, or bond required for making public information that exists in a paper record available for inspection according to the determination of the attorney general.

(d) The attorney general shall publish annually in the Texas Register a list of the governmental bodies that have authorization from the attorney general to adopt any modified rules for determining the cost of providing copies of public information or making public information that exists in a paper record available for inspection.

(e) The rules of the attorney general do not apply to a state governmental body that is not a state agency for purposes of Subtitle D, Title 10.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 16, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 7, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 6, effective September 1, 2005.

Sec. 552.263. Bond for Payment of Costs or Cash Prepayment for Preparation of Copy of Public Information.

(a) An officer for public information or the officer's agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:

(1) the officer for public information or the officer's agent has provided the requestor with the written itemized statement required under Section 552.2615 detailing the estimated charge for providing the copy; and

(2) the charge for providing the copy of the public information specifically requested by the requestor is estimated by the governmental body to exceed:

(A) $100, if the governmental body has more than 15 full-time employees; or

(B) $50, if the governmental body has fewer than 16 full-time employees.

(b) The officer for public information or the officer's agent may not require a deposit or bond be paid under Subsection (a) as a down payment for copies of public information that the requestor may request in the future.

(c) An officer for public information or the officer's agent may require a deposit or bond for payment of unpaid amounts owing to the governmental body in relation to previous requests that the requestor has made under this chapter before preparing a copy of public information in response to a new request if those unpaid amounts exceed $100. The officer for public information or the officer's agent may not seek payment of those unpaid amounts through any other means.

(d) The governmental body must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs, as applicable, before requiring a deposit or bond under this section. The documentation is subject to required public disclosure under this chapter.

(e) For purposes of Subchapters F and G, a request for a copy of public information is considered to have been received by a governmental body on the date the governmental body receives the deposit or bond for payment of anticipated costs or unpaid amounts if the governmental body's officer for public information or the officer's agent requires a deposit or bond in accordance with this section.

(e-1) If a requestor modifies the request in response to the requirement of a deposit or bond authorized by this section, the modified request is considered a separate request for the purposes of this chapter and is considered received on the date the governmental body receives the written modified request.

(f) A requestor who fails to make a deposit or post a bond required under Subsection (a) before the 10th business day after the date the deposit or bond is required is considered to have withdrawn the request for the copy of the public information that precipitated the requirement of the deposit or bond.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 17, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 315 (S.B. 623), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 349 (S.B. 175), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 6, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 38, effective September 1, 2011.

Sec. 552.264. Copy of Public Information Requested by Member of Legislature.

One copy of public information that is requested from a state agency by a member, agency, or committee of the legislature under Section 552.008 shall be provided without charge.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1585 (S.B. 1367), § 1, effective June 20, 1999.

Sec. 552.265. Charge for Paper Copy Provided by District or County Clerk.

The charge for providing a paper copy made by a district or county clerk's office shall be the charge provided by Chapter 51 of this code, Chapter 118, Local Government Code, or other applicable law.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1155 (H.B. 2873), § 1, effective June 15, 2001.

Sec. 552.266. Charge for Copy of Public Information Provided by Municipal Court Clerk.

The charge for providing a copy made by a municipal court clerk shall be the charge provided by municipal ordinance.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997.

Sec. 552.2661. Charge for Copy of Public Information Provided by School District.

A school district that receives a request to produce public information for inspection or publication or to produce copies of public information in response to a requestor who, within the preceding 180 days, has accepted but failed to pay written itemized statements of estimated charges from the district as provided under Section 552.261(b) may require the requestor to pay the estimated charges for the request before the request is fulfilled.

HISTORY: Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 20, effective September 28, 2011.

Sec. 552.267. Waiver or Reduction of Charge for Providing Copy of Public Information.

(a) A governmental body shall provide a copy of public information without charge or at a reduced charge if the governmental body determines that waiver or reduction of the charge is in the public interest because providing the copy of the information primarily benefits the general public.

(b) If the cost to a governmental body of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the governmental body may waive the charge.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997.

Sec. 552.268. Efficient Use of Public Resources.

A governmental body shall make reasonably efficient use of supplies and other resources to avoid excessive reproduction costs.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997.

Sec. 552.269. Overcharge or Overpayment for Copy of Public Information.

(a) A person who believes the person has been overcharged for being provided with a copy of public information may complain to the attorney general in writing of the alleged overcharge, setting forth the reasons why the person believes the charges are excessive. The attorney general shall review the complaint and make a determination in writing as to the appropriate charge for providing the copy of the requested information. The governmental body shall respond to the attorney general to any written questions asked of the governmental body by the attorney general regarding the charges for providing the copy of the public information. The response must be made to the attorney general within 10 business days after the date the questions are received by the governmental body. If the attorney general determines that a

governmental body has overcharged for providing the copy of requested public information, the governmental body shall promptly adjust its charges in accordance with the determination of the attorney general.

(b) A person who overpays for a copy of public information because a governmental body refuses or fails to follow the rules for charges adopted by the attorney general is entitled to recover three times the amount of the overcharge if the governmental body did not act in good faith in computing the costs.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 864 (S.B. 653), § 3, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 8, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 7, effective September 1, 2005.

Sec. 552.270. Charge for Government Publication.

(a) This subchapter does not apply to a publication that is compiled and printed by or for a governmental body for public dissemination. If the cost of the publication is not determined by state law, a governmental body may determine the charge for providing the publication.

(b) This section does not prohibit a governmental body from providing a publication free of charge if state law does not require that a certain charge be made.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997.

Sec. 552.271. Inspection of Public Information in Paper Record If Copy Not Requested.

(a) If the requestor does not request a copy of public information, a charge may not be imposed for making available for inspection any public information that exists in a paper record, except as provided by this section.

(b) If a requested page contains confidential information that must be edited from the record before the information can be made available for inspection, the governmental body may charge for the cost of making a photocopy of the page from which confidential information must be edited. No charge other than the cost of the photocopy may be imposed under this subsection.

(c) Except as provided by Subsection (d), an officer for public information or the officer's agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records only if:

(1) the public information specifically requested by the requestor:

(A) is older than five years; or

(B) completely fills, or when assembled will completely fill, six or more archival boxes; and

(2) the officer for public information or the officer's agent estimates that more than five hours will be required to make the public information available for inspection.

(d) If the governmental body has fewer than 16 full-time employees, the payment, the deposit, or the bond authorized by Subsection (c) may be required only if:

(1) the public information specifically requested by the requestor:

(A) is older than three years; or

(B) completely fills, or when assembled will completely fill, three or more archival boxes; and

(2) the officer for public information or the officer's agent estimates that more than two hours will be required to make the public information available for inspection.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 18, effective September 1, 1999.

Sec. 552.272. Inspection of Electronic Record If Copy Not Requested.

(a) In response to a request to inspect information that exists in an electronic medium and that is not available directly on-line to the requestor, a charge may not be imposed for access to the information, unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, the governmental body shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed to make the information available. A charge under this section must be assessed in accordance with this subchapter.

(b) If public information exists in an electronic form on a computer owned or leased by a governmental body and if the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the government-owned or government-leased computer before the information is copied.

(c) If public information exists in an electronic form on a computer owned or leased by a governmental body and if the public has direct access to that computer through a computer network or other means and the information requires processing, programming, or manipulation before it can be electronically copied, a governmental body may impose charges in accordance with this subchapter.

(d) If information is created or kept in an electronic form, a governmental body is encouraged to explore options to separate out confidential information and to make public information available to the public through electronic access through a computer network or by other means.

(e) The provisions of this section that prohibit a governmental entity from imposing a charge for access to information that exists in an electronic medium do not apply to the collection of a fee set by the supreme court after consultation with the Judicial Committee on Information Technology as authorized by Section 77.031 for the use of a computerized electronic judicial information system.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1327 (S.B. 1417), § 5, effective September 1, 1997.

Sec. 552.273. Interim Charges for Geographic Information Systems Data [Expired].

Expired pursuant to Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective August 31, 1997.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997.

Sec. 552.274. Report by Attorney General on Cost of Copies.

(a) The attorney general shall:

(1) biennially update a report prepared by the attorney general about the charges made by state agencies for providing copies of public information; and

(2) provide a copy of the updated report on the attorney general's open records page on the Internet not later than March 1 of each even-numbered year.

(b) [Repealed by Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(62), effective June 17, 2011.]

(c) In this section, "state agency" has the meaning assigned by Sections 2151.002(2)(A) and (C).

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 693 (H.B. 2891), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 17.19, effective September 1, 1997 (renumbered from Sec. 552.270); am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(47), effective September 1, 1997 (renumbered from Sec. 552.270); am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 19, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 9.008(a), effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 9, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), §§ 8, 9, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 7, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(62), effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 9.014, effective September 1, 2013.

Sec. 552.275. Requests That Require Large Amounts of Employee or Personnel Time.

(a) A governmental body may establish reasonable monthly and yearly limits on the amount of time that personnel of the governmental body are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time.

(a-1) For purposes of this section, all county officials who have designated the same officer for public information may calculate the amount of time that personnel are required to spend collectively for purposes of the monthly or yearly limit.

(b) A yearly time limit established under Subsection (a) may not be less than 36 hours for a requestor during the 12-month period that corresponds to the fiscal year of the governmental body. A monthly time limit established under Subsection (a) may not be less than 15 hours for a requestor for a one-month period.

(c) In determining whether a time limit established under Subsection (a) applies, any time spent complying with a request for public information submitted in the name of a minor, as defined by Section 101.003(a), Family Code, is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.

(d) If a governmental body establishes a time limit under Subsection (a), each time the governmental body complies with a request for public information, the governmental body shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable monthly or yearly period. The amount of time spent preparing the written statement may not be included in the amount of time included in the statement provided to the requestor under this subsection.

(e) Subject to Subsection (e-1), if in connection with a request for public information, the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the limit established by the governmental body under Subsection (a), the governmental body shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The written estimate must be provided to the requestor on or before the 10th day after the date on which the public information was requested. The amount of this charge relating to the cost of locating, compiling,

and producing the public information shall be established by rules prescribed by the attorney general under Sections 552.262(a) and (b).

(e-1) This subsection applies only to a request made by a requestor who has made a previous request to a governmental body that has not been withdrawn, for which the governmental body has located and compiled documents in response, and for which the governmental body has issued a statement under Subsection (e) that remains unpaid on the date the requestor submits the new request. A governmental body is not required to locate, compile, produce, or provide copies of documents or prepare a statement under Subsection (e) in response to a new request described by this subsection until the date the requestor pays each unpaid statement issued under Subsection (e) in connection with a previous request or withdraws the previous request to which the statement applies.

(f) If the governmental body determines that additional time is required to prepare the written estimate under Subsection (e) and provides the requestor with a written statement of that determination, the governmental body must provide the written statement under that subsection as soon as practicable, but on or before the 10th day after the date the governmental body provided the statement under this subsection.

(g) If a governmental body provides a requestor with the written statement under Subsection (e) and the time limits prescribed by Subsection (a) regarding the requestor have been exceeded, the governmental body is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the 10th day after the date the governmental body provided the written statement under that subsection, the requestor submits payment ofthe amount stated in the written statement provided under Subsection (e).

(h) If the requestor fails or refuses to submit payment under Subsection (g), the requestor is considered to have withdrawn the requestor's pending request for public information.

(i) This section does not prohibit a governmental body from providing a copy of public information without charge or at a reduced rate under Section 552.267 or from waiving a charge for providing a copy of public information under that section.

(j) This section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

(1) dissemination by a news medium or communication service provider, including:

(A) an individual who supervises or assists in gathering, preparing, and disseminating the news or information; or

(B) an individual who is or was a journalist, scholar, or researcher employed by an institution of higher education at the time the person made the request for information; or

(2) creation or maintenance of an abstract plant as described by Section 2501.004, Insurance Code.

(k) This section does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state.

(*l*) This section does not apply if the requestor is a representative of a publicly funded legal services organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code.

(m) In this section:

(1) "Communication service provider" has the meaning assigned by Section 22.021, Civil Practice and Remedies Code.

(2) "News medium" means a newspaper, magazine or periodical, a book publisher, a news agency, a wire service, an FCC-licensed radio or television station or a network of such stations, a cable, satellite, or other transmission system or carrier or channel, or a channel or programming service for a station, network, system, or carrier, or an audio or audiovisual production company or Internet company or provider, or the parent, subsidiary, division, or affiliate of that entity, that disseminates news or information to the public by any means, including:

(A) print;
(B) television;
(C) radio;
(D) photographic;
(E) mechanical;
(F) electronic; and
(G) other means, known or unknown, that are accessible to the public.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 1398 (H.B. 2564), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1383 (S.B. 1629), § 1, effective September 1, 2009; am. Acts 2017, 85th Leg., ch. 894 (H.B. 3107), § 3, effective September 1, 2017.

Secs. 552.276 to 522.300. [Reserved for expansion].

Subchapter G

Attorney General Decisions

Sec. 552.301. Request for Attorney General Decision.

(a) A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions under Subchapter C must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions.

(a-1) For the purposes of this subchapter, if a governmental body receives a written request by United States mail and cannot adequately establish the actual date on which the governmental body received the request, the written request is considered to have been received by the governmental body on the third business day after the date of the postmark on a properly addressed request.

(b) The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after the date of receiving the written request.

(c) [Repealed.]

(d) A governmental body that requests an attorney general decision under Subsection (a) must provide to the requestor within a reasonable time but not later than the 10th business day after the date of receiving the requestor's written request:

(1) a written statement that the governmental body wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure; and

(2) a copy of the governmental body's written communication to the attorney general asking for the decision or, if the governmental body's written communication to the attorney general discloses the requested information, a redacted copy of that written communication.

(e) A governmental body that requests an attorney general decision under Subsection (a) must within a reasonable time but not later than the 15th business day after the date of receiving the written request:

(1) submit to the attorney general:

(A) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;

(B) a copy of the written request for information;

(C) a signed statement as to the date on which the written request for information was received by the governmental body or evidence sufficient to establish that date; and

(D) a copy of the specific information requested, or submit representative samples of the information if a voluminous amount of information was requested; and

(2) label that copy of the specific information, or of the representative samples, to indicate which exceptions apply to which parts of the copy.

(e-1) A governmental body that submits written comments to the attorney general under Subsection (e)(1)(A) shall send a copy of those comments to the person who requested the information from the governmental body not later than the 15th business day after the date of receiving the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the person must be a redacted copy.

(f) A governmental body must release the requested information and is prohibited from asking for a decision from the attorney general about whether information requested under this chapter is within an exception under Subchapter C if:

(1) the governmental body has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request; and

(2) the attorney general or a court determined that the information is public information under this chapter that is not excepted by Subchapter C.

(g) A governmental body may ask for another decision from the attorney general concerning the precise information that was at issue in a prior decision made by the attorney general under this subchapter if:

(1) a suit challenging the prior decision was timely filed against the attorney general in accordance with this chapter concerning the precise information at issue;

(2) the attorney general determines that the requestor has voluntarily withdrawn the request for the information in writing or has abandoned the request; and

(3) the parties agree to dismiss the lawsuit.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 18, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 5, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 20, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 10, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 474 (H.B. 2248), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 8, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 39, effective September 1, 2011; am. Acts 2019, 86th Leg., ch. 1340 (S.B. 944), § 7, effective September 1, 2019.

Sec. 552.302. Failure to Make Timely Request for Attorney General Decision; Presumption That Information Is Public.

If a governmental body does not request an attorney general decision as provided by Section 552.301 and provide the

requestor with the information required by Sections 552.301(d) and (e-1), the information requested in writing is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 21, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 11, effective September 1, 2005.

Sec. 552.303. Delivery of Requested Information to Attorney General; Disclosure of Requested Information; Attorney General Request for Submission of Additional Information.

(a) A governmental body that requests an attorney general decision under this subchapter shall supply to the attorney general, in accordance with Section 552.301, the specific information requested. Unless the information requested is confidential by law, the governmental body may disclose the requested information to the public or to the requestor before the attorney general makes a final determination that the requested information is public or, if suit is filed under this chapter, before a final determination that the requested information is public has been made by the court with jurisdiction over the suit, except as otherwise provided by Section 552.322.

(b) The attorney general may determine whether a governmental body's submission of information to the attorney general under Section 552.301 is sufficient to render a decision.

(c) If the attorney general determines that information in addition to that required by Section 552.301 is necessary to render a decision, the attorney general shall give written notice of that fact to the governmental body and the requestor.

(d) A governmental body notified under Subsection (c) shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received.

(e) If a governmental body does not comply with Subsection (d), the information that is the subject of a person's request to the governmental body and regarding which the governmental body fails to comply with Subsection (d) is presumed to be subject to required public disclosure and must be released unless there exists a compelling reason to withhold the information.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 19, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 22, effective September 1, 1999.

Sec. 552.3035. Disclosure of Requested Information by Attorney General.

The attorney general may not disclose to the requestor or the public any information submitted to the attorney general under Section 552.301(e)(1)(D).

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 23, effective September 1, 1999.

Sec. 552.304. Submission of Public Comments.

(a) A person may submit written comments stating reasons why the information at issue in a request for an attorney general decision should or should not be released.

(b) A person who submits written comments to the attorney general under Subsection (a) shall send a copy of those comments to both the person who requested the information from the governmental body and the governmental body. If the written comments submitted to the attorney general disclose or contain the substance of the information requested from the governmental body, the copy of the comments sent to the person who requested the information must be a redacted copy.

(c) In this section, "written comments" includes a letter, a memorandum, or a brief.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 20, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 12, effective September 1, 2005.

Sec. 552.305. Information Involving Privacy or Property Interests of Third Party.

(a) **[Effective until January 1, 2020]** In a case in which information is requested under this chapter and a person's privacy or property interests may be involved, including a case under Section 552.101, 552.104, 552.110, or 552.114, a governmental body may decline to release the information for the purpose of requesting an attorney general decision.

(a) **[Effective January 1, 2020]** In a case in which information is requested under this chapter and a person's privacy or property interests may be involved, including a case under Section 552.101, 552.110, 552.1101, 552.114, 552.131, or 552.143, a governmental body may decline to release the information for the purpose of requesting an attorney general decision.

(b) A person whose interests may be involved under Subsection (a), or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released.

(c) The governmental body may, but is not required to, submit its reasons why the information should be withheld or released.

(d) **[Effective until January 1, 2020]** If release of a person's proprietary information may be subject to exception under Section 552.101, 552.110, 552.113, or 552.131, the governmental body that requests an attorney general decision

under Section 552.301 shall make a good faith attempt to notify that person of the request for the attorney general decision. Notice under this subsection must:

(1) be in writing and sent within a reasonable time not later than the 10th business day after the date the governmental body receives the request for the information; and

(2) include:

(A) a copy of the written request for the information, if any, received by the governmental body; and

(B) a statement, in the form prescribed by the attorney general, that the person is entitled to submit in writing to the attorney general within a reasonable time not later than the 10th business day after the date the person receives the notice:

(i) each reason the person has as to why the information should be withheld; and

(ii) a letter, memorandum, or brief in support of that reason.

(d) **[Effective January 1, 2020]** If release of a person's proprietary information may be subject to exception under Section 552.101, 552.110, 552.1101, 552.113, 552.131, or 552.143, the governmental body that requests an attorney general decision under Section 552.301 shall make a good faith attempt to notify that person of the request for the attorney general decision. Notice under this subsection must:

(1) be in writing and sent within a reasonable time not later than the 10th business day after the date the governmental body receives the request for the information; and

(2) include:

(A) a copy of the written request for the information, if any, received by the governmental body; and

(B) a statement, in the form prescribed by the attorney general, that the person is entitled to submit in writing to the attorney general within a reasonable time not later than the 10th business day after the date the person receives the notice:

(i) each reason the person has as to why the information should be withheld; and

(ii) a letter, memorandum, or brief in support of that reason.

(e) A person who submits a letter, memorandum, or brief to the attorney general under Subsection (d) shall send a copy of that letter, memorandum, or brief to the person who requested the information from the governmental body. If the letter, memorandum, or brief submitted to the attorney general contains the substance of the information requested, the copy of the letter, memorandum, or brief may be a redacted copy.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 21, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 24, effective September 1, 1999; am. Acts 2019, 86th Leg., ch. 1216 (S.B. 943), § 7, effective January 1, 2020.

Sec. 552.306. Rendition of Attorney General Decision; Issuance of Written Opinion.

(a) Except as provided by Section 552.011, the attorney general shall promptly render a decision requested under this subchapter, consistent with the standards of due process, determining whether the requested information is within one of the exceptions of Subchapter C. The attorney general shall render the decision not later than the 45th business day after the date the attorney general received the request for a decision. If the attorney general is unable to issue the decision within the 45-day period, the attorney general may extend the period for issuing the decision by an additional 10 business days by informing the governmental body and the requestor, during the original 45-day period, of the reason for the delay.

(b) The attorney general shall issue a written opinion of the determination and shall provide a copy of the opinion to the requestor.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 22, effective January 1, 1996; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 25, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 349 (S.B. 175), § 2, effective June 15, 2007.

Sec. 552.307. Special Right of Access; Attorney General Decisions.

(a) If a governmental body determines that information subject to a special right of access under Section 552.023 is exempt from disclosure under an exception of Subchapter C, other than an exception intended to protect the privacy interest of the requestor or the person whom the requestor is authorized to represent, the governmental body shall, before disclosing the information, submit a written request for a decision to the attorney general under the procedures of this subchapter.

(b) If a decision is not requested under Subsection (a), the governmental body shall release the information to the person with a special right of access under Section 552.023 not later than the 10th business day after the date of receiving the request for information.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 349 (S.B. 175), § 3, effective June 15, 2007.

Sec. 552.308. Timeliness of Action by United States Mail, Interagency Mail, or Common or Contract Carrier.

(a) When this subchapter requires a request, notice, or other document to be submitted or otherwise given to a person

within a specified period, the requirement is met in a timely fashion if the document is sent to the person by first class United States mail or common or contract carrier properly addressed with postage or handling charges prepaid and:

(1) it bears a post office cancellation mark or a receipt mark of a common or contract carrier indicating a time within that period; or

(2) the person required to submit or otherwise give the document furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period.

(b) When this subchapter requires an agency of this state to submit or otherwise give to the attorney general within a specified period a request, notice, or other writing, the requirement is met in a timely fashion if:

(1) the request, notice, or other writing is sent to the attorney general by interagency mail; and

(2) the agency provides evidence sufficient to establish that the request, notice, or other writing was deposited in the interagency mail within that period.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 23, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 26, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 909 (S.B. 919), §§ 1, 2, effective June 20, 2003.

Sec. 552.309. Timeliness of Action by Electronic Submission.

(a) When this subchapter requires a request, notice, or other document to be submitted or otherwise given to the attorney general within a specified period, the requirement is met in a timely fashion if the document is submitted to the attorney general through the attorney general's designated electronic filing system within that period.

(b) The attorney general may electronically transmit a notice, decision, or other document. When this subchapter requires the attorney general to deliver a notice, decision, or other document within a specified period, the requirement is met in a timely fashion if the document is electronically transmitted by the attorney general within that period.

(c) This section does not affect the right of a person or governmental body to submit information to the attorney general under Section 552.308.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 552 (H.B. 2866), § 2, effective June 17, 2011.

Secs. 552.310 to 522.320. [Reserved for expansion].

Subchapter H

Civil Enforcement

Sec. 552.321. Suit for Writ of Mandamus.

(a) A requestor or the attorney general may file suit for a writ of mandamus compelling a governmental body to make information available for public inspection if the governmental body refuses to request an attorney general's decision as provided by Subchapter G or refuses to supply public information or information that the attorney general has determined is public information that is not excepted from disclosure under Subchapter C.

(b) A suit filed by a requestor under this section must be filed in a district court for the county in which the main offices of the governmental body are located. A suit filed by the attorney general under this section must be filed in a district court of Travis County, except that a suit against a municipality with a population of 100,000 or less must be filed in a district court for the county in which the main offices of the municipality are located.

(c) **[Effective January 1, 2020]** A requestor may file suit for a writ of mandamus compelling a governmental body or an entity to comply with the requirements of Subchapter J.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 24, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 27, effective September 1, 1999; am. Acts 2019, 86th Leg., ch. 1216 (S.B. 943), § 8, effective January 1, 2020.

Sec. 552.3215. Declaratory Judgment or Injunctive Relief.

(a) In this section:

(1) "Complainant" means a person who claims to be the victim of a violation of this chapter.

(2) "State agency" means a board, commission, department, office, or other agency that:

(A) is in the executive branch of state government;

(B) was created by the constitution or a statute of this state; and

(C) has statewide jurisdiction.

(b) An action for a declaratory judgment or injunctive relief may be brought in accordance with this section against a governmental body that violates this chapter.

(c) The district or county attorney for the county in which a governmental body other than a state agency is located or the attorney general may bring the action in the name of the state only in a district court for that county. If the governmental body extends into more than one county, the action may be brought only in the county in which the administrative offices of the governmental body are located.

(d) If the governmental body is a state agency, the Travis County district attorney or the attorney general may bring the action in the name of the state only in a district court of Travis County.

(e) A complainant may file a complaint alleging a violation of this chapter. The complaint must be filed with the district or county attorney of the county in which the governmental body is located unless the governmental body is the district or county attorney. If the governmental body extends into more than one county, the complaint must be filed with the district or county attorney of the county in which the administrative offices of the governmental body are located. If the governmental body is a state agency, the complaint may be filed with the Travis County district attorney. If the governmental body is the district or county attorney, the complaint must be filed with the attorney general. To be valid, a complaint must:

(1) be in writing and signed by the complainant;

(2) state the name of the governmental body that allegedly committed the violation, as accurately as can be done by the complainant;

(3) state the time and place of the alleged commission of the violation, as definitely as can be done by the complainant; and

(4) in general terms, describe the violation.

(f) A district or county attorney with whom the complaint is filed shall indicate on the face of the written complaint the date the complaint is filed.

(g) Before the 31st day after the date a complaint is filed under Subsection (e), the district or county attorney shall:

(1) determine whether:

(A) the violation alleged in the complaint was committed; and

(B) an action will be brought against the governmental body under this section; and

(2) notify the complainant in writing of those determinations.

(h) Notwithstanding Subsection (g)(1), if the district or county attorney believes that that official has a conflict of interest that would preclude that official from bringing an action under this section against the governmental body complained of, before the 31st day after the date the complaint was filed the county or district attorney shall inform the complainant of that official's belief and of the complainant's right to file the complaint with the attorney general. If the district or county attorney determines not to bring an action under this section, the district or county attorney shall:

(1) include a statement of the basis for that determination; and

(2) return the complaint to the complainant.

(i) If the district or county attorney determines not to bring an action under this section, the complainant is entitled to file the complaint with the attorney general before the 31st day after the date the complaint is returned to the complainant. A complainant is entitled to file a complaint with the attorney general on or after the 90th day after the date the complainant files the complaint with a district or county attorney if the district or county attorney has not brought an action under this section. On receipt of the written complaint, the attorney general shall comply with each requirement in Subsections (g) and (h) in the time required by those subsections. If the attorney general decides to bring an action under this section against a governmental body located only in one county in response to the complaint, the attorney general must comply with Subsection (c).

(j) An action may be brought under this section only if the official proposing to bring the action notifies the governmental body in writing of the official's determination that the alleged violation was committed and the governmental body does not cure the violation before the fourth day after the date the governmental body receives the notice.

(k) An action authorized by this section is in addition to any other civil, administrative, or criminal action provided by this chapter or another law.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 28, effective September 1, 1999; am. Acts 2017, 85th Leg., ch. 894 (H.B. 3107), § 4, effective September 1, 2017.

Sec. 552.322. Discovery of Information Under Protective Order Pending Final Determination.

In a suit filed under this chapter, the court may order that the information at issue may be discovered only under a protective order until a final determination is made.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 552.3221. In Camera Inspection of Information.

(a) In any suit filed under this chapter, the information at issue may be filed with the court for in camera inspection as is necessary for the adjudication of the case.

(b) Upon receipt of the information at issue for in camera inspection, the court shall enter an order that prevents release to or access by any person other than the court, a reviewing court of appeals, or parties permitted to inspect the information pursuant to a protective order. The order shall further note the filing date and time.

(c) The information at issue filed with the court for in camera inspection shall be:

(1) appended to the order and transmitted by the court to the clerk for filing as "information at issue";

(2) maintained in a sealed envelope or in a manner that precludes disclosure of the information; and

(3) transmitted by the clerk to any court of appeal as part of the clerk's record.

(d) Information filed with the court under this section does not constitute "court records" within the meaning of Rule 76a, Texas Rules of Civil Procedure, and shall not be made available by the clerk or any custodian of record for public inspection.

(e) For purposes of this section, "information at issue" is defined as information held by a governmental body that forms the basis of a suit under this chapter.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 461 (S.B. 983), § 1, effective September 1, 2013.

Sec. 552.323. Assessment of Costs of Litigation and Reasonable Attorney Fees.

(a) In an action brought under Section 552.321 or 552.3215, the court shall assess costs of litigation and reasonable attorney fees incurred by a plaintiff who substantially prevails, except that the court may not assess those costs and fees against a governmental body if the court finds that the governmental body acted in reasonable reliance on:

(1) a judgment or an order of a court applicable to the governmental body;

(2) the published opinion of an appellate court; or

(3) a written decision of the attorney general, including a decision issued under Subchapter G or an opinion issued under Section 402.042.

(b) In an action brought under Section 552.324, the court may not assess costs of litigation or reasonable attorney's fees incurred by a plaintiff or defendant who substantially prevails unless the court finds the action or the defense of the action was groundless in fact or law. In exercising its discretion under this subsection, the court shall consider whether the conduct of the governmental body had a reasonable basis in law and whether the litigation was brought in good faith.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 29, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 9, effective September 1, 2009; am. Acts 2019, 86th Leg., ch. 616 (S.B. 988), § 1, effective September 1, 2019.

Sec. 552.324. Suit by Governmental Body.

(a) The only suit a governmental body may file seeking to withhold information from a requestor is a suit that:

(1) is filed in a Travis County district court against the attorney general in accordance with Section 552.325; and

(2) seeks declaratory relief from compliance with a decision by the attorney general issued under Subchapter G.

(b) The governmental body must bring the suit not later than the 30th calendar day after the date the governmental body receives the decision of the attorney general determining that the requested information must be disclosed to the requestor. If the governmental body does not bring suit within that period, the governmental body shall comply with the decision of the attorney general. If a governmental body wishes to preserve an affirmative defense for its officer for public information as provided in Section 552.353(b)(3), suit must be filed within the deadline provided in Section 552.353(b)(3).

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 24, effective September 1, 1995; am Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 30, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 10, effective September 1, 2009.

Sec. 552.325. Parties to Suit Seeking to Withhold Information.

(a) A governmental body, officer for public information, or other person or entity that files a suit seeking to withhold information from a requestor may not file suit against the person requesting the information. The requestor is entitled to intervene in the suit.

(b) The governmental body, officer for public information, or other person or entity that files the suit shall demonstrate to the court that the governmental body, officer for public information, or other person or entity made a timely good faith effort to inform the requestor, by certified mail or by another written method of notice that requires the return of a receipt, of:

(1) the existence of the suit, including the subject matter and cause number of the suit and the court in which the suit is filed;

(2) the requestor's right to intervene in the suit or to choose to not participate in the suit;

(3) the fact that the suit is against the attorney general in Travis County district court; and

(4) the address and phone number of the office of the attorney general.

(c) If the attorney general enters into a proposed settlement that all or part of the information that is the subject of the suit should be withheld, the attorney general shall notify the requestor of that decision and, if the requestor has not intervened in the suit, of the requestor's right to intervene to contest the withholding. The attorney general shall notify the requestor:

(1) in the manner required by the Texas Rules of Civil Procedure, if the requestor has intervened in the suit; or

(2) by certified mail or by another written method of notice that requires the return of a receipt, if the requestor has not intervened in the suit.

(d) The court shall allow the requestor a reasonable period to intervene after the attorney general attempts to give notice under Subsection (c)(2).

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 24, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 11, effective September 1, 2009.

Sec. 552.326. Failure to Raise Exceptions Before Attorney General.

(a) Except as provided by Subsection (b), the only exceptions to required disclosure within Subchapter C that a governmental body may raise in a suit filed under this chapter are exceptions that the governmental body properly raised before the attorney general in connection with its request for a decision regarding the matter under Subchapter G.

(b) Subsection (a) does not prohibit a governmental body from raising an exception:

(1) based on a requirement of federal law; or

(2) involving the property or privacy interests of another person.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 31, effective September 1, 1999.

Sec. 552.327. Dismissal of Suit Due to Requestor's Withdrawal or Abandonment of Request.

A court may dismiss a suit challenging a decision of the attorney general brought in accordance with this chapter if:

(1) all parties to the suit agree to the dismissal; and

(2) the attorney general determines and represents to the court that the requestor has voluntarily withdrawn the request for information in writing or has abandoned the request.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 474 (H.B. 2248), § 2, effective September 1, 2007.

Secs. 552.328 to 522.350. [Reserved for expansion].

Subchapter I

Criminal Violations

Sec. 552.351. Destruction, Removal, or Alteration of Public Information.

(a) A person commits an offense if the person wilfully destroys, mutilates, removes without permission as provided by this chapter, or alters public information.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than $25 or more than $4,000;

(2) confinement in the county jail for not less than three days or more than three months; or

(3) both the fine and confinement.

(c) It is an exception to the application of Subsection (a) that the public information was transferred under Section 441.204.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 25, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 771 (S.B. 1800), § 2, effective June 13, 2001.

Sec. 552.352. Distribution or Misuse of Confidential Information.

(a) A person commits an offense if the person distributes information considered confidential under the terms of this chapter.

(a-1) An officer or employee of a governmental body who obtains access to confidential information under Section 552.008 commits an offense if the officer or employee knowingly:

(1) uses the confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to the law that permitted the officer or employee to obtain access to the information, including solicitation of political contributions or solicitation of clients;

(2) permits inspection of the confidential information by a person who is not authorized to inspect the information; or

(3) discloses the confidential information to a person who is not authorized to receive the information.

(a-2) For purposes of Subsection (a-1), a member of an advisory committee to a governmental body who obtains access to confidential information in that capacity is considered to be an officer or employee of the governmental body.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than $1,000;

(2) confinement in the county jail for not more than six months; or

(3) both the fine and confinement.

(c) A violation under this section constitutes official misconduct.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 249 (H.B. 1606), §§ 7.01, 7.02, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1089 (H.B. 2032), § 2, effective September 1, 2003.

Sec. 552.353. Failure or Refusal of Officer for Public Information to Provide Access to or Copying of Public Information.

(a) An officer for public information, or the officer's agent, commits an offense if, with criminal negligence, the officer or the officer's agent fails or refuses to give access to, or to permit or provide copying of, public information to a requestor as provided by this chapter.

(b) It is an affirmative defense to prosecution under Subsection (a) that the officer for public information reasonably believed that public access to the requested information was not required and that:

(1) the officer acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record or of the attorney general issued under Subchapter G;

(2) the officer requested a decision from the attorney general in accordance with Subchapter G, and the decision is pending; or

(3) not later than the 10th calendar day after the date of receipt of a decision by the attorney general that the information is public, the officer or the governmental body for whom the defendant is the officer for public information filed a petition for a declaratory judgment against the attorney general in a Travis County district court seeking relief from compliance with the decision of the attorney general, as provided by Section 552.324, and the cause is pending.

(c) It is an affirmative defense to prosecution under Subsection (a) that a person or entity has, not later than the 10th calendar day after the date of receipt by a governmental body of a decision by the attorney general that the information is public, filed a cause of action seeking relief from compliance with the decision of the attorney general, as provided by Section 552.325, and the cause is pending.

(d) It is an affirmative defense to prosecution under Subsection (a) that the defendant is the agent of an officer for public information and that the agent reasonably relied on the written instruction of the officer for public information not to disclose the public information requested.

(e) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than $1,000;

(2) confinement in the county jail for not more than six months; or

(3) both the fine and confinement.

(f) A violation under this section constitutes official misconduct.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 25, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 12, effective September 1, 2009.

Subchapter J

Additional Provisions Related to Contracting Information [Effective January 1, 2020]

Sec. 552.371. Certain Entities Required to Provide Contracting Information to Governmental Body in Connection with Request. [Effective January 1, 2020]

(a) This section applies to an entity that is not a governmental body that executes a contract with a governmental body that:

(1) has a stated expenditure of at least $1 million in public funds for the purchase of goods or services by the governmental body; or

(2) results in the expenditure of at least $1 million in public funds for the purchase of goods or services by the governmental body in a fiscal year of the governmental body.

(b) This section applies to a written request for public information received by a governmental body that is a party to a contract described by Subsection (a) for contracting information related to the contract that is in the custody or possession of the entity and not maintained by the governmental body.

(c) A governmental body that receives a written request for information described by Subsection (b) shall request that the entity provide the information to the governmental body. The governmental body must send the request in writing to the entity not later than the third business day after the date the governmental body receives the written request described by Subsection (b).

(d) Notwithstanding Section 552.301:

(1) a request for an attorney general's decision under Section 552.301(b) to determine whether contracting information subject to a written request described by Subsection (b) falls within an exception to disclosure under this chapter is considered timely if made not later than the 13th business day after the date the governmental body receives the written request described by Subsection (b);

(2) the statement and copy described by Section 552.301(d) is considered timely if provided to the requestor not later than the 13th business day after the date the governmental body receives the written request described by Subsection (b);

(3) a submission described by Section 552.301(e) is considered timely if submitted to the attorney general not later than the 18th business day after the date the governmental body receives the written request described by Subsection (b); and

(4) a copy described by Section 552.301(e-1) is considered timely if sent to the requestor not later than the 18th business day after the date the governmental body receives the written request described by Subsection (b).

(e) Section 552.302 does not apply to information described by Subsection (b) if the governmental body:

(1) complies with the requirements of Subsection (c) in a good faith effort to obtain the information from the contracting entity;

(2) is unable to meet a deadline described by Subsection (d) because the contracting entity failed to provide the information to the governmental body not later than the 13th business day after the date the governmental body received the written request for the information; and

(3) if applicable and notwithstanding the deadlines prescribed by Sections 552.301(b), (d), (e), and (e-1), complies with the requirements of those subsections not later than the eighth business day after the date the governmental body receives the information from the contracting entity.

(f) Nothing in this section affects the deadlines or duties of a governmental body under Section 552.301 regarding information the governmental body maintains, including contracting information.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1216 (S.B. 943), § 9, effective January 1, 2020.

Sec. 552.372. Bids and Contracts. [Effective January 1, 2020]

(a) A contract described by Section 552.371 must require a contracting entity to:

(1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the governmental body for the duration of the contract;

(2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and

(3) on completion of the contract, either:

(A) provide at no cost to the governmental body all contracting information related to the contract that is in the custody or possession of the entity; or

(B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

(b) Unless Section 552.374(c) applies, a bid for a contract described by Section 552.371 and the contract must include the following statement: "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this (include "bid" or "contract" as applicable) and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter."

(c) A governmental body may not accept a bid for a contract described by Section 552.371 or award the contract to an entity that the governmental body has determined has knowingly or intentionally failed to comply with this subchapter in a previous bid or contract described by that section unless the governmental body determines and documents that the entity has taken adequate steps to ensure future compliance with the requirements of this subchapter.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1216 (S.B. 943), § 9, effective January 1, 2020.

Sec. 552.373. Noncompliance with Provision of Subchapter. [Effective January 1, 2020]

A governmental body that is the party to a contract described by Section 552.371 shall provide notice to the entity that is a party to the contract if the entity fails to comply with a requirement of this subchapter applicable to the entity. The notice must:

(1) be in writing;

(2) state the requirement of this subchapter that the entity has violated; and

(3) unless Section 552.374(c) applies, advise the entity that the governmental body may terminate the contract without further obligation to the entity if the entity does not cure the violation on or before the 10th business day after the date the governmental body provides the notice.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1216 (S.B. 943), § 9, effective January 1, 2020.

Sec. 552.374. Termination of Contract for Noncompliance. [Effective January 1, 2020]

(a) Subject to Subsection (c), a governmental body may terminate a contract described by Section 552.371 if:

(1) the governmental body provides notice under Section 552.373 to the entity that is party to the contract;

(2) the contracting entity does not cure the violation in the period prescribed by Section 552.373;

(3) the governmental body determines that the contracting entity has intentionally or knowingly failed to comply with a requirement of this subchapter; and

(4) the governmental body determines that the entity has not taken adequate steps to ensure future compliance with the requirements of this subchapter.

(b) For the purpose of Subsection (a), an entity has taken adequate steps to ensure future compliance with this subchapter if:

(1) the entity produces contracting information requested by the governmental body that is in the custody or possession of the entity not later than the 10th business day after the date the governmental body makes the request; and

(2) the entity establishes a records management program to enable the entity to comply with this subchapter.

(c) A governmental body may not terminate a contract under this section if the contract is related to the purchase or underwriting of a public security, the contract is or may be used as collateral on a loan, or the contract's proceeds are used to pay debt service of a public security or loan.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1216 (S.B. 943), § 9, effective January 1, 2020.

Sec. 552.375. Other Contract Provisions. [Effective January 1, 2020]

Nothing in this subchapter prevents a governmental body from including and enforcing more stringent requirements in a contract to increase accountability or transparency.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1216 (S.B. 943), § 9, effective January 1, 2020.

Sec. 552.376. Cause of Action Not Created. [Effective January 1, 2020]

This subchapter does not create a cause of action to contest a bid for or the award of a contract with a governmental body.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1216 (S.B. 943), § 9, effective January 1, 2020.

SUBTITLE B

ETHICS

CHAPTER 573

Degrees of Relationship; Nepotism Prohibitions

Subchapter A

General Provisions

Sec. 573.001. Definitions.

In this chapter:

(1) "Candidate" has the meaning assigned by Section 251.001, Election Code.

(2) "Position" includes an office, clerkship, employment, or duty.

(3) "Public official" means:

(A) an officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state;

(B) an officer or member of a board of this state or of a district, county, municipality, school district, or other political subdivision of this state; or

(C) a judge of a court created by or under a statute of this state.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 573.002. Degrees of Relationship.

Except as provided by Section 573.043, this chapter applies to relationships within the third degree by consanguinity or within the second degree by affinity.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Secs. 573.003 to 573.020. [Reserved for expansion].

Subchapter B

Relationships by Consanguinity or by Affinity

Sec. 573.021. Method of Computing Degree of Relationship.

The degree of a relationship is computed by the civil law method.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 573.022. Determination of Consanguinity.

(a) Two individuals are related to each other by consanguinity if:
(1) one is a descendant of the other; or
(2) they share a common ancestor.
(b) An adopted child is considered to be a child of the adoptive parent for this purpose.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 573.023. Computation of Degree of Consanguinity.

(a) The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them. A parent and child are related in the first degree, a grandparent and grandchild in the second degree, a great-grandparent and great-grandchild in the third degree and so on.
(b) If an individual and the individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding:
(1) the number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and
(2) the number of generations between the relative and the nearest common ancestor.
(c) An individual's relatives within the third degree by consanguinity are the individual's:
(1) parent or child (relatives in the first degree);
(2) brother, sister, grandparent, or grandchild (relatives in the second degree); and
(3) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 573.024. Determination of Affinity.

(a) Two individuals are related to each other by affinity if:
(1) they are married to each other; or
(2) the spouse of one of the individuals is related by consanguinity to the other individual.
(b) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.
(c) Subsection (b) applies to a member of the board of trustees of or an officer of a school district only until the youngest child of the marriage reaches the age of 21 years.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 32, effective May 30, 1995.

Sec. 573.025. Computation of Degree of Affinity.

(a) A husband and wife are related to each other in the first degree by affinity. For other relationships by affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity. For example: if two individuals are related to each other in the second degree by consanguinity, the spouse of one of the individuals is related to the other individual in the second degree by affinity.
(b) An individual's relatives within the third degree by affinity are:
(1) anyone related by consanguinity to the individual's spouse in one of the ways named in Section 573.023(c); and
(2) the spouse of anyone related to the individual by consanguinity in one of the ways named in Section 573.023(c).

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Secs. 573.026 to 573.040. [Reserved for expansion].

Subchapter C

Nepotism Prohibitions

Sec. 573.041. Prohibition Applicable to Public Official.

A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

(1) the individual is related to the public official within a degree described by Section 573.002; or

(2) the public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within a degree described by Section 573.002.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 573.042. Prohibition Applicable to Candidate.

(a) A candidate may not take an affirmative action to influence the following individuals regarding the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of another individual related to the candidate within a degree described by Section 573.002:

(1) an employee of the office to which the candidate seeks election; or

(2) an employee or another officer of the governmental body to which the candidate seeks election, if the office the candidate seeks is one office of a multimember governmental body.

(b) The prohibition imposed by this section does not apply to a candidate's actions taken regarding a bona fide class or category of employees or prospective employees.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 573.043. Prohibition Applicable to District Judge.

A district judge may not appoint as official stenographer of the judge's district an individual related to the judge or to the district attorney of the district within the third degree.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 573.044. Prohibition Applicable to Trading.

A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position in which the individual's services are under the public official's direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

(1) the individual is related to another public official within a degree described by Section 573.002; and

(2) the appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other public official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first public official within a degree described by Section 573.002.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Secs. 573.045 to 573.060. [Reserved for expansion].

Subchapter D

Exceptions

Sec. 573.061. General Exceptions.

Section 573.041 does not apply to:

(1) an appointment to the office of a notary public or to the confirmation of that appointment;

(2) an appointment of a page, secretary, attendant, or other employee by the legislature for attendance on any member of the legislature who, because of physical infirmities, is required to have a personal attendant;

(3) a confirmation of the appointment of an appointee appointed to a first term on a date when no individual related to the appointee within a degree described by Section 573.002 was a member of or a candidate for the legislature, or confirmation on reappointment of the appointee to any subsequent consecutive term;

(4) an appointment or employment of a bus driver by a school district if:

(A) the district is located wholly in a county with a population of less than 35,000; or

(B) the district is located in more than one county and the county in which the largest part of the district is located has a population of less than 35,000;

(5) an appointment or employment of a personal attendant by an officer of the state or a political subdivision of the state for attendance on the officer who, because of physical infirmities, is required to have a personal attendant;

(6) an appointment or employment of a substitute teacher by a school district;

(7) an appointment or employment of a person by a municipality that has a population of less than 200; or

(8) an appointment of an election clerk under Section 32.031, Election Code, who is not related in the first degree by consanguinity or affinity to an elected official of the authority that appoints the election judges for that election.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.07(a), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 33, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(48), effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1026 (H.B. 2930), § 1, effective June 18, 1999; am. Acts 2011, 82nd Leg., ch. 1002 (H.B. 2194), § 14, effective September 1, 2011.

Sec. 573.062. Continuous Employment.

(a) A nepotism prohibition prescribed by Section 573.041 or by a municipal charter or ordinance does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:

(1) the individual is employed in the position immediately before the election or appointment of the public official to whom the individual is related in a prohibited degree; and

(2) that prior employment of the individual is continuous for at least:

(A) 30 days, if the public official is appointed;

(B) six months, if the public official is elected at an election other than the general election for state and county officers; or

(C) one year, if the public official is elected at the general election for state and county officers.

(b) If, under Subsection (a), an individual continues in a position, the public official to whom the individual is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Secs. 573.063 to 573.080. [Reserved for expansion].

Subchapter E

Enforcement

Sec. 573.081. Removal in General.

(a) An individual who violates Subchapter C or Section 573.062(b) shall be removed from the individual's position. The removal must be made in accordance with the removal provisions in the constitution of this state, if applicable. If a provision of the constitution does not govern the removal, the removal must be by a quo warranto proceeding.

(b) A removal from a position shall be made immediately and summarily by the original appointing authority if a criminal conviction against the appointee for a violation of Subchapter C or Section 573.062(b) becomes final. If the removal is not made within 30 days after the date the conviction becomes final, the individual holding the position may be removed under Subsection (a).

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 573.082. Removal by Quo Warranto Proceeding.

(a) A quo warranto proceeding under this chapter must be brought by the attorney general in a district court in Travis County or in a district court of the county in which the defendant resides.

(b) The district or county attorney of the county in which a suit is filed under this section shall assist the attorney general at the attorney general's discretion.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 573.083. Withholding Payment of Compensation.

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 573.084. Criminal Penalty.

(a) An individual commits an offense involving official misconduct if the individual violates Subchapter C or Section 573.062(b) or 573.083.

(b) An offense under this section is a misdemeanor punishable by a fine not less than $100 or more than $1,000.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

TITLE 10

GENERAL GOVERNMENT

SUBTITLE A

ADMINISTRATIVE PROCEDURE AND PRACTICE

CHAPTER 2003

State Office of Administrative Hearings

Subchapter A. General Provisions

Subchapter B. State Office of Administrative Hearings

Subchapter C. Staff and Administration

Subchapter D. Tax Hearings

Subchapter Z. Appeals from Appraisal Review Board Determinations

Subchapter A

General Provisions

Sec. 2003.001. Definitions.

In this chapter:

(1) "Administrative law judge" means an individual who presides at an administrative hearing held under Chapter 2001.

(2) "Alternative dispute resolution procedure" has the meaning assigned by Section 2009.003.

(3) "Office" means the State Office of Administrative Hearings.

(4) "State agency" means:

(A) a state board, commission, department, or other agency that is subject to Chapter 2001; and

(B) to the extent provided by Title 5, Labor Code, the Texas Department of Insurance, as regards proceedings and

activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 980 (H.B. 1089), § 3.01, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 934 (S.B. 694), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.02(9), effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1352 (H.B. 826), § 7, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 265 (H.B. 7), § 6.009, effective September 1, 2005.

Secs. 2003.002 to 2003.020. [Reserved for expansion].

Subchapter B

State Office of Administrative Hearings

Sec. 2003.021. Office.

(a) The State Office of Administrative Hearings is a state agency created to serve as an independent forum for the conduct of adjudicative hearings in the executive branch of state government. The purpose of the office is to separate the adjudicative function from the investigative, prosecutorial, and policymaking functions in the executive branch in relation to hearings that the office is authorized to conduct.

(b) The office:

(1) shall conduct all administrative hearings in contested cases under Chapter 2001 that are before a state agency that does not employ an individual whose only duty is to preside as a hearings officer over matters related to contested cases before the agency;

(2) shall conduct administrative hearings in matters for which the office is required to conduct the hearing under other law;

(3) shall conduct alternative dispute resolution procedures that the office is required to conduct under law; and

(4) may conduct, for a fee and under a contract, administrative hearings or alternative dispute resolution procedures in matters voluntarily referred to the office by a governmental entity.

(c) The office shall conduct hearings under Title 5, Labor Code, as provided by that title. In conducting hearings under Title 5, Labor Code, the office shall consider the applicable substantive rules and policies of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims. The office and the Texas Department of Insurance shall enter into an interagency contract under Chapter 771 to pay the costs incurred by the office in implementing this subsection.

(d) The office shall conduct hearings under the Agriculture Code as provided under Section 12.032, Agriculture Code. In conducting hearings under the Agriculture Code, the office shall consider the applicable substantive rules and policies of the Department of Agriculture.

(e) The office shall conduct all hearings in contested cases under Chapter 2001 that are before the commissioner of public health or the Texas Board of Health or Texas Department of Health.

(f) The office may adopt a seal to authenticate the official acts of the office and of its administrative law judges.

(g) The office shall conduct all hearings in contested cases under Chapter 2001 that are before the Texas Department of Licensing and Regulation under Chapter 51, Occupations Code.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 419 (S.B. 372), § 3.29, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 980 (H.B. 1089), § 3.02, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 934 (S.B. 694), § 3, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 85 (S.B. 757), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1411 (H.B. 2085), § 1.01, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(65), effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 265 (H.B. 7), § 6.010, effective September 1, 2005.

Sec. 2003.022. Chief Administrative Law Judge.

(a) The office is under the direction of a chief administrative law judge appointed by the governor for a two-year term that expires on May 15 of each even-numbered year. The chief administrative law judge is eligible for reappointment.

(b) To be eligible for appointment as chief administrative law judge, an individual must:

(1) be licensed to practice law in this state; and

(2) for at least five years, have:

(A) practiced administrative law;

(B) conducted administrative hearings under Chapter 2001; or

(C) engaged in a combination of the two activities listed in Paragraphs (A) and (B).

(c) The chief administrative law judge may not engage in the practice of law while serving as chief administrative law judge. The chief administrative law judge serves in a full-time position.

(d) The chief administrative law judge shall:

(1) supervise the office;

(2) protect and ensure the decisional independence of each administrative law judge;

(3) adopt a code of conduct for administrative law judges that may be modeled on the Code of Judicial Conduct; and

(4) monitor the quality of administrative hearings conducted by the office.

(e) The appointment of the chief administrative law judge shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 212 (S.B. 452), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 85 (S.B. 757), § 2, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 3, effective September 1, 2003; am. Acts 2017, 85th Leg., ch. 194 (S.B. 528), § 1, effective September 1, 2017.

Sec. 2003.0221. Removal of Chief Administrative Law Judge.

It is a ground for removal from the position of chief administrative law judge that an appointee:

(1) does not have at the time of taking office the qualifications required by Section 2003.022(b);

(2) does not maintain during service as chief administrative law judge a license to practice law in this state;

(3) is ineligible to hold the position under Section 2003.0225;

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

(5) engages in the practice of law in violation of Section 2003.022(c).

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 4, effective September 1, 2003.

Sec. 2003.0225. 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 hold the position of chief administrative law judge and may not be employed by the office 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 any field regulated by an agency for which the office is required to conduct administrative hearings; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in any field regulated by an agency for which the office is required to conduct administrative hearings.

(c) A person may not hold the position of chief administrative law judge or act as the general counsel to the chief administrative law judge or the office if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the office, including a profession that is licensed by an agency for which the office is required to conduct administrative hearings.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 5, effective September 1, 2003.

Sec. 2003.0226. Information Regarding Requirements for Employment and Standards of Conduct.

The chief administrative law judge or the chief administrative law judge's designee shall provide to office employees, as often as necessary, information regarding the requirements for employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state employees.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 5, effective September 1, 2003.

Sec. 2003.023. Sunset Provision.

The State Office of Administrative Hearings is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The office shall be reviewed during the periods in which state agencies abolished in 2027 and every 12th year after 2027 are reviewed.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 210 (S.B. 330), § 1, effective September 1, 1997; enacted by Acts 1997, 75th Leg., ch. 1169 (S.B. 360), § 2.04, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 6, effective September 1, 2003; am. Acts 2015, 84th Leg., ch. 228 (H.B. 2154), § 2, effective September 1, 2015.

Sec. 2003.024. Interagency Contracts; Anticipated Hourly Usage and Cost Estimates.

(a) If a state agency referred matters to the office during any of the three most recent state fiscal years for which complete information about the agency's hourly usage is available and the costs to the office of conducting hearings and alternative dispute resolution procedures for the state agency are not to be paid by appropriations to the office during a state fiscal biennium, the office and the agency shall enter into an interagency contract for the biennium under which the referring agency pays the office either a lump-sum amount at the start of each fiscal year of the biennium or a fixed amount at the start of each fiscal quarter of the biennium for all services provided to the agency during the fiscal year.

The office shall report to the Legislative Budget Board any agency that fails to make a timely payment under the contract. The lump-sum or quarterly amount paid to the office under the contract must be based on:

(1) an hourly rate that is set by the office:

(A) in an amount that sufficiently covers the office's full costs in providing services to the agency, including costs for items listed in Subsection (c)(2); and

(B) in time for the rate to be reviewed by the legislature, as part of the legislature's review of the office's legislative appropriations request for the biennium, in determining the office's legislative appropriations for the biennium; and

(2) the anticipated hourly usage of the office's services by the referring agency for each fiscal year of the biennium, as estimated by the office under Subsection (a-1).

(a-1) Before the beginning of each state fiscal biennium, the office shall estimate for each fiscal year of the biennium the anticipated hourly usage for each state agency that referred matters to the office during any of the three most recent state fiscal years for which complete information about the agency's hourly usage is available. The office shall estimate an agency's anticipated hourly usage by evaluating:

(1) the number of hours spent by the office conducting hearings or alternative dispute resolution procedures for the state agency during the three most recent state fiscal years for which complete information about the agency's hourly usage is available; and

(2) any other relevant information, including information provided to the office by the state agency, that suggests an anticipated increase or decrease in the agency's hourly usage of the office's services during the state fiscal biennium, as compared to past usage.

(a-2) The office, for a contract entered into as provided by Subsection (a) under which a quarterly amount is paid by the referring agency to the office, shall:

(1) track the agency's actual hourly usage of the office's services during each fiscal quarter; and

(2) forecast, after each fiscal quarter, the agency's anticipated hourly usage for the rest of the fiscal year.

(a-3) If a state agency did not refer matters to the office during any of the three state fiscal years preceding a state fiscal biennium for which complete information about the agency's hourly usage would have been available and did not provide information to the office sufficient for the office to reasonably and timely estimate anticipated usage and enter into a contract with the agency before the start of the state fiscal biennium, and the costs to the office of conducting hearings and alternative dispute resolution procedures for the state agency are not paid by appropriations to the office for the state fiscal biennium, the referring agency shall pay the office the costs of conducting hearings or procedures for the agency based on the hourly rate that is set by the office under Subsection (a) and on the agency's actual usage of the office's services.

(b) If the costs to the office of conducting hearings and alternative dispute resolution procedures for a state agency that refers matters to the office are anticipated to be paid by a lump-sum appropriation to the office for a state fiscal biennium, the office shall timely provide to the legislature the information described by Subsection (c).

(c) Each state fiscal biennium, the office as part of its legislative appropriation request shall file:

(1) information, as estimated under Subsection (a-1), related to the anticipated hourly usage of each state agency that refers matters to the office for which the costs of hearings and alternative dispute resolution procedures are anticipated to be paid by appropriations to the office; and

(2) an estimate of its hourly costs in conducting each type of hearing or dispute resolution procedure based on the average cost per hour during the preceding state fiscal year of:

(A) the salaries of its administrative law judges;

(B) the travel expenses, hearing costs, and telephone charges directly related to the conduct of a hearing or procedure; and

(C) the administrative costs of the office, including docketing costs.

(d) This section does not apply to hearings conducted under the administrative license revocation program.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 85 (S.B. 757), § 3, effective September 1, 2000; am. Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 7, effective September 1, 2003; am. Acts 2019, 86th Leg., ch. 117 (S.B. 1794), § 1, effective September 1, 2019.

Sec. 2003.025. Required Information Regarding Anticipated Hourly Usage.

(a) This section applies to a state agency that has entered into a contract with the office for the conduct of hearings and alternative dispute resolution procedures for the agency, including a contract under Section 2003.024 or 2003.049, during any of the three most recent state fiscal years.

(b) On a date determined by the office before the beginning of each state fiscal biennium, a state agency to which this section applies shall submit to the office and the Legislative Budget Board information regarding the agency's anticipated hourly usage of the office's services for each fiscal year of that biennium.

HISTORY: am. Acts 2019, 86th Leg., ch. 117 (S.B. 1794), § 2, effective September 1, 2019.

Secs. 2003.026 to 2003.040. [Reserved for expansion].

Subchapter C

Staff and Administration

Sec. 2003.041. Employment of Administrative Law Judges.

(a) The chief administrative law judge shall employ administrative law judges to conduct hearings for state agencies subject to this chapter.

(b) To be eligible for employment with the office as an administrative law judge, an individual must be licensed to practice law in this state and meet other requirements prescribed by the chief administrative law judge.

(c) An administrative law judge employed by the office is not responsible to or subject to the supervision, direction, or indirect influence of any person other than the chief administrative law judge or a senior or master administrative law judge designated by the chief administrative law judge. In particular, an administrative law judge employed by the office is not responsible to or subject to the supervision, direction, or indirect influence of an officer, employee, or agent of another state agency who performs investigative, prosecutorial, or advisory functions for the other agency.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 85 (S.B. 757), § 4, effective September 1, 1999.

Sec. 2003.0411. Senior and Master Administrative Law Judges.

(a) The chief administrative law judge may appoint senior or master administrative law judges to perform duties assigned by the chief administrative law judge.

(b) To be appointed a senior administrative law judge, a person must have at least six years of general legal experience, must have at least five years of experience presiding over administrative hearings or presiding over hearings as a judge or master of a court, and must meet other requirements as prescribed by the chief administrative law judge.

(c) Except as provided by Section 2003.101, to be appointed a master administrative law judge, a person must have at least 10 years of general legal experience, must have at least six years of experience presiding over administrative hearings or presiding over hearings as a judge or master of a court, and must meet other requirements as prescribed by the chief administrative law judge.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 85 (S.B. 757), § 5, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 354 (S.B. 242), § 2, effective June 15, 2007.

Sec. 2003.0412. Ex Parte Consultations.

(a) Except as provided by Subsection (b), the provisions of Section 2001.061 apply in relation to a matter before the office without regard to whether the matter is considered a contested case under Chapter 2001.

(b) The provisions of Section 2001.061 do not apply to a matter before the office to the extent that the office is conducting an alternative dispute resolution procedure in relation to the matter. The chief administrative law judge shall adopt rules that prescribe the types of alternative dispute resolution procedures in which ex parte consultations are prohibited and the types of alternative dispute resolution procedures in which ex parte consultations are allowed. For alternative dispute resolution procedures in which ex parte consultations are prohibited, the chief administrative law judge in adopting rules under this subsection shall model the prohibition after Section 2001.061 but may vary the extent of the prohibition if necessary to take into account the nature of alternative dispute resolution procedures.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 85 (S.B. 757), § 5, effective September 1, 1999.

Sec. 2003.042. Powers of Administrative Law Judge.

(a) An administrative law judge employed by the office or a temporary administrative law judge may:

(1) administer an oath;

(2) take testimony;

(3) rule on a question of evidence;

(4) issue an order relating to discovery or another hearing or prehearing matter, including an order imposing a sanction;

(5) issue an order that refers a case to an alternative dispute resolution procedure, determines how the costs of the procedure will be apportioned, and appoints an impartial third party as described by Section 2009.053 to facilitate that procedure;

(6) issue a proposal for decision that includes findings of fact and conclusions of law;

(7) if expressly authorized by a state agency rule adopted under Section 2001.058(f), make the final decision in a contested case;

(8) serve as an impartial third party as described by Section 2009.053 for a dispute referred by an administrative law judge, unless one of the parties objects to the appointment; and

(9) serve as an impartial third party as described by Section 2009.053 for a dispute referred by a government agency under a contract.

(b) An administrative law judge may not serve as an impartial third party for a dispute that the administrative law judge refers to an alternative dispute resolution procedure.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 605 (S.B. 331), § 1, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 934 (S.B. 694), § 4, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1167 (S.B. 332), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.02(10), effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1352 (H.B. 826), § 8, effective September 1, 1999.

Sec. 2003.0421. Sanctions.

(a) An administrative law judge employed by the office or a temporary administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (b) against a party or its representative for:

(1) filing a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or of the state agency on behalf of which the hearing is being conducted.

(b) A sanction imposed under Subsection (a) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) charging all or any part of the expenses of discovery against the offending party or its representatives;

(3) holding that designated facts be considered admitted for purposes of the proceeding;

(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of those requests; and

(6) striking pleadings or testimony, or both, in whole or in part.

(c) This section applies to any contested case hearing conducted by the office, except hearings conducted on behalf of the Texas Commission on Environmental Quality or the Public Utility Commission of Texas which are governed by Sections 2003.047 and 2003.049.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 605 (S.B. 331), § 2, effective September 1, 1997; am. Acts 2015, 84th Leg., ch. 228 (H.B. 2154), § 5, effective September 1, 2015.

Sec. 2003.043. Temporary Administrative Law Judge.

(a) The chief administrative law judge may contract with a qualified individual to serve as a temporary administrative law judge if an administrative law judge employed by the office is not available to hear a case within a reasonable time.

(b) The chief administrative law judge shall adopt rules relating to the qualifications of a temporary judge.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2003.044. Staff.

The chief administrative law judge may hire staff as required to perform the powers and duties of the office.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2003.045. Oversight of Administrative Law Judges.

The chief administrative law judge may designate senior or master administrative law judges to oversee the training, evaluation, discipline, and promotion of administrative law judges employed by the office.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 85 (S.B. 757), § 6, effective September 1, 1999.

Sec. 2003.0451. Training.

(a) The office shall provide at least 30 hours of continuing legal education and judicial training to each new administrative law judge employed by the office who has less than three years of presiding experience. The office shall provide the training required by this subsection during the administrative law judge's first year of employment with the office. The office may provide the training through office personnel or through external sources, including state and local

bar associations, the Texas Center for the Judiciary, and the National Judicial College. The training may include the following areas:

(1) conducting fair and impartial hearings;
(2) ethics;
(3) evidence;
(4) civil trial litigation;
(5) administrative law;
(6) managing complex litigation;
(7) conducting high-volume proceedings;
(8) judicial writing;
(9) effective case-flow management;
(10) alternative dispute resolution methods; and
(11) other areas that the office considers to be relevant to the work of an administrative law judge.

(b) The office shall provide continuing legal education and advanced judicial training for other administrative law judges employed by the office to the extent that money is available for this purpose.

(c) Subsection (a) does not apply to a temporary administrative law judge.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 371 (S.B. 323), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 85 (S.B. 757), § 7, effective September 1, 1999.

Sec. 2003.046. Central Hearings Panel.

(a) A central hearings panel in the office is composed of administrative law judges and senior or master administrative law judges assigned to the panel by the chief administrative law judge.

(b) The chief administrative law judge may create teams or divisions within the central panel, including an administrative license revocation division, according to the subject matter or types of hearings conducted by the central panel.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 85 (S.B. 757), § 8, effective September 1, 1999.

Sec. 2003.047. Hearings for Texas Commission on Environmental Quality.

(a) The office shall perform contested case hearings for the Texas Commission on Environmental Quality.

(b) The office shall conduct hearings relating to contested cases before the commission, other than a hearing conducted by one or more commissioners. The commission by rule may delegate to the office the responsibility to hear any other matter before the commission if consistent with the responsibilities of the office.

(c) The office may contract with qualified individuals to serve as temporary administrative law judges as necessary.

(d) To be eligible to preside at a hearing on behalf of the commission, an administrative law judge, regardless of temporary or permanent status, must be licensed to practice law in this state and have the expertise necessary to conduct hearings regarding technical or other specialized subjects that may come before the commission.

(e) In referring a matter for hearing, the commission shall provide to the administrative law judge a list of disputed issues. The commission shall specify the date by which the administrative law judge is expected to complete the proceeding and provide a proposal for decision to the commission. The administrative law judge may extend the proceeding if the administrative law judge determines that failure to grant an extension would deprive a party of due process or another constitutional right. The administrative law judge shall establish a docket control order designed to complete the proceeding by the date specified by the commission.

(e-1) This subsection applies only to a matter referred under Section 5.556, Water Code. Each issue referred by the commission must have been raised by an affected person in a comment submitted by that affected person in response to a permit application in a timely manner. The list of issues submitted under Subsection (e) must:

(1) be detailed and complete; and
(2) contain either:
  (A) only factual questions; or
  (B) mixed questions of fact and law.

(e-2) For a matter referred under Section 5.556 or 5.557, Water Code, the administrative law judge must complete the proceeding and provide a proposal for decision to the commission not later than the earlier of:

(1) the 180th day after the date of the preliminary hearing; or
(2) the date specified by the commission.

(e-3) The deadline specified by Subsection (e-2) or (e-6), as applicable, may be extended:

(1) by agreement of the parties with the approval of the administrative law judge; or
(2) by the administrative law judge if the judge determines that failure to extend the deadline would unduly deprive a party of due process or another constitutional right.

(e-4) For the purposes of Subsection (e-3)(2), a political subdivision has the same constitutional rights as an individual.

(e-5) This subsection applies only to a matter referred under Section 5.557, Water Code. The administrative law judge may not hold a preliminary hearing until after the executive director has issued a response to public comments under Section 5.555, Water Code.

(e-6) For a matter pertaining to an application described by Section 11.122(b-1), Water Code, the administrative law judge must complete the proceeding and provide a proposal for decision to the commission not later than the 270th day after the date the matter was referred to the office.

(f) Except as otherwise provided by this subsection, the scope of the hearing is limited to the issues referred by the commission. On the request of a party, the administrative law judge may consider an issue that was not referred by the commission if the administrative law judge determines that:

(1) the issue is material;

(2) the issue is supported by evidence; and

(3) there are good reasons for the failure to supply available information regarding the issue during the public comment period.

(g) The scope of permissible discovery is limited to:

(1) any matter reasonably calculated to lead to the discovery of admissible evidence regarding any issue referred to the administrative law judge by the commission or that the administrative law judge has agreed to consider; and

(2) the production of documents:

(A) reviewed or relied on in preparing application materials or selecting the site of the proposed facility; or

(B) relating to the ownership of the applicant or the owner or operator of the facility or proposed facility.

(h) The commission by rule shall:

(1) provide for subpoenas and commissions for depositions; and

(2) require that discovery be conducted in accordance with the Texas Rules of Civil Procedure, except that the commission by rule shall determine the level of discovery under Rule 190, Texas Rules of Civil Procedure, appropriate for each type of case considered by the commission, taking into account the nature and complexity of the case.

(i) The office and the commission jointly shall adopt rules providing for certification to the commission of an issue that involves an ultimate finding of compliance with or satisfaction of a statutory standard the determination of which is committed to the discretion or judgment of the commission by law. The rules must address, at a minimum, the issues that are appropriate for certification and the procedure to be used in certifying the issue. Each agency shall publish the jointly adopted rules.

(i-1) In a contested case regarding a permit application referred under Section 5.556 or 5.557, Water Code, the filing with the office of the application, the draft permit prepared by the executive director of the commission, the preliminary decision issued by the executive director, and other sufficient supporting documentation in the administrative record of the permit application establishes a prima facie demonstration that:

(1) the draft permit meets all state and federal legal and technical requirements; and

(2) a permit, if issued consistent with the draft permit, would protect human health and safety, the environment, and physical property.

(i-2) A party may rebut a demonstration under Subsection (i-1) by presenting evidence that:

(1) relates to a matter referred under Section 5.557, Water Code, or an issue included in a list submitted under Subsection (e) in connection with a matter referred under Section 5.556, Water Code; and

(2) demonstrates that one or more provisions in the draft permit violate a specifically applicable state or federal requirement.

(i-3) If in accordance with Subsection (i-2) a party rebuts a presumption established under Subsection (i-1), the applicant and the executive director may present additional evidence to support the draft permit.

(j) An administrative law judge hearing a case on behalf of the commission, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (k) against a party or its representative for:

(1) filing a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the commission.

(k) A sanction imposed under Subsection (j) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) charging all or any part of the expenses of discovery against the offending party or its representatives;

(3) holding that designated facts be considered admitted for purposes of the proceeding;

(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of those requests; and

(6) striking pleadings or testimony, or both, in whole or in part.

(*l*) After hearing evidence and receiving legal argument, an administrative law judge shall make findings of fact, conclusions of law, and any ultimate findings required by statute, all of which shall be separately stated. The administrative law judge shall make a proposal for decision to the commission and shall serve the proposal for decision on all parties. An opportunity shall be given to each party to file exceptions to the proposal for decision and briefs related to the issues addressed in the proposal for decision. The commission shall consider and act on the proposal for decision.

(m) Except as provided in Section 361.0832, Health and Safety Code, the commission shall consider the proposal for decision prepared by the administrative law judge, the exceptions of the parties, and the briefs and argument of the parties. The commission may amend the proposal for decision, including any finding of fact, but any such amendment thereto and order shall be based solely on the record made before the administrative law judge. Any such amendment by the commission shall be accompanied by an explanation of the basis of the amendment. The commission may also refer the matter back to the administrative law judge to reconsider any findings and conclusions set forth in the proposal for decision or take additional evidence or to make additional findings of fact or conclusions of law. The commission shall serve a copy of the commission's order, including its finding of facts and conclusions of law, on each party.

(n) The provisions of Chapter 2001 shall apply to contested case hearings for the commission to the extent not inconsistent with this section.

(o) An administrative law judge hearing a case on behalf of the commission may not, without the agreement of all parties, issue an order referring the case to an alternative dispute resolution procedure if the commission has already conducted an unsuccessful alternative dispute resolution procedure. If the commission has not already conducted an alternative dispute resolution procedure, the administrative law judge shall consider the commission's recommendation in determining whether to issue an order referring the case to the procedure.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 106 (S.B. 12), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 934 (S.B. 694), § 5, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1350 (H.B. 801), § 6, effective September 1, 1999; am. Acts 2015, 84th Leg., ch. 116 (S.B. 709), § 1, effective September 1, 2015; am. Acts 2015, 84th Leg., ch. 228 (H.B. 2154), §§ 6, 7, effective September 1, 2015; am. Acts 2017, 85th Leg., ch. 429 (S.B. 1430), § 2, effective September 1, 2017; am. Acts 2017, 85th Leg., ch. 1097 (H.B. 3735), § 6, effective September 1, 2017.

Sec. 2003.048. Texas Commission on Environmental Quality Hearings Fee. [Repealed]

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 106 (S.B. 12), § 1, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 85 (S.B. 757), § 9, effective September 1, 2000; Repealed by Acts 2019, 86th Leg., ch. 117 (S.B. 1794), § 3, effective September 1, 2019.

Sec. 2003.049. Utility Hearings.

(a) The office shall perform contested case hearings for the Public Utility Commission of Texas as prescribed by the Public Utility Regulatory Act of 1995 and other applicable law.

(b) The office shall conduct hearings relating to contested cases before the commission, other than a hearing conducted by one or more commissioners. The commission by rule may delegate the responsibility to hear any other matter before the commission if consistent with the duties and responsibilities of the office.

(c) The office may contract with qualified individuals to serve as temporary administrative law judges as necessary.

(d) To be eligible to preside at a hearing, an administrative law judge, regardless of temporary or permanent status, must be licensed to practice law in this state and have not less than five years of general experience or three years of experience in utility regulatory law.

(e) At the time the office receives jurisdiction of a proceeding, the commission shall provide to the administrative law judge a list of issues or areas that must be addressed. In addition, the commission may identify and provide to the administrative law judge at any time additional issues or areas that must be addressed.

(f) The office and the commission shall jointly adopt rules providing for certification to the commission of an issue that involves an ultimate finding of compliance with or satisfaction of a statutory standard the determination of which is committed to the discretion or judgment of the commission by law. The rules must address, at a minimum, the issues that are appropriate for certification and the procedure to be used in certifying the issue. Each agency shall publish the jointly adopted rules.

(g) Notwithstanding Section 2001.058, the commission may change a finding of fact or conclusion of law made by the administrative law judge or vacate or modify an order issued by the administrative law judge only if the commission:

(1) determines that the administrative law judge:

(A) did not properly apply or interpret applicable law, commission rules or policies, or prior administrative decisions; or

(B) issued a finding of fact that is not supported by a preponderance of the evidence; or

(2) determines that a commission policy or a prior administrative decision on which the administrative law judge relied is incorrect or should be changed.

(h) The commission shall state in writing the specific reason and legal basis for its determination under Subsection (g).

(i) An administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (j) against a party or its representative for:

(1) filing a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the commission.

(j) A sanction imposed under Subsection (i) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) charging all or any part of the expenses of discovery against the offending party or its representative;

(3) holding that designated facts be deemed admitted for purposes of the proceeding;

(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests;

(6) punishing the offending party or its representative for contempt to the same extent as a district court;

(7) requiring the offending party or its representative to pay, at the time ordered by the administrative law judge, the reasonable expenses, including attorney's fees, incurred by other parties because of the sanctionable behavior; and

(8) striking pleadings or testimony, or both, in whole or in part, or staying further proceedings until the order is obeyed.

(k), (*l*) [Repealed by Acts 2015, 84th Leg., ch. 228 (H.B. 2154), § 26(1), effective September 1, 2015.]

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 765 (S.B. 373), § 1.35, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(49), effective September 1, 1997 (renumbered from Sec. 2003.047); am. Acts 1999, 76th Leg., ch. 85 (S.B. 757), § 10, effective September 1, 2000; am. Acts 2015, 84th Leg., ch. 228 (H.B. 2154), §§ 9, 10, 26(1), effective September 1, 2015.

Sec. 2003.0491. Railroad Commission Hearings [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 300 (H.B. 2846), § 1(2), effective June 18, 2003.

HISTORY: Am. Acts 2001, 77th Leg., ch. 1233 (S.B. 310), § 75, effective September 1, 2001.

Sec. 2003.050. Procedural Rules.

(a) The chief administrative law judge shall adopt rules that govern the procedures, including the discovery procedures, that relate to a hearing conducted by the office.

(b) Notwithstanding other law, the procedural rules of the state agency on behalf of which the hearing is conducted govern procedural matters that relate to the hearing only to the extent that the chief administrative law judge's rules adopt the agency's procedural rules by reference.

(c) The rules of the office regarding the participation of a witness by telephone must include procedures to verify the identity of the witness who is to appear by telephone.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 605 (S.B. 331), § 3, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 8, effective September 1, 2003.

Sec. 2003.051. Role of Referring Agency.

(a) Except in connection with interim appeals of orders or questions certified to an agency by an administrative law judge, as permitted by law, a state agency that has referred a matter to the office in which the office will conduct a hearing may not take any adjudicative action relating to the matter until the office has issued its proposal for decision or otherwise concluded its involvement in the matter. The state agency may exercise its advocacy rights in the matter before the office in the same manner as any other party.

(b) If the office issues a proposal for decision in a matter referred to the office by a state agency, the referring agency shall send to the office an electronic copy of the agency's final decision or order in the matter.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 85 (S.B. 757), § 11, effective September 1, 1999; am. Acts 2015, 84th Leg., ch. 228 (H.B. 2154), § 11, effective September 1, 2015.

Sec. 2003.052. Handling of Complaints.

(a) The office shall maintain a file on each written complaint filed with the office. The file must include:

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

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

(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 office closed the file without taking action other than to investigate the complaint.

(b) The office shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the office's policies and procedures relating to complaint investigation and resolution.

(c) The office, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 9, effective September 1, 2003.

Sec. 2003.053. Equal Employment Opportunity Policy.

(a) The chief administrative law judge or the chief administrative law judge's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions 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 to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the office 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 office's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated 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.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 9, effective September 1, 2003.

Sec. 2003.054. State Employee Incentive Program [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 614 (H.B. 874), § 4(14), effective June 19, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 9, effective September 1, 2003.

Sec. 2003.055. Effective Use of Technology.

The chief administrative law judge shall develop and implement a policy requiring the chief administrative law judge and office employees to research and propose appropriate technological solutions to improve the office's ability to perform its functions. The technological solutions must:

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

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

(A) interact with the office 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 office's planning processes.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 9, effective September 1, 2003.

Sec. 2003.056. Alternative Dispute Resolution Policy.

The chief administrative law judge shall develop and implement a policy to encourage the use of alternative dispute resolution procedures where appropriate to assist in the internal and external resolution of disputes within the office's jurisdiction.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 9, effective September 1, 2003.

Sec. 2003.057. Hearing Translator.

If a translator is requested for all or part of a hearing conducted by the office, the office shall provide an appropriate translator for that purpose.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 10, effective September 1, 2003.

Secs. 2003.058 to 2003.100. [Reserved for expansion].

Subchapter D

Tax Hearings

Sec. 2003.101. Tax Hearings.

(a) The office shall conduct hearings relating to contested cases involving the collection, receipt, administration, and enforcement of taxes, fees, and other amounts as prescribed by Section 111.00455, Tax Code.

(b) An administrative law judge who presides at a tax hearing is classified as a "master administrative law judge II." Section 2003.0411 does not apply to this section.

(c) [Repealed by Acts 2015, 84th Leg., ch. 228 (H.B. 2154), § 26(2), effective September 1, 2015.]

(d) To be eligible to preside at a tax hearing, an administrative law judge, including a temporary administrative law judge contracted with under Section 2003.043, must:

(1) be a United States citizen;

(2) be an attorney in good standing with the State Bar of Texas;

(3) have been licensed in this state to practice law for at least seven years; and

(4) have substantial experience in tax cases in making the record suitable for administrative review

.

(e) Notwithstanding Section 2001.058, the comptroller may change a finding of fact or conclusion of law made by the administrative law judge or vacate or modify an order issued by the administrative law judge only if the comptroller:

(1) determines that the administrative law judge:

(A) did not properly apply or interpret applicable law, then existing comptroller rules or policies, or prior administrative decisions; or

(B) issued a finding of fact that is not supported by a preponderance of the evidence; or

(2) determines that a comptroller policy or a prior administrative decision on which the administrative law judge relied is incorrect.

(f) The comptroller shall state in writing the specific reason and legal basis for a determination under Subsection (e).

(g) An administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (h) against a party or its representative for:

(1) filing of a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the comptroller.

(h) A sanction imposed under Subsection (g) may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) holding that designated facts be deemed admitted for purposes of the proceeding;

(3) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(4) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests; and

(5) striking pleadings or testimony, or both, wholly or partly, or staying further proceedings until the order is obeyed.

(i) For each hearing conducted under this section, an administrative law judge shall issue a proposal for decision that includes findings of fact and conclusions of law. In addition, the proposal for decision must include the legal reasoning and other analysis considered by the judge in reaching the decision. Each finding of fact or conclusion of law made by the judge must be:

(1) independent and impartial; and

(2) based on state law and the evidence presented at the hearing.

(j) The comptroller may not attempt to influence the findings of fact or the administrative law judge's application of the law except by evidence and legal argument. An administrative law judge conducting a hearing under this subchapter may not directly or indirectly communicate in connection with an issue of fact or law with a party or its representative, except:

(1) on notice and opportunity for each party to participate; or

(2) to ask questions that involve ministerial, administrative, or procedural matters that do not address the substance of the issues or positions taken in the case.

(k) Appearances in hearings conducted for the comptroller by the office may be by:

(1) the taxpayer;

(2) an attorney licensed to practice law in this state;

(3) a certified public accountant; or

(4) any other person designated by the taxpayer who is not otherwise prohibited from appearing in the hearing.

(*l*) The comptroller is represented by an authorized representative in all hearings conducted for the comptroller by the office.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 354 (S.B. 242), § 3, effective June 15, 2007; am. Acts 2015, 84th Leg., ch. 228 (H.B. 2154), §§ 13, 14, 26(2), effective September 1, 2015.

Sec. 2003.102. Sunset Provision. [Repealed]

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 354 (S.B. 242), § 3, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 1232 (S.B. 652), § 2.07, effective June 17, 2011; Repealed by Acts 2015, 84th Leg., ch. 228 (H.B. 2154), § 26(3), effective September 1, 2015.

Sec. 2003.103. Timeliness of Hearings.

(a) The office shall conduct all hearings under this subchapter in a timely manner.

(b) The office shall use every reasonable means to expedite a case under this subchapter when the comptroller requests that the office expedite the case.

(c) This section is not intended to impair the independence of the office in conducting a hearing under this subchapter.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 354 (S.B. 242), § 3, effective June 15, 2007; am. Acts 2015, 84th Leg., ch. 228 (H.B. 2154), § 15, effective September 1, 2015.

Sec. 2003.104. Confidentiality of Tax Hearing Information.

(a) The office shall keep information that identifies a taxpayer who participates in a case under this subchapter confidential, including the taxpayer's name and social security number.

(b) The provision of information to the office that is confidential under any law, including Section 111.006, 151.027, or 171.206, Tax Code, does not affect the confidentiality of the information, and the office shall maintain that confidentiality.

(c) A hearing conducted under this subchapter is confidential and not open to the public.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 354 (S.B. 242), § 3, effective June 15, 2007; am. Acts 2015, 84th Leg., ch. 228 (H.B. 2154), § 16, effective September 1, 2015.

Sec. 2003.105. Tax Hearings Fee. [Repealed]

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 354 (S.B. 242), § 3, effective June 15, 2007; am. Acts 2015, 84th Leg., ch. 228 (H.B. 2154), § 17, effective September 1, 2015; Repealed by Acts 2019, 86th Leg., ch. 117 (S.B. 1794), § 3, effective September 1, 2019.

Sec. 2003.106. Comptroller's Priorities and Public Policy Needs. [Repealed]

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 354 (S.B. 242), § 3, effective June 15, 2007; Repealed by Acts 2015, 84th Leg., ch. 228 (H.B. 2154), § 26(4), effective September 1, 2015.

Sec. 2003.107. Tax Division Review. [Repealed]

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 354 (S.B. 242), § 3, effective June 15, 2007; Repealed by Acts 2015, 84th Leg., ch. 228 (H.B. 2154), § 26(5), effective September 1, 2015.

Sec. 2003.108. Pending Case Status Review.

At least quarterly, the office shall review with the comptroller and appropriate staff of the office the status of pending cases under this subchapter.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 354 (S.B. 242), § 3, effective June 15, 2007; am. Acts 2019, 86th Leg., ch. 573 (S.B. 241), § 1.10, effective September 1, 2019.

Sec. 2003.109. Rules; Early Referral.

(a) The comptroller may adopt rules to provide for the referral to the office of issues related to a case described by Section 111.00455, Tax Code, to resolve a procedural or other preliminary dispute between the comptroller and a party.

(b) After a referral under this section, the office shall docket the case and assign an administrative law judge under Section 2003.101. If additional proceedings are required after the consideration of the procedural or other preliminary dispute, the office shall appoint the same administrative law judge to hear the case.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 354 (S.B. 242), § 3, effective June 15, 2007; am. Acts 2015, 84th Leg., ch. 228 (H.B. 2154), § 18, effective September 1, 2015.

Secs. 2003.110 to 2003.900. [Reserved for expansion].

Subchapter Z

Appeals from Appraisal Review Board Determinations

Sec. 2003.901. Appeals from Appraisal Review Board Determinations.

As an alternative to filing an appeal under Section 42.01, Tax Code, a property owner may appeal to the office an appraisal review board order determining a protest concerning the appraised or market value of property brought under Section 41.41(a)(1) or (2), Tax Code, if the appraised or market value, as applicable, of the property that was the subject of the protest, as determined by the board order, is more than $1 million.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010; am. Acts 2013, 83rd Leg., ch. 851 (H.B. 316), § 2, effective January 1, 2014.

Sec. 2003.902. Participating Offices and Remote Hearing Sites.

The office shall hear appeals filed under this subchapter only in:
(1) Amarillo;
(2) Austin;
(3) Beaumont;
(4) Corpus Christi;
(5) El Paso;
(6) Fort Worth;
(7) Houston;
(8) Lubbock;
(9) Lufkin;
(10) McAllen;
(11) Midland;
(12) San Antonio;
(13) Tyler; and
(14) Wichita Falls.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010; am. Acts 2011, 82nd Leg., ch. 1293 (H.B. 2203), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 851 (H.B. 316), § 3, effective January 1, 2014.

Sec. 2003.903. Rules.

(a) The office has rulemaking authority to implement this subchapter.
(b) The office has specific rulemaking authority to implement those rules necessary to expeditiously determine appeals to the office, based on the number of appeals filed and the resources available to the office.
(c) The office may adopt rules that include the procedural provisions of Chapter 41, Tax Code, applicable to a hearing before an appraisal review board.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010.

Sec. 2003.904. Applicability to Real and Personal Property.

This subchapter applies only to an appeal of a determination of the appraised or market value made by an appraisal review board in connection with real or personal property, other than industrial property.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010; am. Acts 2013, 83rd Leg., ch. 851 (H.B. 316), § 4, effective January 1, 2014.

Sec. 2003.905. Education and Training of Administrative Law Judges.

(a) An administrative law judge assigned to hear an appeal brought under this subchapter must have knowledge of:
(1) each of the appraisal methods a chief appraiser may use to determine the appraised value or the market value of property under Chapter 23, Tax Code; and
(2) the proper method for determining an appeal of a protest, including a protest brought on the ground of unequal appraisal.
(b) An administrative law judge is entitled to attend one or more training and education courses under Sections 5.04 and 5.041, Tax Code, to receive a copy of the materials used in a course, or both, without charge.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010.

Sec. 2003.906. Notice of Appeal to Office; Deposit.

(a) To appeal an appraisal review board order to the office under this subchapter, a property owner must file with the chief appraiser of the appraisal district:

(1) a completed notice of appeal to the office in the form prescribed by Section 2003.907; and

(2) a deposit in the amount of $1,500, made payable to the office.

(a-1) The notice of appeal required under Subsection (a)(1) must be filed with the chief appraiser not later than the 30th day after the date the property owner receives notice of the order.

(a-2) The deposit required under Subsection (a)(2) must be filed with the chief appraiser not later than the 90th day after the date the property owner receives notice of the order. The deposit is refundable:

(1) less the filing fee if the property owner and the appraisal district settle before the appeal is heard; or

(2) less the filing fee and the office's costs if the property owner and the appraisal district settle after the appeal is heard.

(a-3) If the property owner fails to pay the deposit as required under Subsection (a-2):

(1) the office shall dismiss the property owner's appeal; and

(2) the property owner is not entitled to file an appeal under this subchapter in any subsequent tax year.

(b) As soon as practicable after receipt of a notice of appeal, the chief appraiser for the appraisal district shall:

(1) indicate, where appropriate, those entries in the records that are subject to the appeal;

(2) submit the notice of appeal and deposit to the office; and

(3) request the appointment of a qualified administrative law judge to hear the appeal.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010; am. Acts 2011, 82nd Leg., ch. 1293 (H.B. 2203), § 2, effective June 17, 2011.

Sec. 2003.907. Contents of Notice of Appeal.

The chief administrative law judge by rule shall prescribe the form of a notice of appeal under this subchapter. The form must require the property owner to provide:

(1) a copy of the order of the appraisal review board;

(2) a brief statement that explains the basis for the property owner's appeal of the order; and

(3) a statement of the property owner's opinion of the appraised or market value, as applicable, of the property that is the subject of the appeal.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010.

Sec. 2003.908. Notice to Property Owners.

An appraisal review board that delivers notice of issuance of an order described by Section 2003.901 of this code pertaining to property described by Section 2003.904 of this code and a copy of the order to a property owner as required by Section 41.47, Tax Code, shall include with the notice and copy:

(1) a notice of the property owner's rights under this subchapter; and

(2) a copy of the notice of appeal prescribed by Section 2003.907.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010; am. Acts 2013, 83rd Leg., ch. 851 (H.B. 316), § 5, effective January 1, 2014.

Sec. 2003.909. Designation of Administrative Law Judge; Location of Hearing.

(a) As soon as practicable after the office receives a notice of appeal and the filing fee, the office shall designate an administrative law judge to hear the appeal.

(b) As soon as practicable after the administrative law judge is designated, the administrative law judge shall set the date, time, and place of the hearing on the appeal.

(b-1) If all or part of the property that is the subject of the appeal is located in a municipality listed in Section 2003.902, the administrative law judge shall set the hearing in that municipality. If no part of the property that is the subject of the appeal is located in a municipality listed in Section 2003.902, the administrative law judge shall set the hearing in the listed municipality that is nearest to the subject property.

(c) The hearing must be held in a building or facility that is owned or partly or entirely leased by the office, except that if the office does not own or lease a building or facility in the municipality in which the hearing is required to be held, the hearing may be held in any public or privately owned building or facility in that municipality, preferably a building or facility in which the office regularly conducts business. The hearing may not be held in a building or facility that is owned, leased, or under the control of an appraisal district.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010; am. Acts 2013, 83rd Leg., ch. 851 (H.B. 316), §§ 6, 7, effective January 1, 2014.

Sec. 2003.910. Scope of Appeal; Hearing.

(a) An appeal is by trial de novo. The administrative law judge may not admit into evidence the fact of previous action by the appraisal review board, except as otherwise provided by this subchapter.

(b) Chapter 2001 and the Texas Rules of Evidence do not apply to a hearing under this subchapter. Prehearing discovery is limited to the exchange of documents the parties will rely on during the hearing. Any expert witness testimony must be reduced to writing and included in the exchange of documents.

(c) Any relevant evidence is admissible, subject to the imposition of reasonable time limits and the parties' compliance with reasonable procedural requirements imposed by the administrative law judge, including a schedule for the prehearing exchange of documents to be relied on.

(d) An administrative law judge may consider factors such as the hearsay nature of testimony, the qualifications of witnesses, and other restrictions on the admissibility of evidence under the Texas Rules of Evidence in assessing the weight to be given to the evidence admitted.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010.

Sec. 2003.911. Representation of Parties.

(a) A property owner may be represented at the hearing by:

(1) the property owner;

(2) an attorney who is licensed in this state;

(3) a certified public accountant;

(4) a registered property tax consultant; or

(5) any other person who is not otherwise prohibited from appearing in a hearing held by the office.

(b) The appraisal district may be represented by the chief appraiser or a person designated by the chief appraiser.

(c) An authorized representative of a party may appear at the hearing to offer evidence, argument, or both, in the same manner as provided by Section 41.45, Tax Code.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010.

Sec. 2003.912. Determination of Administrative Law Judge.

(a) As soon as practicable, but not later than the 30th day after the date the hearing is concluded, the administrative law judge shall issue a determination and send a copy to the property owner and the chief appraiser.

(b) The determination:

(1) must include a determination of the appraised or market value, as applicable, of the property that is the subject of the appeal;

(2) must contain a brief analysis of the administrative law judge's rationale for and set out the key findings in support of the determination but is not required to contain a detailed discussion of the evidence admitted or the contentions of the parties;

(3) may include any remedy or relief a court may order under Chapter 42, Tax Code, in an appeal relating to the appraised or market value of property, including an award of attorney's fees under Section 42.29, Tax Code; and

(4) shall specify whether the appraisal district or the property owner is required to pay the costs of the hearing and the amount of those costs.

(c) If the administrative law judge determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for the hearing submitted by the property owner than the value determined by the appraisal review board:

(1) the office, on receipt of a copy of the determination, shall refund the property owner's filing fee;

(2) the appraisal district, on receipt of a copy of the determination, shall pay the costs of the appeal as specified in the determination; and

(3) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the administrative law judge's determination.

(d) If the administrative law judge determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is not nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the property owner's request for a hearing than the value determined by the appraisal review board:

(1) the office, on receipt of a copy of the determination, shall retain the property owner's filing fee;

(2) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the administrative law judge's determination if the value as determined by the administrative law judge is less than the value as determined by the appraisal review board; and

(3) the property owner shall pay the difference between the costs of the appeal as specified in the determination and the property owner's filing fee.

(e) Notwithstanding Subsection (a), the office by rule may implement a process under which:

(1) the administrative law judge issues a proposal for determination to the parties;

(2) the parties are given a reasonable period in which to make written objections to the proposal; and

(3) the administrative law judge is authorized to take into account those written objections before issuing a final determination.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010; am. Acts 2011, 82nd Leg., ch. 1293 (H.B. 2203), § 3, effective June 17, 2011.

Sec. 2003.913. Payment of Taxes Pending Appeal.

(a) The pendency of an appeal to the office does not affect the delinquency date for the taxes on the property subject to the appeal. A property owner who appeals an appraisal review board order to the office shall pay taxes on the property subject to the appeal in an amount equal to the amount of taxes due on the portion of the taxable value of the property that is not in dispute. If the final determination of the appeal decreases the property owner's tax liability to an amount less than the amount of taxes paid, each taxing unit shall refund to the property owner the difference between the amount of taxes paid and the amount of taxes for which the property owner is liable.

(b) A property owner may not appeal to the office if the taxes on the property subject to the appeal are delinquent. An administrative law judge who determines that the taxes on the property subject to an appeal are delinquent shall dismiss the pending appeal with prejudice. If an appeal is dismissed under this subsection, the office shall retain the property owner's filing fee.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010.

Sec. 2003.914. Effect on Right to Judicial Appeal.

An appeal to the office under this subchapter is an election of remedies and an alternative to bringing an appeal under Section 42.01, Tax Code.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010.

Sec. 2003.915. Report to Legislature [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 851 (H.B. 316), § 8, effective January 1, 2014.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010.

Sec. 2003.916. Expiration [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 851 (H.B. 316), § 8, effective January 1, 2014.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1180 (H.B. 3612), § 1, effective January 1, 2010; am. Acts 2011, 82nd Leg., ch. 1293 (H.B. 2203), § 4, effective June 17, 2011.

SUBTITLE B

INFORMATION AND PLANNING

CHAPTER 2051

Government Documents, Publications, and Notices

Subchapter A. Official Seals

Subchapter B. Paper Supplies and Equipment

Subchapter C. Notice By Publication In Newspaper

Subchapter D. Geospatial Data Products

Subchapter A

Official Seals

Sec. 2051.001. Adoption of Seal.

A commission or board created by state law and a commissioner whose office is created by state law may adopt a seal with which to attest an official document, certificate, or other written paper.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Secs. 2051.002 to 2051.020. [Reserved for expansion].

Subchapter B

Paper Supplies and Equipment

Sec. 2051.021. Uniform Size of Paper Supply and Cabinet [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 746 (H.B. 1247), § 1, effective June 17, 2011.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2051.022. State Agency Telephone Number Required on Stationery.

(a) A state agency shall print a telephone number for the agency on the letterhead of its official stationery.

(b) In this section, "state agency" means:

(1) a board, commission, department, office, or other agency in the executive branch of state government that was created by the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Education Code;

(2) the legislature or a legislative agency;

(3) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency; or

(4) a river authority.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Secs. 2051.023 to 2051.040. [Reserved for expansion].

Subchapter C

Notice By Publication In Newspaper

Sec. 2051.041. Definitions.

In this subchapter:

(1) "Governmental entity" means an institution, board, commission, or department of:

(A) the state or a subdivision of the state; or

(B) a political subdivision of the state, including a municipality, a county, or any kind of district.

(2) "Governmental representative" includes an officer, employee, or agent of a governmental entity.

(3) "Notice" means any matter, including a proclamation or advertisement, required or authorized by law to be published in a newspaper by a governmental entity or representative.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2051.042. Applicability of Subchapter.

(a) This subchapter applies only to the extent that the general or special law requiring or authorizing the publication of a notice in a newspaper by a governmental entity or representative does not specify the manner of the publication, including the number of times that the notice is required to be published and the period during which the notice is required to be published.

(b) This subchapter does not apply to the publication of a citation that relates to a civil suit and to which the Texas Rules of Civil Procedure apply.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2051.043. Publication in at Least One Issue Required.

Except as provided by Section 2051.046(b) or 2051.048(d), a notice shall be published in at least one issue of a newspaper.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2051.044. Type of Newspaper Required.

(a) The newspaper in which a notice is published must:
(1) devote not less than 25 percent of its total column lineage to general interest items;
(2) be published at least once each week;
(3) be entered as second-class postal matter in the county where published; and
(4) have been published regularly and continuously for at least 12 months before the governmental entity or representative publishes notice.
(b) A weekly newspaper has been published regularly and continuously under Subsection (a) if the newspaper omits not more than two issues in the 12-month period.
(c) This section does not apply to the publication of a notice to which Section 2051.0441 applies.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 1130 (H.B. 2898), § 1, effective June 20, 2003.

Sec. 2051.0441. Type of Newspaper Required for Publication in Certain Counties.

(a) This section applies only to a notice published by a governmental entity or representative in a county:
(1) with a population of at least 30,000 and not more than 39,000 that borders the Red River; or
(2) that does not have a newspaper described by Section 2051.044 published in the county.
(b) The newspaper in which a notice is published under this section must:
(1) devote not less than 20 percent of its total column lineage to general interest items;
(2) be published at least once each week;
(3) be entered as periodical postal matter in the county where published or have a mailed or delivered circulation of at least 51 percent of the residences in the county where published; and
(4) have been published regularly and continuously for at least 12 months before the governmental entity or representative publishes notice.
(c) A weekly newspaper has been published regularly and continuously under Subsection (b) if the newspaper omits not more than two issues in the 12-month period.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1130 (H.B. 2898), § 2, effective June 20, 2003; am. Acts 2011, 82nd Leg., ch. 768 (H.B. 1812), § 1, effective June 17, 2011; am. Acts 2017, 85th Leg., ch. 799 (H.B. 2985), § 1, effective September 1, 2017.

Sec. 2051.045. Legal Rate Charged for Publication.

The legal rate for publication of a notice in a newspaper is the newspaper's lowest published rate for classified advertising.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2051.046. Notice of County.

(a) A notice of a county shall be published in a newspaper published in the county that will publish the notice at or below the legal rate.
(b) If no newspaper that will publish the notice at or below the legal rate is published in the county, the notice shall be posted at the door of the county courthouse.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2051.047. Notice of Certain Conservation and Reclamation Districts.

A conservation and reclamation district, other than a river authority, created under Article XVI, Section 59, of the Texas Constitution that furnishes water and sewer services to household users satisfies a requirement of general, special, or local law to publish notice in a newspaper of general circulation in the county in which the district is located by publishing the notice in a newspaper of general circulation in the district.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2051.048. Notice of Other Political Subdivision.

(a) This section applies only to a political subdivision other than a county or a conservation and reclamation district under Section 2051.047.
(b) A notice of a political subdivision shall be published in a newspaper that is published in the political subdivision and that will publish the notice at or below the legal rate.
(c) If no newspaper published in the political subdivision will publish the notice at or below the legal rate, the political subdivision shall publish the notice in a newspaper that:

(1) is published in the county in which the political subdivision is located; and
(2) will charge the legal rate or a lower rate.

(d) If no newspaper published in the county in which the political subdivision is located will publish the notice at or below the legal rate, the political subdivision shall post the notice at the door of the county courthouse of the county in which the political subdivision is located.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2051.049. Selection of Newspaper.

The governmental entity or representative required to publish a notice in a newspaper shall select, in accordance with this subchapter, one or more newspapers to publish the notice.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2051.050. Time of Publication.

A notice must be published in a newspaper issued at least one day before the occurrence of the event to which the notice refers.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2051.051. Bill for Publication.

A newspaper that publishes a notice shall submit a bill for the publication with a clipping of the published notice and a verified statement of the publisher that:
(1) states the rate charged;
(2) certifies that the rate charged is the newspaper's lowest published rate for classified advertising; and
(3) certifies the number and dates of the publication.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Sec. 2051.052. Cancellation of Publishing Contract.

The comptroller or a district or county official required to publish a notice may cancel a contract executed by the comptroller or official for the publication if the comptroller or official determines that the newspaper charges a rate higher than the legal rate.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.64, effective September 1, 2007.

Sec. 2051.053. Refusal of Newspaper to Publish Notice or Citation.

(a) The refusal of a newspaper to publish, without receiving advance payment for making the publication, a notice or citation in a state court proceeding in which the state or a political subdivision of the state is a party and in which the cost of the publication is to be charged as fees or costs of the proceeding is considered an unqualified refusal to publish the notice or citation.

(b) The sworn statement of the newspaper's publisher or the person offering to insert the notice or citation in the newspaper is subject to record as proof of the refusal.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.

Subchapter D

Geospatial Data Products

Sec. 2051.101. Definitions.

In this subchapter:
(1) "Geospatial data product" means a document, computer file, or Internet website that contains:
  (A) geospatial data;
  (B) a map; or
  (C) information about a service involving geospatial data or a map.
(2) "Governmental entity" has the meaning assigned by Section 2051.041.
(3) "Registered professional land surveyor" has the meaning assigned by Section 1071.002, Occupations Code.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 127 (H.B. 1147), § 1, effective September 1, 2011.

Sec. 2051.102. Notice Required.

(a) A governmental entity shall include a notice as provided by this subchapter on each geospatial data product that:

(1) is created or hosted by the governmental entity;

(2) appears to represent property boundaries; and

(3) was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

(b) The notice required under Subsection (a) must be in substantially the following form:

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

(c) The notice required under Subsection (a) may:

(1) include language further defining the limits of liability of a geospatial data product producer;

(2) apply to a geospatial data product that contains more than one map; or

(3) for a notice that applies to a geospatial data product that is or is on an Internet website, be included on a separate page that requires the person accessing the website to agree to the terms of the notice before accessing the geospatial data product.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 127 (H.B. 1147), § 1, effective September 1, 2011.

Sec. 2051.103. Exemption.

A governmental entity is not required to include the notice required under Section 2051.102 on a geospatial data product that:

(1) does not contain a legal description, a property boundary monument, or the distance and direction of a property line;

(2) is prepared only for use as evidence in a legal proceeding;

(3) is filed with the clerk of any court; or

(4) is filed with the county clerk.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 127 (H.B. 1147), § 1, effective September 1, 2011.

SUBTITLE F

STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2256

Public Funds Investment

Subchapter A. Authorized Investments for Governmental Entities

Subchapter B. Miscellaneous Provisions

Subchapter A

Authorized Investments for Governmental Entities

Sec. 2256.001. Short Title.

This chapter may be cited as the Public Funds Investment Act.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

Sec. 2256.002. Definitions.

In this chapter:

(1) "Bond proceeds" means the proceeds from the sale of bonds, notes, and other obligations issued by an entity, and reserves and funds maintained by an entity for debt service purposes.

(2) "Book value" means the original acquisition cost of an investment plus or minus the accrued amortization or accretion.

(3) "Funds" means public funds in the custody of a state agency or local government that:

(A) are not required by law to be deposited in the state treasury; and

(B) the investing entity has authority to invest.

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(5) "Investing entity" and "entity" mean an entity subject to this chapter and described by Section 2256.003.

(6) "Investment pool" means an entity created under this code to invest public funds jointly on behalf of the entities that participate in the pool and whose investment objectives in order of priority are:

(A) preservation and safety of principal;

(B) liquidity; and

(C) yield.

(7) "Local government" means a municipality, a county, a school district, a district or authority created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, and any nonprofit corporation acting on behalf of any of those entities.

(8) "Market value" means the current face or par value of an investment multiplied by the net selling price of the security as quoted by a recognized market pricing source quoted on the valuation date.

(9) "Pooled fund group" means an internally created fund of an investing entity in which one or more institutional accounts of the investing entity are invested.

(10) "Qualified representative" means a person who holds a position with a business organization, who is authorized to act on behalf of the business organization, and who is one of the following:

(A) for a business organization doing business that is regulated by or registered with a securities commission, a person who is registered under the rules of the National Association of Securities Dealers;

(B) for a state or federal bank, a savings bank, or a state or federal credit union, a member of the loan committee for the bank or branch of the bank or a person authorized by corporate resolution to act on behalf of and bind the banking institution;

(C) for an investment pool, the person authorized by the elected official or board with authority to administer the activities of the investment pool to sign the written instrument on behalf of the investment pool; or

(D) for an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or, if not subject to registration under that Act, registered with the State Securities Board, a person who is an officer or principal of the investment management firm.

(11) "School district" means a public school district.

(12) "Separately invested asset" means an account or fund of a state agency or local government that is not invested in a pooled fund group.

(13) "State agency" means an office, department, commission, board, or other agency that is part of any branch of state government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 1, effective September 1, 1999.

Sec. 2256.003. Authority to Invest Funds; Entities Subject to This Chapter.

(a) Each governing body of the following entities may purchase, sell, and invest its funds and funds under its control in investments authorized under this subchapter in compliance with investment policies approved by the governing body and according to the standard of care prescribed by Section 2256.006:

(1) a local government;

(2) a state agency;

(3) a nonprofit corporation acting on behalf of a local government or a state agency; or

(4) an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

(b) In the exercise of its powers under Subsection (a), the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made under authority of this subsection may not be for a term longer than two years. A renewal or extension of the contract must be made by the governing body of the investing entity by order, ordinance, or resolution.

(c) This chapter does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer's duties under this chapter.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 2, effective September 1, 1999.

Sec. 2256.004. Applicability.

(a) This subchapter does not apply to:

(1) a public retirement system as defined by Section 802.001;

(2) state funds invested as authorized by Section 404.024;

(3) an institution of higher education having total endowments of at least $150 million in book value on September 1, 2017;

(4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;

(5) registry funds deposited with the county or district clerk under Chapter 117, Local Government Code; or

(6) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

(b) This subchapter does not apply to an investment donated to an investing entity for a particular purpose or under terms of use specified by the donor.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 505 (S.B. 1304), § 24, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 8.21, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 3, effective September 1, 1999; am. Acts 2017, 85th Leg., ch. 773 (H.B. 1003), § 1, effective June 14, 2017.

Sec. 2256.005. Investment Policies; Investment Strategies; Investment Officer.

(a) The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control.

(b) The investment policies must:

(1) be written;

(2) primarily emphasize safety of principal and liquidity;

(3) address investment diversification, yield, and maturity and the quality and capability of investment management; and

(4) include:

(A) a list of the types of authorized investments in which the investing entity's funds may be invested;

(B) the maximum allowable stated maturity of any individual investment owned by the entity;

(C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;

(D) methods to monitor the market price of investments acquired with public funds;

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and

(F) procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Section 2256.021.

(c) The investment policies may provide that bids for certificates of deposit be solicited:

(1) orally;

(2) in writing;

(3) electronically; or

(4) in any combination of those methods.

(d) As an integral part of an investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

(1) understanding of the suitability of the investment to the financial requirements of the entity;

(2) preservation and safety of principal;

(3) liquidity;

(4) marketability of the investment if the need arises to liquidate the investment before maturity;

(5) diversification of the investment portfolio; and

(6) yield.

(e) The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies.

(f) Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees of the state agency, local government, or investment pool as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of this chapter. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains ultimate responsibility as fiduciaries of the assets of the entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity.

(g) Subsection (f) does not apply to a state agency, local government, or investment pool for which an officer of the entity is assigned by law the function of investing its funds.

(h) **[2 Versions: As amended by Acts 1997, 75th Leg., ch. 685]** An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be an investment officer for the commission under Subsection (f) if the officer or employee is an investment officer designated under Subsection (f) for another local government.

(h) **[2 Versions: As amended by Acts 1997, 75th Leg., ch. 1421]** An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be designated as an investment officer under Subsection (f) for any investing entity other than for that commission.

(i) An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this subsection, an investment officer has a personal business relationship with a business organization if:

(1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns $5,000 or more of the fair market value of the business organization;

(2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or

(3) the investment officer has acquired from the business organization during the previous year investments with a book value of $2,500 or more for the personal account of the investment officer.

(j) The governing body of an investing entity may specify in its investment policy that any investment authorized by this chapter is not suitable.

(k) A written copy of the investment policy shall be presented to any business organization offering to engage in an investment transaction with an investing entity. For purposes of this subsection and Subsection (l), "business organization" means an investment pool or investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio that has accepted authority granted by the entity under the contract to exercise investment discretion in regard to the investing entity's funds. Nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

(1) received and reviewed the investment policy of the entity; and

(2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy, except to the extent that this authorization:

(A) is dependent on an analysis of the makeup of the entity's entire portfolio;

(B) requires an interpretation of subjective investment standards; or

(C) relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

(*l*) The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a business organization that has not delivered to the entity the instrument required by Subsection (k).

(m) An investing entity other than a state agency, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the entity's established investment policies.

(n) Except as provided by Subsection (o), at least once every two years a state agency shall arrange for a compliance audit of management controls on investments and adherence to the agency's established investment policies. The compliance audit shall be performed by the agency's internal auditor or by a private auditor employed in the manner provided by Section 321.020. Not later than January 1 of each even-numbered year a state agency shall report the results of the most recent audit performed under this subsection to the state auditor. Subject to a risk assessment and to the legislative audit committee's approval of including a review by the state auditor in the audit plan under Section 321.013, the state auditor may review information provided under this section. If review by the state auditor is approved by the legislative audit committee, the state auditor may, based on its review, require a state agency to also report to the state auditor other information the state auditor determines necessary to assess compliance with laws and policies applicable to state agency investments. A report under this subsection shall be prepared in a manner the state auditor prescribes.

(o) The audit requirements of Subsection (n) do not apply to assets of a state agency that are invested by the comptroller under Section 404.024.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 685 (S.B. 397), § 1, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 3, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 4, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 41, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 1, effective June 17, 2011; am. Acts 2017, 85th Leg., ch. 149 (H.B. 1701), § 1, effective September 1, 2017.

Sec. 2256.006. Standard of Care.

(a) Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following investment objectives, in order of priority:

(1) preservation and safety of principal;

(2) liquidity; and

(3) yield.

(b) In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

(1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and

(2) whether the investment decision was consistent with the written investment policy of the entity.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 820 (S.B. 529), § 2, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.45(a), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.005).

Sec. 2256.007. Investment Training; State Agency Board Members and Officers.

(a) Each member of the governing board of a state agency and its investment officer shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties.

(b) The Texas Higher Education Coordinating Board shall provide the training under this section.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) An investment officer shall attend a training session not less than once each state fiscal biennium and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on this subchapter and deliver the report to the governing body of the state agency not later than the 180th day after the last day of each regular session of the legislature.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 73 (S.B. 1755), § 1, effective May 9, 1997; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 5, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 2, effective June 17, 2011.

Sec. 2256.008. Investment Training; Local Governments.

(a) Except as provided by Subsections (a-1), (b), (b-1), (e), and (f), the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

(1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(a-1) Except as provided by Subsection (g), the treasurer, or the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a school district or a municipality, in addition to the requirements of Subsection (a)(1), shall attend an investment training session not less than once in a two-year period that begins on the first day of the school district's or municipality's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than eight hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the school district or municipality, or by a designated investment committee advising the investment officer as provided for in the investment policy of the school district or municipality.

(b) An investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds may satisfy the training requirement provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

(b-1) A housing authority created under Chapter 392, Local Government Code, may satisfy the training requirement provided by Subsection (a)(2) by requiring the following person to attend, in each two-year period that begins on the first day of that housing authority's fiscal year and consists of the two consecutive fiscal years after that date, at least five hours of appropriate instruction:

(1) the treasurer, or the chief financial officer if the treasurer is not the chief financial officer, or the investment officer; or

(2) if the authority does not have an officer described by Subdivision (1), another officer of the authority.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) Not later than December 31 each year, each individual, association, business, organization, governmental entity, or other person that provides training under this section shall report to the comptroller a list of the governmental entities for which the person provided required training under this section during that calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

(e) This section does not apply to a district governed by Chapter 36 or 49, Water Code.

(f) Subsection (a)(2) does not apply to an officer of a municipality or housing authority if the municipality or housing authority:

(1) does not invest municipal or housing authority funds, as applicable; or

(2) only deposits those funds in:

(A) interest-bearing deposit accounts; or

(B) certificates of deposit as authorized by Section 2256.010.

(g) Subsection (a-1) does not apply to the treasurer, chief financial officer, or investment officer of a school district if:

(1) the district:

(A) does not invest district funds; or

(B) only deposits those funds in:

(i) interest-bearing deposit accounts; or

(ii) certificates of deposit as authorized by Section 2256.010; and

(2) the treasurer, chief financial officer, or investment officer annually submits to the agency a sworn affidavit identifying the applicable criteria under Subdivision (1) that apply to the district.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.45(b), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 5, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 6, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 69 (H.B. 675), § 4, effective May 14, 2001; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 3, effective June 17, 2011; am. Acts 2015, 84th Leg., ch. 222 (H.B. 1148), § 1, effective September 1, 2015; am. Acts 2015, 84th Leg., ch. 1248 (H.B. 870), § 1, effective September 1, 2015; am. Acts 2017, 85th Leg., ch. 324 (S.B. 1488), § 8.015, effective September 1, 2017; am. Acts 2017, 85th Leg., ch. 1000 (H.B. 1238), §§ 1, 2, effective September 1, 2017; am. Acts 2019, 86th Leg., ch. 477 (H.B. 293), § 1, effective June 7, 2019.

Sec. 2256.009. Authorized Investments: Obligations of, or Guaranteed by, Governmental Entities.

(a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;

(5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;

(6) bonds issued, assumed, or guaranteed by the State of Israel.

(7) interest-bearing banking deposits that are guaranteed or insured by:

(A) the Federal Deposit Insurance Corporation or its successor; or

(B) the National Credit Union Share Insurance Fund or its successor; and

(8) interest-bearing banking deposits other than those described by Subdivision (7) if:

(A) the funds invested in the banking deposits are invested through:

(i) a broker with a main office or branch office in this state that the investing entity selects from a list the governing body or designated investment committee of the entity adopts as required by Section 2256.025; or

(ii) a depository institution with a main office or branch office in this state that the investing entity selects;

(B) the broker or depository institution selected as described by Paragraph (A) arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for the investing entity's account;

(C) the full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and

(D) the investing entity appoints as the entity's custodian of the banking deposits issued for the entity's account:

(i) the depository institution selected as described by Paragraph (A);

(ii) an entity described by Section 2257.041(d); or

(iii) a clearing broker dealer registered with the Securities and Exchange Commission and operating under Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).

(b) The following are not authorized investments under this section:

(1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;

(2) obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

(3) collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

(4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.006); am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 7, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 558 (H.B. 2957), § 1, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 4, effective June 17, 2011; am. Acts 2017, 85th Leg., ch. 773 (H.B. 1003), § 2, effective June 14, 2017; am. Acts 2017, 85th Leg., ch. 863 (H.B. 2647), § 1, effective June 15, 2017; am. Acts 2017, 85th Leg., ch. 874 (H.B. 2928), § 1, effective September 1, 2017.

Sec. 2256.010. Authorized Investments: Certificates of Deposit and Share Certificates.

(a) A certificate of deposit or share certificate is an authorized investment under this subchapter if the certificate is issued by a depository institution that has its main office or a branch office in this state and is:

(1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;

(2) secured by obligations that are described by Section 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009(b); or

(3) secured in accordance with Chapter 2257 or in any other manner and amount provided by law for deposits of the investing entity.

(b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

(1) the funds are invested by an investing entity through:

(A) a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025; or

(B) a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the broker or the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

(3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

(4) the investing entity appoints the depository institution selected by the investing entity under Subdivision (1), an entity described by Section 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 32 (H.B. 731), § 1, effective April 28, 1995; am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.007); am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 6, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 128 (H.B. 256), § 1, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 5, effective June 17, 2011; am. Acts 2017, 85th Leg., ch. 874 (H.B. 2928), § 2, effective September 1, 2017.

Sec. 2256.011. Authorized Investments: Repurchase Agreements.

(a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:

(1) has a defined termination date;

(2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1) or 2256.013 or, if applicable, Section 2256.0204;

(3) requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and

(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

(b) In this section, "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by Section 2256.009(a)(1) or 2256.013 or, if applicable, Section 2256.0204, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

(c) Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered.

(d) Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

(e) Section 1371.059(c) applies to the execution of a repurchase agreement by an investing entity.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 76, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.45(c), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.008); am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 6, effective June 17, 2011; am. Acts 2017, 85th Leg., ch. 773 (H.B. 1003), § 3, effective June 14, 2017; am. Acts 2019, 86th Leg., ch. 1133 (H.B. 2706), § 1, effective September 1, 2019.

Sec. 2256.0115. Authorized Investments: Securities Lending Program.

(a) A securities lending program is an authorized investment under this subchapter if it meets the conditions provided by this section.

(b) To qualify as an authorized investment under this subchapter:

(1) the value of securities loaned under the program must be not less than 100 percent collateralized, including accrued income;

(2) a loan made under the program must allow for termination at any time;

(3) a loan made under the program must be secured by:

(A) pledged securities described by Section 2256.009;

(B) pledged irrevocable letters of credit issued by a bank that is:

(i) organized and existing under the laws of the United States or any other state; and

(ii) continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or

(C) cash invested in accordance with Section:

(i) 2256.009;

(ii) 2256.013;

(iii) 2256.014; or

(iv) 2256.016;

(4) the terms of a loan made under the program must require that the securities being held as collateral be:

(A) pledged to the investing entity;

(B) held in the investing entity's name; and

(C) deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity;

(5) a loan made under the program must be placed through:

(A) a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003; or

(B) a financial institution doing business in this state; and

(6) an agreement to lend securities that is executed under this section must have a term of one year or less.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1227 (S.B. 1318), § 1, effective September 1, 2003.

Sec. 2256.012. Authorized Investments: Bankers' Acceptances.

A bankers' acceptance is an authorized investment under this subchapter if the bankers' acceptance:

(1) has a stated maturity of 270 days or fewer from the date of its issuance;

(2) will be, in accordance with its terms, liquidated in full at maturity;

(3) is eligible for collateral for borrowing from a Federal Reserve Bank; and

(4) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.009).

Sec. 2256.013. Authorized Investments: Commercial Paper.

Commercial paper is an authorized investment under this subchapter if the commercial paper:

(1) has a stated maturity of 365 days or fewer from the date of its issuance; and

(2) is rated not less than A-1 or P-1 or an equivalent rating by at least:

(A) two nationally recognized credit rating agencies; or

(B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.010); am. Acts 2019, 86th Leg., ch. 1133 (H.B. 2706), § 2, effective September 1, 2019.

Sec. 2256.014. Authorized Investments: Mutual Funds.

(a) A no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with and regulated by the Securities and Exchange Commission;

(2) provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.);and

(3) complies with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.).

(b) In addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with the Securities and Exchange Commission;

(2) has an average weighted maturity of less than two years; and

(3) either:

(A) has a duration of one year or more and is invested exclusively in obligations approved by this subchapter; or

(B) has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

(c) An entity is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (b);

(2) invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Subsection (b); or

(3) invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection (a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.011); am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 7, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 8, effective September 1, 1999; am. Acts 2017, 85th Leg., ch. 773 (H.B. 1003), § 4, effective June 14, 2017.

Sec. 2256.015. Authorized Investments: Guaranteed Investment Contracts.

(a) A guaranteed investment contract is an authorized investment for bond proceeds under this subchapter if the guaranteed investment contract:

(1) has a defined termination date;

(2) is secured by obligations described by Section 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and

(3) is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

(b) Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested under this subchapter in a guaranteed investment contract with a term of longer than five years from the date of issuance of the bonds.

(c) To be eligible as an authorized investment:

(1) the governing body of the entity must specifically authorize guaranteed investment contracts as an eligible investment in the order, ordinance, or resolution authorizing the issuance of bonds;

(2) the entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;

(3) the entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;

(4) the price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and

(5) the provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

(d) Section 1371.059(c) applies to the execution of a guaranteed investment contract by an investing entity.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 8, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 10, effective September 1, 1999; am. Acts 2017, 85th Leg., ch. 773 (H.B. 1003), § 5, effective June 14, 2017.

Sec. 2256.016. Authorized Investments: Investment Pools.

(a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.

(b) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:

(1) the types of investments in which money is allowed to be invested;

(2) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;

(3) the maximum stated maturity date any investment security within the portfolio has;

(4) the objectives of the pool;

(5) the size of the pool;

(6) the names of the members of the advisory board of the pool and the dates their terms expire;

(7) the custodian bank that will safekeep the pool's assets;

(8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;

(9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;

(10) the name and address of the independent auditor of the pool;

(11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool;

(12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios; and

(13) the pool's policy regarding holding deposits in cash.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

(1) investment transaction confirmations; and

(2) a monthly report that contains, at a minimum, the following information:

(A) the types and percentage breakdown of securities in which the pool is invested;

(B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;

(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;

(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;

(E) the size of the pool;

(F) the number of participants in the pool;

(G) the custodian bank that is safekeeping the assets of the pool;

(H) a listing of daily transaction activity of the entity participating in the pool;

(I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;

(J) the portfolio managers of the pool; and

(K) any changes or addenda to the offering circular.

(d) An entity by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.

(e) In this section, for purposes of an investment pool for which a $1.00 net asset value is maintained, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter:

(1) a public funds investment pool that uses amortized cost or fair value accounting must mark its portfolio to market daily; and

(2) if the investment pool uses amortized cost:

(A) the investment pool must, to the extent reasonably possible, stabilize at a $1.00 net asset value, when rounded and expressed to two decimal places;

(B) the governing body of the investment pool must, if the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, take action as the body determines necessary to eliminate or reduce to the extent reasonably practicable any dilution or unfair result to existing participants, including a sale of portfolio holdings to attempt to maintain the ratio between 0.995 and 1.005; and

(C) the investment pool must, in addition to the requirements of its investment policy and any other forms of reporting, report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.

(g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:

(1) equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created under Chapter 791 and managed by a state agency; or

(2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.

(h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

(i) If the investment pool operates an Internet website, the information in a disclosure instrument or report described in Subsections (b), (c)(2), and (f) must be posted on the website.

(j) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.

(k) If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.013); am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 9, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 7, effective June 17, 2011; am. Acts 2017, 85th Leg., ch. 773 (H.B. 1003), § 6, effective June 14, 2017; am. Acts 2019, 86th Leg., ch. 1133 (H.B. 2706), § 3, effective September 1, 2019.

Sec. 2256.017. Existing Investments.

Except as provided by Chapter 2270, an entity is not required to liquidate investments that were authorized investments at the time of purchase.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 10, , effective September 1, 1997; am. Acts 2017, 85th Leg., ch. 96 (S.B. 253), § 2, effective May 23, 2017.

Sec. 2256.018. Advisory Board of Investment Pools [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 15, effective September 1, 1997.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

Sec. 2256.019. Rating of Certain Investment Pools.

A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 11, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 8, effective June 17, 2011.

Sec. 2256.020. Authorized Investments: Institutions of Higher Education.

In addition to the authorized investments permitted by this subchapter, an institution of higher education may purchase, sell, and invest its funds and funds under its control in the following:

(1) cash management and fixed income funds sponsored by organizations exempt from federal income taxation under Section 501(f), Internal Revenue Code of 1986 (26 U.S.C. Section 501(f));

(2) negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency; and

(3) corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm in one of the two highest long-term rating categories, without regard to gradations within those categories.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.014).

Sec. 2256.0201. Authorized Investments; Municipal Utility.

(a) A municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may enter into a hedging contract and related security and insurance agreements in relation to fuel oil, natural gas, coal, nuclear fuel, and electric energy to protect against loss due to price fluctuations. A hedging transaction must comply with the regulations of the Commodity Futures Trading Commission and the Securities and Exchange Commission. If there is a conflict between the municipal charter of the municipality and this chapter, this chapter prevails.

(b) A payment by a municipally owned electric or gas utility under a hedging contract or related agreement in relation to fuel supplies or fuel reserves is a fuel expense, and the utility may credit any amounts it receives under the contract or agreement against fuel expenses.

(c) The governing body of a municipally owned electric or gas utility or the body vested with power to manage and operate the municipally owned electric or gas utility may set policy regarding hedging transactions.

(d) In this section, "hedging" means the buying and selling of fuel oil, natural gas, coal, nuclear fuel, and electric energy futures or options or similar contracts on those commodities and related transportation costs as a protection against loss due to price fluctuation.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 405 (S.B. 7), § 48, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 7 (S.B. 495), § 1, effective April 13, 2007.

Sec. 2256.0202. Authorized Investments: Municipal Funds from Management and Development of Mineral Rights.

(a) In addition to other investments authorized under this subchapter, a municipality may invest funds received by the municipality from a lease or contract for the management and development of land owned by the municipality and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by a municipality under this section shall be segregated and accounted for separately from other funds of the municipality.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1371 (S.B. 894), § 1, effective September 1, 2009.

Sec. 2256.0203. Authorized Investments: Ports and Navigation Districts.

(a) In this section, "district" means a navigation district organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) In addition to the authorized investments permitted by this subchapter, a port or district may purchase, sell, and invest its funds and funds under its control in negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 804 (H.B. 2346), § 1, effective September 1, 2011.

Sec. 2256.0204. Authorized Investments: Independent School Districts.

(a) In this section, "corporate bond" means a senior secured debt obligation issued by a domestic business entity and rated not lower than "AA-" or the equivalent by a nationally recognized investment rating firm. The term does not include a debt obligation that:

(1) on conversion, would result in the holder becoming a stockholder or shareholder in the entity, or any affiliate or subsidiary of the entity, that issued the debt obligation; or

(2) is an unsecured debt obligation.

(b) This section applies only to an independent school district that qualifies as an issuer as defined by Section 1371.001.

(c) In addition to authorized investments permitted by this subchapter, an independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds that, at the time of purchase, are rated by a nationally recognized investment rating firm "AA-" or the equivalent and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased.

(d) An independent school district subject to this section is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for the payment of debt service, in corporate bonds; or

(2) invest more than 25 percent of the funds invested in corporate bonds in any one domestic business entity, including subsidiaries and affiliates of the entity.

(e) An independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds if the governing body of the district:

(1) amends its investment policy to authorize corporate bonds as an eligible investment;

(2) adopts procedures to provide for:

(A) monitoring rating changes in corporate bonds acquired with public funds; and

(B) liquidating the investment in corporate bonds; and

(3) identifies the funds eligible to be invested in corporate bonds.

(f) The investment officer of an independent school district, acting on behalf of the district, shall sell corporate bonds in which the district has invested its funds not later than the seventh day after the date a nationally recognized investment rating firm:

(1) issues a release that places the corporate bonds or the domestic business entity that issued the corporate bonds on negative credit watch or the equivalent, if the corporate bonds are rated "AA-" or the equivalent at the time the release is issued; or

(2) changes the rating on the corporate bonds to a rating lower than "AA-" or the equivalent.

(g) [Repealed.]

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 1347 (S.B. 1543), § 1, effective June 17, 2011; am. Acts 2019, 86th Leg., ch. 1133 (H.B. 2706), § 5, effective September 1, 2019.

Sec. 2256.0205. Authorized Investments; Decommissioning Trust.

(a) In this section:

(1) "Decommissioning trust" means a trust created to provide the Nuclear Regulatory Commission assurance that funds will be available for decommissioning purposes as required under 10 C.F.R. Part 50 or other similar regulation.

(2) "Funds" includes any money held in a decommissioning trust regardless of whether the money is considered to be public funds under this subchapter.

(b) In addition to other investments authorized under this subchapter, a municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may invest funds held in a decommissioning trust in any investment authorized by Subtitle B, Title 9, Property Code.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 121 (S.B. 1464), § 1, effective September 1, 2005.

Sec. 2256.0206. Authorized Investments: Public Junior College District Funds From Management and Development of Mineral Rights. [Renumbered]

HISTORY: Enacted by Acts 2017, 85th Leg., ch. 344 (H.B. 1472), § 1, effective September 1, 2017; Renumbered to Tex. Gov't Code § 2256.0207 by Acts 2019, 86th Leg., ch. 467 (H.B. 4170), § 21.001(34), effective September 1, 2019.

Sec. 2256.0206. Authorized Investments: Hedging Transactions.

(a) In this section:

(1) "Eligible entity" means a political subdivision that has:

(A) a principal amount of at least $250 million in:

(i) outstanding long-term indebtedness;

(ii) long-term indebtedness proposed to be issued; or

(iii) a combination of outstanding long-term indebtedness and long-term indebtedness proposed to be issued; and

(B) outstanding long-term indebtedness that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

(2) "Eligible project" has the meaning assigned by Section 1371.001.

(3) "Hedging" means acting to protect against economic loss due to price fluctuation of a commodity or related investment by entering into an offsetting position or using a financial agreement or producer price agreement in a correlated security, index, or other commodity.

(b) This section prevails to the extent of any conflict between this section and:

(1) another law; or

(2) an eligible entity's municipal charter, if applicable.

(c) The governing body of an eligible entity shall establish the entity's policy regarding hedging transactions.

(d) An eligible entity may enter into hedging transactions, including hedging contracts, and related security, credit, and insurance agreements in connection with commodities used by an eligible entity in the entity's general operations, with the acquisition or construction of a capital project, or with an eligible project. A hedging transaction must comply with the regulations of the federal Commodity Futures Trading Commission and the federal Securities and Exchange Commission.

(e) An eligible entity may pledge as security for and to the payment of a hedging contract or a security, credit, or insurance agreement any general or special revenues or funds the entity is authorized by law to pledge to the payment of any other obligation.

(f) Section 1371.059(c) applies to the execution by an eligible entity of a hedging contract and any related security, credit, or insurance agreement.

(g) An eligible entity may credit any amount the entity receives under a hedging contract against expenses associated with a commodity purchase.

(h) An eligible entity's cost of or payment under a hedging contract or agreement may be considered:

(1) an operation and maintenance expense of the eligible entity;

(2) an acquisition expense of the eligible entity;

(3) a project cost of an eligible project; or

(4) a construction expense of the eligible entity.

HISTORY: Enacted by Acts 2017, 85th Leg., ch. 773 (H.B. 1003), § 7, effective June 14, 2017.

Sec. 2256.0207. Authorized Investments: Public Junior College District Funds From Management and Development of Mineral Rights.

(a) In addition to other investments authorized under this subchapter, the governing board of a public junior college district may invest funds received by the district from a lease or contract for the management and development of land owned by the district and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by the governing board of a public junior college district under this section shall be segregated and accounted for separately from other funds of the district.

HISTORY: Enacted by Acts 2017, 85th Leg., ch. 344 (H.B. 1472), § 1, effective September 1, 2017; Renumbered from Tex. Gov't Code § 2256.0206 by Acts 2019, 86th Leg., ch. 467 (H.B. 4170), § 21.001(34), effective September 1, 2019.

Sec. 2256.0208. Local Government Investment of Bond Proceeds and Pledged Revenue.

(a) In this section, "pledged revenue" means money pledged to the payment of or as security for:

(1) bonds or other indebtedness issued by a local government;

(2) obligations under a lease, installment sale, or other agreement of a local government; or

(3) certificates of participation in a debt or obligation described by Subdivision (1) or (2).

(b) The investment officer of a local government may invest bond proceeds or pledged revenue only to the extent permitted by this chapter, in accordance with:

(1) statutory provisions governing the debt issuance or the agreement, as applicable; and

(2) the local government's investment policy regarding the debt issuance or the agreement, as applicable.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1133 (H.B. 2706), § 4, effective September 1, 2019.

Sec. 2256.021. Effect of Loss of Required Rating.

An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment

during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

Sec. 2256.022. Expansion of Investment Authority.

Expansion of investment authority granted by this chapter shall require a risk assessment by the state auditor or performed at the direction of the state auditor, subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 42, effective September 1, 2003.

Sec. 2256.023. Internal Management Reports.

(a) Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by this chapter for the preceding reporting period.

(b) The report must:

(1) describe in detail the investment position of the entity on the date of the report;

(2) be prepared jointly by all investment officers of the entity;

(3) be signed by each investment officer of the entity;

(4) contain a summary statement of each pooled fund group that states the:

(A) beginning market value for the reporting period;

(B) ending market value for the period; and

(C) fully accrued interest for the reporting period;

(5) state the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;

(6) state the maturity date of each separately invested asset that has a maturity date;

(7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

(8) state the compliance of the investment portfolio of the state agency or local government as it relates to:

(A) the investment strategy expressed in the agency's or local government's investment policy; and

(B) relevant provisions of this chapter.

(c) The report shall be presented not less than quarterly to the governing body and the chief executive officer of the entity within a reasonable time after the end of the period.

(d) If an entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers under this section shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 12, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 9, effective June 17, 2011.

Sec. 2256.024. Subchapter Cumulative.

(a) The authority granted by this subchapter is in addition to that granted by other law. Except as provided by Subsection (b) and Section 2256.017, this subchapter does not:

(1) prohibit an investment specifically authorized by other law; or

(2) authorize an investment specifically prohibited by other law.

(b) Except with respect to those investing entities described in Subsection (c), a security described in Section 2256.009(b) is not an authorized investment for a state agency, a local government, or another investing entity, notwithstanding any other provision of this chapter or other law to the contrary.

(c) Mortgage pass-through certificates and individual mortgage loans that may constitute an investment described in Section 2256.009(b) are authorized investments with respect to the housing bond programs operated by:

(1) the Texas Department of Housing and Community Affairs or a nonprofit corporation created to act on its behalf;

(2) an entity created under Chapter 392, Local Government Code; or

(3) an entity created under Chapter 394, Local Government Code.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.015); am. Acts 2017, 85th Leg., ch. 96 (S.B. 253), § 3, effective May 23, 2017.

Sec. 2256.025. Selection of Authorized Brokers.

The governing body of an entity subject to this subchapter or the designated investment committee of the entity shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 13, effective September 1, 1997.

Sec. 2256.026. Statutory Compliance.

All investments made by entities must comply with this subchapter and all federal, state, and local statutes, rules, or regulations.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 13, effective September 1, 1997.

Secs. 2256.027 to 2256.050. [Reserved for expansion].

Subchapter B

Miscellaneous Provisions

Sec. 2256.051. Electronic Funds Transfer.

Any local government may use electronic means to transfer or invest all funds collected or controlled by the local government.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

Sec. 2256.052. Private Auditor.

Notwithstanding any other law, a state agency shall employ a private auditor if authorized by the legislative audit committee either on the committee's initiative or on request of the governing body of the agency.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 256.058).

Sec. 2256.053. Payment for Securities Purchased by State.

The comptroller or the disbursing officer of an agency that has the power to invest assets directly may pay for authorized securities purchased from or through a member in good standing of the National Association of Securities Dealers or from or through a national or state bank on receiving an invoice from the seller of the securities showing that the securities have been purchased by the board or agency and that the amount to be paid for the securities is just, due, and unpaid. A purchase of securities may not be made at a price that exceeds the existing market value of the securities.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.102).

Sec. 2256.054. Delivery of Securities Purchased by State.

A security purchased under this chapter may be delivered to the comptroller, a bank, or the board or agency investing its funds. The delivery shall be made under normal and recognized practices in the securities and banking industries, including the book entry procedure of the Federal Reserve Bank.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.103); am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 8.68, effective September 1, 1997; repealed by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

Sec. 2256.055. Deposit of Securities Purchased by State.

At the direction of the comptroller or the agency, a security purchased under this chapter may be deposited in trust with a bank or federal reserve bank or branch designated by the comptroller, whether in or outside the state. The deposit shall be held in the entity's name as evidenced by a trust receipt of the bank with which the securities are deposited.

HISTORY: Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.104); am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 8.69, effective September 1, 1997; repealed by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

Sec. 2256.056. Compliance with Other Laws [Repealed].

Repealed by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 28(b)(1), effective September 1, 1999 and Acts 1999, 76th Leg., ch. 350 (H.B. 2235), § 1, effective September 1, 1999.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 14, effective September 1, 1997; Repealed by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; repealed by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 28(b)(1), effective September 1, 1999; repealed by Acts 1999, 76th Leg., ch. 350 (H.B. 2235), § 1, effective September 1, 1999.

Sec. 2256.057. Internal Management Reports [Deleted].

Deleted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995. See now Tex. Gov't Code § 2256.023.

Sec. 2256.058. Private Auditor [Renumbered].

Renumbered to Tex. Gov't Code § 2256.052 by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

Sec. 2256.059. Effect of Other Law [Deleted].

Deleted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995. See now Tex. Gov't Code § 2256.024.

Secs. 2256.060 to 2256.100. [Reserved for expansion].

Subchapter C

Payment for Delivery and Deposit of Securities Purchased by State

Sec. 2256.101. Authorized Investments; Application of Income [Deleted].

Deleted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995. See now Tex. Gov't Code § 2256.009.

Sec. 2256.102. Payment for Securities Purchased by State [Renumbered].

Renumbered to Tex. Gov't Code § 2256.053 by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

Sec. 2256.103. Delivery of Securities Purchased by State [Renumbered].

Renumbered to Tex. Gov't Code § 2256.054 by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

Sec. 2256.104. Deposit of Securities Purchased by State [Renumbered].

Renumbered to Tex. Gov't Code § 2256.055 by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

LOCAL GOVERNMENT CODE

TITLE 4

FINANCES

SUBTITLE C

FINANCIAL PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 140

Miscellaneous Financial Provisions Affecting Municipalities, Counties, and Other Local Governments

Sec. 140.001. Relief Under Federal Bankruptcy Laws for Municipality, Taxing District, or Other Political Subdivision.

(a) A municipality, taxing district, or other political subdivision that is subject to this section may proceed under all federal bankruptcy laws intended to relieve municipal indebtedness.

(b) A municipality is subject to this section if it has the power to incur indebtedness through the action of its governing body. A taxing district or other political subdivision is subject to this section if it has the power to incur indebtedness either through the action of its governing body or through that of the county or municipality in which it is located.

(c) The officials and governing body of the municipality, taxing district, or other political subdivision may adopt all proceedings and take any action necessary or convenient to fully avail the entity of the federal bankruptcy laws.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 140.002. Investments by Political Subdivision in Defense Bonds and Other Federal Obligations.

A political subdivision that has a balance remaining in any of its accounts at the end of a fiscal year may invest the balance in defense bonds or other obligations of the United States. If those funds are needed, the political subdivision shall sell or redeem the federal obligations in which the funds are invested and shall deposit the proceeds of the obligations in the account from which they were originally drawn.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 140.003. Purchasing and Financial Accounting for District Attorneys, Juvenile Boards, and Probation Departments.

(a) In this section, "specialized local entity" means:

(1) a district or criminal district attorney;

(2) a juvenile board, juvenile probation office, or juvenile department established for one or more counties; or

(3) an adult probation office or department established for a judicial district.

(b) A specialized local entity shall purchase items in accordance with the same procedures and subject to the same requirements applicable to a county under Subchapter C, Chapter 262. For the purposes of this section, a specialized local entity is treated as if it were a county. A specialized local entity may make a contract with a county under which the county performs purchasing functions for the entity.

(c) Within 30 days after the date the fiscal year of a district or criminal district attorney's office begins, the attorney shall:

(1) file with the commissioners court of each county in which the attorney has jurisdiction a complete financial statement of the office covering the preceding fiscal year; and

(2) prepare a budget for the current fiscal year and file it with each commissioners court.

(d) If a district or criminal district attorney's office regularly prepares its budget at a time different from the time prescribed by Subsection (c), the attorney shall prepare the budget at the regular time and file it with the commissioners court within 10 days after the date of its adoption.

(e) The financial statement required by Subsection (c) must contain any information considered appropriate by the district or criminal district attorney and any information required by the commissioners court of each county in which the attorney has jurisdiction.

(f) Each specialized local entity shall deposit in the county treasury of the county in which the entity has jurisdiction the funds the entity receives. The county shall hold, deposit, disburse, invest, and otherwise care for the funds on behalf of the specialized local entity as the entity directs. If a specialized local entity has jurisdiction in more than one county, the district judges having jurisdiction in those counties, by a majority vote, shall designate from among those counties the county responsible for managing the entity's funds.

(g) The county auditor, if any, of the county that manages a specialized local entity's funds has the same authority to audit the funds of the entity that the auditor has with regard to county funds.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 1, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 600 (S.B. 1035), § 2, effective June 15, 1991.

Sec. 140.004. Budgets of Certain Juvenile Boards and Community Supervision and Corrections Departments.

(a) This section applies only to:

(1) a juvenile board, juvenile probation office, or juvenile department established for one or more counties; and

(2) a community supervision and corrections department established for a judicial district.

(b) Before the 45th day before the first day of the fiscal year of a county, a juvenile board and a community supervision and corrections department that each have jurisdiction in the county shall:

(1) prepare a budget for the board's or department's next fiscal year; and

(2) hold a meeting to finalize the budget.

(c) Before the 14th day before the juvenile board or community supervision and corrections department has a meeting to finalize its budget, the board or department shall file with the commissioners court:

(1) a copy of the proposed budget; and

(2) a statement containing the date of the board's or department's meeting to finalize its budget.

(d) Before the later of the 90th day after the last day of the juvenile board's or community supervision and corrections department's fiscal year, or the date the county auditor's annual report is made to the commissioners court, the board or department shall file with the commissioners court a complete financial statement of the board or department covering the board's or department's preceding fiscal year.

(e) The financial statement required by Subsection (d) must contain any information considered appropriate by the juvenile board or community supervision and corrections department and any information required by the commissioners court of each county in which the board or department has jurisdiction.

(f) The budget for a juvenile board or community supervision and corrections department may not include an automobile allowance for a member of the governing body of the board or department if the member holds another state, county, or municipal office. The budget may include reimbursement of actual travel expenses, including mileage for automobile travel, incurred while the member is engaged in the official business of the board or department.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 600 (S.B. 1035), § 1, effective June 15, 1991; am. Acts 1995, 74th Leg., ch. 713 (S.B. 527), § 1, effective September 1, 1995.

§ 140.0045. Itemization of Certain Expenditures Required in Certain Political Subdivision Budgets.

(a) Except as provided by Subsection (b), the proposed budget of a political subdivision must include, in a manner allowing for as clear a comparison as practicable between those expenditures in the proposed budget and actual expenditures for the same purpose in the preceding year, a line item indicating expenditures for:

(1) notices required by law to be published in a newspaper by the political subdivision or a representative of the political subdivision; and

(2) directly or indirectly influencing or attempting to influence the outcome of legislation or administrative action, as those terms are defined in Section 305.002, Government Code.

(b) Subsection (a)(1) does not apply to a junior college district.

HISTORY: Enacted by Acts 2017, 85th Leg., ch. 563 (S.B. 622), § 1, effective June 9, 2017; am. Acts 2019, 86th Leg., ch. 1070 (H.B. 1495), § 3, effective June 14, 2019.

Sec. 140.005. Annual Financial Statement of School, Road, or Other District.

The governing body of a school district, open-enrollment charter school, junior college district, or a district or authority organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, shall prepare an annual financial statement showing for each fund subject to the authority of the governing body during the fiscal year:

(1) the total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;

(2) the total disbursements of the fund, itemized by the nature of the expenditure; and

(3) the balance in the fund at the close of the fiscal year.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 37, effective September 1. 1993; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 34, effective September 1, 2001.

Sec. 140.006. Publication of Annual Financial Statement by School, Road, or Other District.

(a) Except as provided by Subsections (c) and (e), the presiding officer of a governing body shall submit a financial statement prepared under Section 140.005 to a newspaper in each county in which the district or any part of the district is located.

(b) If a district is located in more than one county, the financial statement may be published in a newspaper that has general circulation in the district. If a newspaper is not published in the county, the financial statement may be published in a newspaper in an adjoining county.

(c) The presiding officer of a school district shall submit a financial statement prepared under Section 140.005 to a daily, weekly, or biweekly newspaper published within the boundaries of the district. If a daily, weekly, or biweekly newspaper is not published within the boundaries of the school district, the financial statement shall be published in the manner provided by Subsections (a) and (b). The governing body of an open-enrollment charter school shall take action to ensure that the school's financial statement is made available in the manner provided by Chapter 552, Government Code, and is posted continuously on the school's Internet website.

(d) A statement shall be published not later than two months after the date the fiscal year ends, except that a school district's statement shall be published not later than the 150th day after the date the fiscal year ends and in accordance with the accounting method required by the Texas Education Agency.

(e) This section does not apply to an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 37, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 50, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 35, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 41 (H.B. 978), § 1, effective May 8, 2007; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 46, effective September 1, 2013.

Sec. 140.007. Least Cost Review Program.

(a) To assist counties, the comptroller of public accounts may develop, promulgate, and widely distribute forms, with instruction, for cost accounting for public improvements. The comptroller shall consult with large and small governmental entities and the construction industry prior to the promulgation of the forms and instructions.

(b) The cost accounting forms shall be simple and concise and capable of being completed by the counties at a minimum cost. The form shall provide a simple comparison of the cost of public improvements constructed by a county's personnel, equipment, or facilities and a competitive bid submitted by the private sector.

(c) The forms and instructions promulgated and distributed shall provide for cost comparisons by all governmental entities, including but not limited to counties, municipalities, special districts, and any other such entities that construct public improvements in-house. The cost comparison forms, with instruction, shall be promulgated and distributed by May 21, 1994.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 1042 (H.B. 2663), § 2, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 17.01(37), effective September 1, 1995 (renumbered from Sec. 140.005); am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 65, effective September 1, 2003.

Sec. 140.008. Annual Report of Certain Financial Information.

(a) In this section:

(1) "Debt obligation" means an issued public security, as defined by Section 1201.002, Government Code.

(2) "Political subdivision" means a county, municipality, school district, junior college district, other special district, or other subdivision of state government. The term does not include a special purpose district described by Section 403.0241(b), Government Code.

(b) A political subdivision shall annually compile and report the following financial information in the manner prescribed by this section:

(1) as of the last day of the preceding fiscal year, debt obligation information for the political subdivision that must state:

(A) the amount of all authorized debt obligations;

(B) the principal of all outstanding debt obligations;

(C) the principal of each outstanding debt obligation;

(D) the combined principal and interest required to pay all outstanding debt obligations on time and in full;

(E) the combined principal and interest required to pay each outstanding debt obligation on time and in full;

(F) the amounts required by Paragraphs (A)-(E) limited to authorized and outstanding debt obligations secured by ad valorem taxation, expressed as a total amount and, if the political subdivision is a municipality, county, or school district, as a per capita amount; and

(G) the following for each debt obligation:

(i) the issued and unissued amount;

(ii) the spent and unspent amount;

(iii) the maturity date; and

(iv) the stated purpose for which the debt obligation was authorized;

(2) the current credit rating given by any nationally recognized credit rating organization to debt obligations of the political subdivision; and

(3) any other information that the political subdivision considers relevant or necessary to explain the values required by Subdivisions (1)(A)-(F), including:

(A) an amount required by Subdivision (1)(F) stated as a per capita amount if the political subdivision is not required to provide the amount under that paragraph;

(B) an explanation of the payment sources for the different types of debt; and

(C) a projected per capita amount of an amount required by Subdivision (1)(F), as of the last day of the maximum term of the most recent debt obligation issued by the political subdivision.

(c) Instead of replicating in the annual report information required by Subsection (b) that is posted separately on the political subdivision's Internet website, the political subdivision may provide in the report a direct link to, or a clear statement describing the location of, the separately posted information.

(d) As an alternative to providing an annual report under Subsection (f), a political subdivision may provide to the comptroller the information described by Subsection (b) and any other related information required by the comptroller in the form and in the manner prescribed by the comptroller. The comptroller shall post the information provided by the political subdivision and any other information the comptroller considers relevant or necessary on the comptroller's Internet website. The comptroller may post the information in the format that the comptroller determines appropriate, provided that the information for each political subdivision is easily located by searching the name of the political subdivision on the Internet. If the political subdivision maintains an Internet website, the political subdivision shall provide a link from the website to the location on the comptroller's website where the political subdivision's financial information may be viewed. The comptroller shall adopt rules necessary to implement this subsection.

(e) This subsection applies only to a municipality with a population of less than 15,000 or a county with a population of less than 35,000. As an alternative to providing an annual report under Subsection (f), a municipality or county may provide to the comptroller, in the form and in the manner prescribed by the comptroller, a document that includes the information described by Subsection (b). The comptroller shall post the information from the document submitted under this subsection on the comptroller's Internet website on a web page that is easily located by searching the name of the municipality or county on the Internet. If the municipality or county maintains or causes to be maintained an Internet website, the municipality or county shall provide a link from the website to the web page on the comptroller's website where the information may be viewed. The comptroller shall adopt rules necessary to implement this subsection.

(f) Except as provided by Subsection (d) or (e), the governing body of a political subdivision shall take action to ensure that:

(1) the political subdivision's annual report is made available for inspection by any person and is posted continuously on the political subdivision's Internet website until the political subdivision posts the next annual report; and

(2) the contact information for the main office of the political subdivision is continuously posted on the website, including the physical address, the mailing address, the main telephone number, and an e-mail address.

(g) Notwithstanding any other provision of this section, a district, as defined by Section 49.001, Water Code, satisfies the requirements of this section if, on an annual basis, the district:

(1) complies with the requirements of Subchapter G, Chapter 49, Water Code, regarding audit reports, affidavits of financial dormancy, and annual financial reports; and

(2) either:

(A) submits the financial documents described by Subchapter G, Chapter 49, Water Code, to the comptroller in the form and manner prescribed by the comptroller; or

(B) takes action to ensure that the financial documents described by Subchapter G, Chapter 49, Water Code, are made available at a regular office of the district for inspection by any person and, if the district maintains an Internet website, are posted continuously for public viewing on the district's Internet website.

(h) The comptroller shall post the documents submitted to the comptroller under Subsection (g) and any other information the comptroller considers relevant or necessary on the comptroller's Internet website, to the extent that the documents as submitted to the comptroller are in a form that facilitates compliance with applicable technical accessibility standards and specifications established in the electronic and information resources accessibility policy

adopted by the comptroller under other law. The comptroller shall adopt rules necessary to implement this subsection and Subsection (g).

(i) If information required to be posted by the comptroller under this section is posted separately on an Internet website that a state agency, the comptroller, or a political subdivision, including a district as defined by Section 49.001, Water Code, maintains or causes to be maintained, the comptroller may post on the comptroller's Internet website a direct link to, or a clear statement describing the location of, the separately posted information instead of or in addition to reproducing the required information on the comptroller's website.

HISTORY: Enacted by Acts 2015, 84th Leg., ch. 923 (H.B. 1378), § 1, effective January 1, 2016; am. Acts 2019, 86th Leg., ch.868 (H.B. 3001), §§ 2, 3, effective September 1, 2019.

Sec. 140.009. Contract for Collection of Amounts in Civil Cases.

(a) The governing body of a municipality or the commissioners court of a county may contract with a private attorney or public or private vendor for the collection of an amount owed to the municipality or county relating to a civil case, including an unpaid fine, fee, or court cost, if the amount is more than 60 days overdue.

(b) A municipality or county contracting with an attorney or a vendor under Subsection (a) may authorize the addition of a collection fee of 30 percent of the amount referred. The collection fee may be used only to compensate the attorney or vendor who collects the debt.

(c) This section does not apply to the collection of commercial bail bonds.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 677 (H.B. 2021), § 1, effective June 14, 2013.

Sec. 140.010. Proposed Property Tax Rate Notice for Counties and Municipalities. [Repealed effective January 1, 2020]

(a) In this section, "effective tax rate" and "rollback tax rate" mean the effective tax rate and rollback tax rate of a county or municipality, as applicable, as calculated under Chapter 26, Tax Code.

(b) Except as provided by this subsection, each county and municipality shall provide notice of the county's or municipality's proposed property tax rate in the manner provided by this section. A county or municipality to which Section 26.052, Tax Code, applies may provide notice of the county's or municipality's proposed property tax rate in the manner provided by this section or in the manner provided by Section 26.052, Tax Code.

(c) A county or municipality that provides notice of the county's or municipality's proposed property tax rate in the manner provided by this section is exempt from the notice and publication requirements of Sections 26.04(e), 26.052, and 26.06, Tax Code, as applicable, and is not subject to an injunction for failure to comply with those requirements.

(d) A county or municipality that proposes a property tax rate that does not exceed the lower of the effective tax rate or the rollback tax rate shall provide the following notice:

"NOTICE OF (INSERT CURRENT TAX YEAR) TAX YEAR PROPOSED PROPERTY TAX RATE FOR (INSERT NAME OF COUNTY OR MUNICIPALITY)

"A tax rate of $_____ per $100 valuation has been proposed by the governing body of (insert name of county or municipality).

PROPOSED TAX RATE	$_____ per $100
PRECEDING YEAR'S TAX RATE	$_____ per $100
EFFECTIVE TAX RATE	$_____ per $100

"The effective tax rate is the total tax rate needed to raise the same amount of property tax revenue for (insert name of county or municipality) from the same properties in both the (insert preceding tax year) tax year and the (insert current tax year) tax year.

"YOUR TAXES OWED UNDER ANY OF THE ABOVE RATES CAN BE CALCULATED AS FOLLOWS:

property tax amount = (rate) x (taxable value of your property) / 100

"For assistance or detailed information about tax calculations, please contact:
(insert name of county or municipal tax assessor-collector)
(insert name of county or municipality) tax assessor-collector
(insert address)
(insert telephone number)
(insert e-mail address)
(insert Internet website address, if applicable)"

(e) A county or municipality that proposes a property tax rate that exceeds the lower of the effective tax rate or the rollback tax rate shall provide the following notice:

"NOTICE OF (INSERT CURRENT TAX YEAR) TAX YEAR PROPOSED PROPERTY TAX RATE FOR (INSERT NAME OF COUNTY OR MUNICIPALITY)

"A tax rate of $_____ per $100 valuation has been proposed for adoption by the governing body of (insert name of county

or municipality). This rate exceeds the lower of the effective or rollback tax rate, and state law requires that two public hearings be held by the governing body before adopting the proposed tax rate. The governing body of (insert name of county or municipality) proposes to use revenue attributable to the tax rate increase for the purpose of (description of purpose of increase).

PROPOSED TAX RATE	$_____ per $100
PRECEDING YEAR'S TAX RATE	$_____ per $100
EFFECTIVE TAX RATE	$_____ per $100
ROLLBACK TAX RATE	$_____ per $100

"The effective tax rate is the total tax rate needed to raise the same amount of property tax revenue for (insert name of county or municipality) from the same properties in both the (insert preceding tax year) tax year and the (insert current tax year) tax year.

"The rollback tax rate is the highest tax rate that (insert name of county or municipality) may adopt before voters are entitled to petition for an election to limit the rate that may be approved to the rollback rate.

"YOUR TAXES OWED UNDER ANY OF THE ABOVE RATES CAN BE CALCULATED AS FOLLOWS:

property tax amount = (rate) x (taxable value of your property) / 100

"For assistance or detailed information about tax calculations, please contact:

(insert name of county or municipal tax assessor-collector)
(insert name of county or municipality) tax assessor-collector
(insert address)
(insert telephone number)
(insert e-mail address)
(insert Internet website address, if applicable)

"You are urged to attend and express your views at the following public hearings on the proposed tax rate:

First Hearing: (insert date and time) at (insert location of meeting).
Second Hearing: (insert date and time) at (insert location of meeting)."

(f) A county or municipality shall:

(1) provide the notice required by Subsection (d) or (e), as applicable, not later than the later of September 1 or the 30th day after the first date that the taxing unit has received each applicable certified appraisal roll by:

(A) publishing the notice in a newspaper having general circulation in:

(i) the county, in the case of notice published by a county; or

(ii) the county in which the municipality is located or primarily located, in the case of notice published by a municipality; or

(B) mailing the notice to each property owner in:

(i) the county, in the case of notice provided by a county; or

(ii) the municipality, in the case of notice provided by a municipality; and

(2) post the notice on the Internet website of the county or municipality, if applicable, beginning not later than the later of September 1 or the 30th day after the first date that the taxing unit has received each applicable certified appraisal roll and continuing until the county or municipality adopts a tax rate.

(g) If the notice required by Subsection (d) or (e) is published in a newspaper:

(1) the notice may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper; and

(2) the headline on the notice must be in 24-point or larger type.

(h) A county or municipality that provides notice under this section shall on request provide any information described by Sections 26.04(e)(1)-(7), Tax Code, regarding the county or municipality, as applicable.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 800 (S.B. 1510), § 1, effective January 1, 2014; am. Acts 2015, 84th Leg., ch. 481 (S.B. 1760), § 11, effective January 1, 2016; am. Acts 2015, 84th Leg., ch. 546 (H.B. 1953), § 1, effective January 1, 2016; Repealed by Acts 2019, 86th Leg., ch. 944 (S.B. 2), § 91(2), effective January 1, 2020.

Sec. 140.011. Local Governments Disproportionately Affected by Property Tax Relief for Disabled Veterans.

(a) In this section:

(1) "General fund revenue" means revenue generated by a local government from the following sources during a fiscal year and deposited in the dedicated general operating fund of the local government during that fiscal year:

(A) ad valorem taxes;

(B) sales and use taxes;

(C) franchise taxes, fees, or assessments charged for use of the local government's right-of-way;

(D) building and development fees, including permit and inspection fees;

(E) court fines and fees;

(F) other fees, assessments, and charges; and

(G) interest earned by the local government.

(2) "Local government" means:

(A) a municipality adjacent to a United States military installation; and

(B) a county in which a United States military installation is wholly or partly located.

(3) "Qualified local government" means a local government entitled to a disabled veteran assistance payment under this section.

(b) To serve the state purpose of ensuring that the cost of providing ad valorem tax relief to disabled veterans is shared equitably among the residents of this state, a local government is entitled to a disabled veteran assistance payment from the state for each fiscal year that the local government is a qualified local government. A local government is a qualified local government for a fiscal year if the amount of lost ad valorem tax revenue calculated under Subsection (c) for that fiscal year is equal to or greater than two percent of the local government's general fund revenue for that fiscal year.

(c) For the purposes of this section, the amount of a local government's lost ad valorem tax revenue for a fiscal year is calculated by multiplying the ad valorem tax rate adopted by the local government under Section 26.05, Tax Code, for the tax year in which the fiscal year begins by the total appraised value of all property located in the local government that is granted an exemption from taxation under Section 11.131, Tax Code, for that tax year.

(d) A disabled veteran assistance payment made to a qualified local government for a fiscal year is calculated by subtracting from the local government's lost ad valorem tax revenue calculated under Subsection (c) for that fiscal year an amount equal to one percent of the local government's general fund revenue for that fiscal year.

(e) Not later than April 1 of the first year following the end of a fiscal year for which a qualified local government is entitled to a disabled veteran assistance payment, a qualified local government may submit an application to the comptroller to receive a disabled veteran assistance payment for that fiscal year. The application must be made on a form prescribed by the comptroller. The comptroller may require the qualified local government to submit an independent audit otherwise required by law to be prepared for the local government for the fiscal year for which a qualified local government is entitled to the payment.

(f) A qualified local government that does not submit an application to the comptroller by the date prescribed by Subsection (e) is not entitled to a disabled veteran assistance payment for the fiscal year for which that deadline applies.

(g) The comptroller shall review each application by a local government to determine whether the local government is entitled to a disabled veteran assistance payment. If the comptroller determines that the local government is entitled to the payment, the comptroller shall remit the payment from available funds to the qualified local government not later than the 30th day after the date the application for the payment is made.

(h) The comptroller shall transfer funds to a newly created account in the state treasury for the purpose of reimbursement of local governments under this section.

(i) The comptroller shall adopt rules necessary to implement this section.

HISTORY: Enacted by Acts 2015, 84th Leg., ch. 448 (H.B. 7), § 25, effective September 1, 2015.

Sec. 140.012. Fiscal Year of Certain Political Subdivisions Created on or After September 1, 2019.

(a) This section does not apply to a political subdivision that is a special district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) A political subdivision that is created on or after September 1, 2019, and that has authority to impose a tax must have the same fiscal year as the county in which the political subdivision is wholly or primarily located.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 831 (H.B. 2617), § 1, effective September 1, 2019.

TITLE 5

MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE C

MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 171

Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments

Sec. 171.001. Definitions.

In this chapter:

(1) "Local public official" means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature.

(2) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 171.002. Substantial Interest in Business Entity.

(a) For purposes of this chapter, a person has a substantial interest in a business entity if:

(1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or $15,000 or more of the fair market value of the business entity; or

(2) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

(b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more.

(c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989; am. Acts 1991, 72nd Leg., ch. 561 (H.B. 1345), § 37, effective August 26, 1991; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(27), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 849 (H.B. 998), § 1, effective September 1, 1997.

Sec. 171.0025. Application of Chapter to Member of Higher Education Authority.

This chapter does not apply to a board member of a higher education authority created under Chapter 53, Education Code, unless a vote, act, or other participation by the board member in the affairs of the higher education authority would provide a financial benefit to a financial institution, school, college, or university that is:

(1) a source of income to the board member; or

(2) a business entity in which the board member has an interest distinguishable from a financial benefit available to any other similar financial institution or other school, college, or university whose students are eligible for a student loan available under Chapter 53, Education Code.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 41(a), effective August 28, 1989.

Sec. 171.003. Prohibited Acts; Penalty.

(a) A local public official commits an offense if the official knowingly:

(1) violates Section 171.004;

(2) acts as surety for a business entity that has work, business, or a contract with the governmental entity; or

(3) acts as surety on any official bond required of an officer of the governmental entity.

(b) An offense under this section is a Class A misdemeanor.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989.

Sec. 171.004. Affidavit and Abstention from Voting Required.

(a) If a local public official has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

(1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

(2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

(b) The affidavit must be filed with the official record keeper of the governmental entity.

(c) If a local public official is required to file and does file an affidavit under Subsection (a), the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989.

Sec. 171.005. Voting on Budget.

(a) The governing body of a governmental entity shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest.

(b) Except as provided by Section 171.004(c), the affected member may not participate in that separate vote. The member may vote on a final budget if:

(1) the member has complied with this chapter; and

(2) the matter in which the member is concerned has been resolved.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989 (renumbered from Sec. 171.006).

Sec. 171.006. Effect of Violation of Chapter.

The finding by a court of a violation under this chapter does not render an action of the governing body voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed the governing body without the vote of the person who violated the chapter.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989 (renumbered from Sec. 171.008).

Sec. 171.007. Common Law Preempted; Cumulative of Municipal Provisions.

(a) This chapter preempts the common law of conflict of interests as applied to local public officials.

(b) This chapter is cumulative of municipal charter provisions and municipal ordinances defining and prohibiting conflicts of interests.

HISTORY: Am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989.

Sec. 171.008. Effect of Violation of Chapter [Renumbered].

Renumbered to Tex. Local Gov't Code § 171.006 by Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989.

Sec. 171.009. Service on Board of Corporation for No Compensation.

It shall be lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other remuneration from the nonprofit corporation or other nonprofit entity.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 475 (H.B. 1976), § 2, effective August 28, 1989.

Sec. 171.010. Practice of Law.

(a) For purposes of this chapter, a county judge or county commissioner engaged in the private practice of law has a substantial interest in a business entity if the official has entered a court appearance or signed court pleadings in a matter relating to that business entity.

(b) A county judge or county commissioner that has a substantial interest in a business entity as described by Subsection (a) must comply with this chapter.

(c) A judge of a constitutional county court may not enter a court appearance or sign court pleadings as an attorney in any matter before:

(1) the court over which the judge presides; or

(2) any court in this state over which the judge's court exercises appellate jurisdiction.

(d) Upon compliance with this chapter, a county judge or commissioner may practice law in the courts located in the county where the county judge or commissioner serves.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 227 (H.B. 599), § 21, effective September 1, 2003; Enacted by Acts 2003, 78th Leg., ch. 1206 (S.B. 1047), § 3, effective June 20, 2003.

CHAPTER 176

Disclosure of Certain Relationships with Local Government Officers; Providing Public Access to Certain Information

Sec. 176.001. Definitions.

In this chapter:

(1) "Agent" means a third party who undertakes to transact some business or manage some affair for another person by the authority or on account of the other person. The term includes an employee.

(1-a) "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

(1-b) "Charter school" means an open-enrollment charter school operating under Subchapter D, Chapter 12, Education Code.

(1-c) "Commission" means the Texas Ethics Commission.

(1-d) "Contract" means a written agreement for the sale or purchase of real property, goods, or services.

(2) "Family member" means a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code.

(2-a) "Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Government Code.

(2-b) "Gift" means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient.

(2-c) "Goods" means personal property.

(2-d) "Investment income" means dividends, capital gains, or interest income generated from:

(A) a personal or business:

(i) checking or savings account;

(ii) share draft or share account; or

(iii) other similar account;

(B) a personal or business investment; or

(C) a personal or business loan.

(3) "Local governmental entity" means a county, municipality, school district, charter school, junior college district, water district created under Subchapter B, Chapter 49, Water Code, or other political subdivision of this state or a local government corporation, board, commission, district, or authority to which a member is appointed by the commissioners court of a county, the mayor of a municipality, or the governing body of a municipality. The term does not include an association, corporation, or organization of governmental entities organized to provide to its members education, assistance, products, or services or to represent its members before the legislative, administrative, or judicial branches of the state or federal government.

(4) "Local government officer" means:

(A) a member of the governing body of a local governmental entity;

(B) a director, superintendent, administrator, president, or other person designated as the executive officer of a local governmental entity; or

(C) an agent of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor.

(5) "Records administrator" means the director, county clerk, municipal secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity or another person designated by the local governmental entity to maintain statements and questionnaires filed under this chapter and perform related functions.

(6) "Services" means skilled or unskilled labor or professional services, as defined by Section 2254.002, Government Code.

(7) "Vendor" means a person who enters or seeks to enter into a contract with a local governmental entity. The term includes an agent of a vendor. The term includes an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract. The term does not include a state agency except for Texas Correctional Industries.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 1, effective May 25, 2007; am. Acts 2015, 84th Leg., ch. 989 (H.B. 23), § 1, effective September 1, 2015.

Sec. 176.002. Applicability to Vendors and Other Persons.

(a) This chapter applies to a person who is:

(1) a vendor; or

(2) a local government officer of a local governmental entity.

(b) A person is not subject to the disclosure requirements of this chapter if the person is:

(1) a state, a political subdivision of a state, the federal government, or a foreign government; or

(2) an employee or agent of an entity described by Subdivision (1), acting in the employee's or agent's official capacity.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 2, effective May 25, 2007; am. Acts 2015, 84th Leg., ch. 989 (H.B. 23), §§ 2, 3, effective September 1, 2015.

Sec. 176.003. Conflicts Disclosure Statement Required.

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(1) the vendor enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the vendor; and

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor; or

(C) has a family relationship with the local government officer.

(a-1) A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

(1) a political contribution as defined by Title 15, Election Code; or

(2) food accepted as a guest.

(a-2) A local government officer is not required to file a conflicts disclosure statement under Subsection (a) if the local governmental entity or vendor described by that subsection is an administrative agency created under Section 791.013, Government Code.

(b) A local government officer shall file the conflicts disclosure statement with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement under Subsection (a).

(c), (d) [Repealed by Acts 2015, 84th Leg., ch. 989 (H.B. 23), § 9(1), effective September 1, 2015.]

(e) The commission shall adopt the conflicts disclosure statement for local government officers for use under this section. The conflicts disclosure statement must include:

(1) a requirement that each local government officer disclose:

(A) an employment or other business relationship described by Subsection (a)(2)(A), including the nature and extent of the relationship; and

(B) gifts accepted by the local government officer and any family member of the officer from a vendor during the 12-month period described by Subsection (a)(2)(B) if the aggregate value of the gifts accepted by the officer or a family member from that vendor exceeds $100;

(2) an acknowledgment from the local government officer that:

(A) the disclosure applies to each family member of the officer; and

(B) the statement covers the 12-month period described by Subsection (a)(2)(B); and

(3) the signature of the local government officer acknowledging that the statement is made under oath under penalty of perjury.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 3, effective May 25, 2007; am. Acts 2015, 84th Leg., ch. 989 (H.B. 23), §§ 4, 5, 9, effective September 1, 2015.

Sec. 176.004. Contents of Disclosure Statement. [Renumbered]

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 4, effective May 25, 2007; Renumbered to Tex. Local Gov't Code § 176.003(e) by Acts 2015, 84th Leg., ch. 989 (H.B. 23), § 5, effective September 1, 2015.

Sec. 176.005. Application to Certain Employees. [Repealed]

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 5, effective May 25, 2007; Repealed by Acts 2015, 84th Leg., ch. 989 (H.B. 23), § 9(2), effective September 1, 2015.

Sec. 176.006. Disclosure Requirements for Vendors and Other Persons; Questionnaire.

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

(b) The commission shall adopt a conflict of interest questionnaire for use under this section that requires disclosure of a vendor's business and family relationships with a local governmental entity.

(c) The questionnaire adopted under Subsection (b) must require, for the local governmental entity with respect to which the questionnaire is filed, that the vendor filing the questionnaire:

(1) describe each employment or business and family relationship the vendor has with each local government officer of the local governmental entity;

(2) identify each employment or business relationship described by Subdivision (1) with respect to which the local government officer receives, or is likely to receive, taxable income, other than investment income, from the vendor;

(3) identify each employment or business relationship described by Subdivision (1) with respect to which the vendor receives, or is likely to receive, taxable income, other than investment income, that:

(A) is received from, or at the direction of, a local government officer of the local governmental entity; and

(B) is not received from the local governmental entity; and

(4) describe each employment or business relationship with a corporation or other business entity with respect to which a local government officer of the local governmental entity:

(A) serves as an officer or director; or

(B) holds an ownership interest of one percent or more.

(d) A vendor shall file an updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate.

(e) A person who is both a local government officer and a vendor of a local governmental entity is required to file the questionnaire required by Subsection (a)(1) only if the person:

(1) enters or seeks to enter into a contract with the local governmental entity; or

(2) is an agent of a person who enters or seeks to enter into a contract with the local governmental entity.

(f) to (h) [Repealed by Acts 2015, 84th Leg., ch. 989 (H.B. 23), § 9(3), effective September 1, 2015.]

(i) The validity of a contract between a vendor and a local governmental entity is not affected solely because the vendor fails to comply with this section.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), §§ 6, 9, effective May 25, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 15.005, effective September 1, 2009; am. Acts 2015, 84th Leg., ch. 989 (H.B. 23), §§ 6, 9(3), effective September 1, 2015.

Sec. 176.0065. Maintenance of Records.

A records administrator shall:

(1) maintain a list of local government officers of the local governmental entity and shall make that list available to the public and any vendor who may be required to file a conflict of interest questionnaire under Section 176.006; and

(2) maintain the statements and questionnaires that are required to be filed under this chapter in accordance with the local governmental entity's records retention schedule.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 8, effective May 25, 2007; am. Acts 2015, 84th Leg., ch. 989 (H.B. 23), § 7, effective September 1, 2015 (renumbered from Sec. 176.011).

Sec. 176.007. List of Government Officers. [Repealed]

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; Repealed by Acts 2015, 84th Leg., ch. 989 (H.B. 23), § 9(4), effective September 1, 2015.

Sec. 176.008. Electronic Filing.

The requirements of this chapter, including signature requirements, may be satisfied by electronic filing in a form approved by the commission.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005.

Sec. 176.009. Posting on Internet.

(a) A local governmental entity that maintains an Internet website shall provide access to the statements and to questionnaires required to be filed under this chapter on that website. This subsection does not require a local governmental entity to maintain an Internet website.

(b) [Repealed by Acts 2013, 83rd Leg., ch. 847 (H.B. 195), § 3(b), effective January 1, 2014.]

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 7, effective May 25, 2007; am. Acts 2011, 82nd Leg., ch. 1163 (H.B. 2702), § 76, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 847 (H.B. 195), § 3(b), effective January 1, 2014.

Sec. 176.010. Requirements Cumulative.

The requirements of this chapter are in addition to any other disclosure required by law.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005.

Sec. 176.011. Maintenance of Records. [Renumbered]

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 8, effective May 25, 2007; Renumbered to Tex. Local Gov't Code § 176.0065 by Acts 2015, 84th Leg., ch. 989 (H.B. 23), § 7, effective September 1, 2015.

Sec. 176.012. Application of Public Information Law.

This chapter does not require a local governmental entity to disclose any information that is excepted from disclosure by Chapter 552, Government Code.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 8, effective May 25, 2007.

Sec. 176.013. Enforcement.

(a) A local government officer commits an offense under this chapter if the officer:

(1) is required to file a conflicts disclosure statement under Section 176.003; and

(2) knowingly fails to file the required conflicts disclosure statement with the appropriate records administrator not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.

(b) A vendor commits an offense under this chapter if the vendor:

(1) is required to file a conflict of interest questionnaire under Section 176.006; and

(2) either:

(A) knowingly fails to file the required questionnaire with the appropriate records administrator not later than 5 p.m. on the seventh business day after the date on which the vendor becomes aware of the facts that require the filing of the questionnaire; or

(B) knowingly fails to file an updated questionnaire with the appropriate records administrator not later than 5 p.m. on the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in a questionnaire previously filed by the vendor incomplete or inaccurate.

(c) An offense under this chapter is:

(1) a Class C misdemeanor if the contract amount is less than $1 million or if there is no contract amount for the contract;

(2) a Class B misdemeanor if the contract amount is at least $1 million but less than $5 million; or

(3) a Class A misdemeanor if the contract amount is at least $5 million.

(d) A local governmental entity may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with a requirement adopted under this chapter.

(e) The governing body of a local governmental entity may, at its discretion, declare a contract void if the governing body determines that a vendor failed to file a conflict of interest questionnaire required by Section 176.006.

(f) It is an exception to the application of Subsection (a) that the local government officer filed the required conflicts disclosure statement not later than the seventh business day after the date the officer received notice from the local governmental entity of the alleged violation.

(g) It is an exception to the application of Subsection (b) that the vendor filed the required questionnaire not later than the seventh business day after the date the vendor received notice from the local governmental entity of the alleged violation.

HISTORY: Enacted by Acts 2015, 84th Leg., ch. 989 (H.B. 23), § 8, effective September 1, 2015.

TITLE 8

ACQUISITION, SALE, OR LEASE OF PROPERTY

SUBTITLE A

MUNICIPAL ACQUISITION, SALE, OR LEASE OF PROPERTY

CHAPTER 252

Purchasing and Contracting Authority of Municipalities

Subchapter A. General Provisions

Subchapter B. Competitive Bidding or Competitive Proposals Required

Subchapter C. Procedures

Subchapter D. Enforcement

Subchapter A

General Provisions

Sec. 252.001. Definitions.

In this chapter:

(1) "Bond funds" includes money in the treasury received from the sale of bonds and includes the proceeds of bonds that have been voted but have not been issued and delivered.

(2) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(3) "Current funds" includes money in the treasury, taxes in the process of being collected in the current tax year, and all other revenue that may be anticipated with reasonable certainty in the current tax year.

(4) "High technology procurement" means the procurement of equipment, goods, or services of a highly technical nature, including:

(A) data processing equipment and software and firmware used in conjunction with data processing equipment;

(B) telecommunications equipment and radio and microwave systems;

(C) electronic distributed control systems, including building energy management systems; and

(D) technical services related to those items.

(5) "Planning services" means services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.

(6) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(7) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(8) "Time warrant" includes any warrant issued by a municipality that is not payable from current funds.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 2, effective September 1, 1989; am. Acts 1995, 74th Leg., ch. 207 (H.B. 1647), § 1, effective May 23, 1995.

Sec. 252.002. Municipal Charter Controls in Case of Conflict.

Any provision in the charter of a home-rule municipality that relates to the notice of contracts, advertisement of the notice, requirements for the taking of sealed bids based on specifications for public improvements or purchases, the manner of publicly opening bids or reading them aloud, or the manner of letting contracts and that is in conflict with this chapter controls over this chapter unless the governing body of the municipality elects to have this chapter supersede the charter.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 749 (S.B. 226), § 5, effective September 1, 1993; am. Acts 1993, 73rd Leg., ch. 757 (H.B. 1651), § 7, effective September 1, 1993.

Sec. 252.003. Application of Other Law.

The purchasing requirements of Section 361.426, Health and Safety Code, apply to municipal purchases made under this chapter.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 303 (S.B. 1340), § 17, effective September 1, 1991.

Secs. 252.004 to 252.020. [Reserved for expansion].

Subchapter B

Competitive Bidding or Competitive Proposals Required

Sec. 252.021. Competitive Requirements for Purchases.

(a) Before a municipality may enter into a contract that requires an expenditure of more than $50,000 from one or more municipal funds, the municipality must:

(1) comply with the procedure prescribed by this subchapter and Subchapter C for competitive sealed bidding or competitive sealed proposals;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Chapter 2269, Government Code.

(b) A municipality may use the competitive sealed proposal procedure for the purchase of goods or services, including high technology items and insurance.

(c) The governing body of a municipality that is considering using a method other than competitive sealed bidding must determine before notice is given the method of purchase that provides the best value for the municipality. The governing body may delegate, as appropriate, its authority under this subsection to a designated representative. If the competitive sealed proposals requirement applies to the contract, the municipality shall consider the criteria described by Section 252.043(b) and the discussions conducted under Section 252.042 to determine the best value for the municipality.

(d) This chapter does not apply to the expenditure of municipal funds that are derived from an appropriation, loan, or grant received by a municipality from the federal or state government for conducting a community development program established under Chapter 373 if under the program items are purchased under the request-for-proposal process described by Section 252.042. A municipality using a request-for-proposal process under this subsection shall also comply with the requirements of Section 252.0215.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 56(b), effective August 28, 1989; am. Acts 1993, 73rd Leg., ch. 749 (S.B. 226), § 1, effective September 1, 1993; am. Acts 1993, 73rd Leg., ch. 757 (H.B. 1651), § 11, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 45 (H.B. 1178), § 1, effective May 5, 1995; am. Acts 1997, 75th Leg., ch. 790 (H.B. 2692), § 1, effective June 17, 1997; am. Acts 1999, 76th Leg., ch. 571 (S.B. 507), § 1, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 115 (H.B. 197), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 436 (S.B. 221), § 2, 3, effective May 28, 2001; am. Acts 2001, 77th Leg., ch. 1409 (S.B. 510), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 217 (H.B. 211), § 1, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 12.003, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 434 (S.B. 1765), § 1, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1213 (H.B. 1886), § 1, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1272 (H.B. 3517), §§ 1, 2, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 4.01, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.002(20), effective September 1, 2013.

Sec. 252.0215. Competitive Bidding in Relation to Historically Underutilized Business.

A municipality, in making an expenditure of more than $3,000 but less than $50,000, shall contact at least two historically underutilized businesses on a rotating basis, based on information provided by the comptroller pursuant to Chapter 2161, Government Code. If the list fails to identify a historically underutilized business in the county in which the municipality is situated, the municipality is exempt from this section.

HISTORY: Enacted by Acts 1993, 73rd Leg., ch. 749 (S.B. 226), § 3, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 17.18, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 115 (H.B. 197), § 2, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 434 (S.B. 1765), § 2, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.100, effective September 1, 2007.

Sec. 252.022. General Exemptions.

(a) This chapter does not apply to an expenditure for:

(1) a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;

(2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents;

(3) a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;

(4) a procurement for personal, professional, or planning services;

(5) a procurement for work that is performed and paid for by the day as the work progresses;

(6) a purchase of land or a right-of-way;

(7) a procurement of items that are available from only one source, including:

(A) items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;

(B) films, manuscripts, or books;

(C) gas, water, and other utility services;

(D) captive replacement parts or components for equipment;

(E) books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and

(F) management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;

(8) a purchase of rare books, papers, and other library materials for a public library;

(9) paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;

(10) a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;

(11) a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;

(12) personal property sold:

(A) at an auction by a state licensed auctioneer;

(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;

(C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or

(D) under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;

(13) services performed by blind or severely disabled persons;

(14) goods purchased by a municipality for subsequent retail sale by the municipality;

(15) electricity; or

(16) advertising, other than legal notices.

(b) This chapter does not apply to bonds or warrants issued under Subchapter A, Chapter 571.

(c) This chapter does not apply to expenditures by a municipally owned electric or gas utility or unbundled divisions of a municipally owned electric or gas utility in connection with any purchases by the municipally owned utility or divisions of a municipally owned utility made in accordance with procurement procedures adopted by a resolution of the body vested with authority for management and operation of the municipally owned utility or its divisions that sets out the public purpose to be achieved by those procedures. This subsection may not be deemed to exempt a municipally owned utility from any other applicable statute, charter provision, or ordinance.

(d) This chapter does not apply to an expenditure described by Section 252.021(a) if the governing body of a municipality determines that a method described by Chapter 2269, Government Code, provides a better value for the municipality with respect to that expenditure than the procedures described in this chapter and the municipality adopts and uses a method described in that chapter with respect to that expenditure.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 47(c), effective August 28, 1989; am. Acts 1989, 71st Leg., ch. 1001 (H.B. 860), § 1, effective August 28, 1989; am. Acts 1991, 72nd Leg., ch. 42 (S.B. 862), § 1, effective April 25, 1991; am. Acts 1993, 73rd Leg., ch. 749 (S.B. 226), § 7, effective September 1, 1993;

am. Acts 1993, 73rd Leg., ch. 757 (H.B. 1651), § 9, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 207 (H.B. 1647), § 2, effective May 23, 1995; am. Acts 1995, 74th Leg., ch. 746 (H.B. 52), § 1, effective August 28, 1995; am. Acts 1997, 75th Leg., ch. 125 (S.B. 804), § 1, effective May 19, 1997; am. Acts 1997, 75th Leg., ch. 1370 (H.B. 1161), § 3, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 405 (S.B. 7), § 41, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1409 (S.B. 510), § 2, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.290, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 434 (S.B. 1765), § 3, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 885 (H.B. 2278), § 3.77(3), effective April 1, 2009; am. Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 4.02, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.002(21), effective September 1, 2013.

Sec. 252.023. Exemptions from Referendum Provisions.

The referendum provisions prescribed by Section 252.045 do not apply to expenditures that are payable:

(1) from current funds;

(2) from bond funds; or

(3) by time warrants unless the amount of the time warrants issued by the municipality for all purposes during the current calendar year exceeds:

(A) $7,500 if the municipality's population is 5,000 or less;

(B) $10,000 if the municipality's population is 5,001 to 24,999;

(C) $25,000 if the municipality's population is 25,001 to 49,999; or

(D) $100,000 if the municipality's population is more than 50,000.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 109 (H.B. 571), § 1, effective August 26, 1991.

Sec. 252.024. Selection of Insurance Broker.

This chapter does not prevent a municipality from selecting a licensed insurance broker as the sole broker of record to obtain proposals and coverages for excess or surplus insurance that provides necessary coverage and adequate limits of coverage in structuring layered excess coverages in all areas of risk requiring special consideration, including public official liability, police professional liability, and airport liability. The broker may be retained only on a fee basis and may not receive any other remuneration from any other source.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Secs. 252.025 to 252.040. [Reserved for expansion].

Subchapter C

Procedures

Sec. 252.041. Notice Requirement.

(a) If the competitive sealed bidding requirement applies to the contract, notice of the time and place at which the bids will be publicly opened and read aloud must be published at least once a week for two consecutive weeks in a newspaper published in the municipality. The date of the first publication must be before the 14th day before the date set to publicly open the bids and read them aloud. If no newspaper is published in the municipality, the notice must be posted at the city hall for 14 days before the date set to publicly open the bids and read them aloud.

(b) If the competitive sealed proposals requirement applies to the contract, notice of the request for proposals must be given in the same manner as that prescribed by Subsection (a) for the notice for competitive sealed bids.

(c) If the contract is for the purchase of machinery for the construction or maintenance of roads or streets, the notice for bids and the order for purchase must include a general specification of the machinery desired.

(d) If the governing body of the municipality intends to issue time warrants for the payment of any part of the contract, the notice must include a statement of:

(1) the governing body's intention;

(2) the maximum amount of the proposed time warrant indebtedness;

(3) the rate of interest the time warrants will bear; and

(4) the maximum maturity date of the time warrants.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 109 (H.B. 571), § 2, effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 749 (S.B. 226), § 4, effective September 1, 1993; am. Acts 1993, 73rd Leg., ch. 757 (H.B. 1651), § 6, effective September 1, 1993.

Sec. 252.0415. Procedures for Electronic Bids or Proposals.

(a) A municipality may receive bids or proposals under this chapter through electronic transmission if the governing body of the municipality adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

(b) Notwithstanding any other provision of this chapter, an electronic bid or proposal is not required to be sealed. A

provision of this chapter that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted under Subsection (a).

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1063 (H.B. 1981), § 6, effective September 1, 2001.

Sec. 252.042. Requests for Proposals for Certain Procurements.

(a) Requests for proposals made under Section 252.021 must solicit quotations and must specify the relative importance of price and other evaluation factors.

(b) Discussions in accordance with the terms of a request for proposals and with regulations adopted by the governing body of the municipality may be conducted with offerors who submit proposals and who are determined to be reasonably qualified for the award of the contract. Offerors shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. To obtain the best final offers, revisions may be permitted after submissions and before the award of the contract.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 56(c), effective August 28, 1989; am. Acts 1995, 74th Leg., ch. 45 (H.B. 1178), § 2, effective May 5, 1995.

Sec. 252.043. Award of Contract.

(a) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

(b) In determining the best value for the municipality, the municipality may consider:

(1) the purchase price;

(2) the reputation of the bidder and of the bidder's goods or services;

(3) the quality of the bidder's goods or services;

(4) the extent to which the goods or services meet the municipality's needs;

(5) the bidder's past relationship with the municipality;

(6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;

(7) the total long-term cost to the municipality to acquire the bidder's goods or services; and

(8) any relevant criteria specifically listed in the request for bids or proposals.

(b-1) In addition to the considerations provided by Subsection (b), a joint board described by Section 22.074(d), Transportation Code, that awards contracts in the manner provided by this chapter may consider, in determining the best value for the board, the impact on the ability of the board to comply with laws, rules, and programs relating to contracting with small businesses, as defined by 13 C.F.R. Section 121.201.

(c) Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

(d) Except as provided by Subsection (d-1), the contract must be awarded to the lowest responsible bidder if the competitive sealed bidding requirement applies to the contract for construction of:

(1) highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or

(2) buildings or structures that are incidental to projects that are primarily civil engineering construction projects.

(d-1) A contract for construction of a project described by Subsection (d) that requires an expenditure of $1.5 million or less may be awarded using the competitive sealed proposal procedure prescribed by Subchapter D, Chapter 2269, Government Code.

(e) If the competitive sealed bidding requirement applies to the contract for construction of a facility, as that term is defined by Section 2269.001, Government Code, the contract must be awarded to the lowest responsible bidder or awarded under the method described by Chapter 2269, Government Code.

(f) The governing body may reject any and all bids.

(g) A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. This chapter does not change the common law right of a bidder to withdraw a bid due to a material mistake in the bid.

(h) If the competitive sealed proposals requirement applies to the contract, the contract must be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in the request for proposals.

(i) This section does not apply to a contract for professional services, as that term is defined by Section 2254.002, Government Code.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1997, 75th Leg., ch. 1370 (H.B. 1161), § 4, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1409 (S.B. 510), § 3, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 739 (H.B. 2661), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 428 (S.B. 1618), § 1, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 4.03, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.002(22), effective September 1, 2013.

Sec. 252.0435. Safety Record of Bidder Considered.

In determining who is a responsible bidder, the governing body may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution if:

(1) the governing body has adopted a written definition and criteria for accurately determining the safety record of a bidder;

(2) the governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder; and

(3) the determinations are not arbitrary and capricious.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 58(b), effective August 28, 1989.

Sec. 252.0436. Contract with Person Indebted to Municipality.

(a) A municipality by ordinance may establish regulations permitting the municipality to refuse to enter into a contract or other transaction with a person indebted to the municipality.

(b) It is not a violation of this chapter for a municipality, under regulations adopted under Subsection (a), to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the municipality.

(c) In this section, "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with the municipality requiring approval by the governing body of the municipality.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 156 (S.B. 850), § 1, effective September 1, 2003.

Sec. 252.044. Contractor's Bond.

(a) If the contract is for the construction of public works, the bidder to whom the contract is awarded must execute a good and sufficient bond. The bond must be:

(1) in the full amount of the contract price;

(2) conditioned that the contractor will faithfully perform the contract; and

(3) executed, in accordance with Chapter 2253, Government Code, by a surety company authorized to do business in the state.

(b) [Repealed by Acts 1993, 73rd Leg., ch. 865 (H.B. 31), § 2, effective September 1, 1993.]

(c) The governing body of a home-rule municipality by ordinance may adopt the provisions of this section and Chapter 2253, Government Code, relating to contractors' surety bonds, regardless of a conflicting provision in the municipality's charter.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 865 (H.B. 31), § 2, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(17), effective September 1, 1995.

Sec. 252.045. Referendum on Issuance of Time Warrants.

(a) If, by the time set for letting a contract under this chapter, a written petition with the required signatures is filed with the municipal secretary or clerk requesting the governing body of the municipality to order a referendum on the question of whether time warrants should be issued for an expenditure under the contract, the governing body may not authorize the expenditure or finally award the contract unless the question is approved by a majority of the votes received in the referendum. The petition must be signed by at least 10 percent of the qualified voters of the municipality whose names appear as property taxpayers on the municipality's most recently approved tax rolls.

(b) If a petition is not filed, the governing body may finally award the contract and issue the time warrants. In the absence of a petition, the governing body may, at its discretion, order the referendum.

(c) The provisions of Subtitles A and C, Title 9, Government Code, relating to elections for the issuance of municipal bonds and to the issuance, approval, registration, and sale of bonds govern the referendum and the time warrants to the extent those provisions are consistent with this chapter. However, the time warrants may mature over a term exceeding 40 years only if the governing body finds that the financial condition of the municipality will not permit payment of warrants issued for a term of 40 years or less from taxes that are imposed substantially uniformly during the term of the warrants.

(d) This section does not supersede any additional rights provided by the charter of a special-law municipality and relating to a referendum.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 38, effective September 1, 1999.

Sec. 252.046. Circumstances in Which Current Funds to Be Set Aside.

If an expenditure under the contract is payable by warrants on current funds, the governing body of the municipality by order shall set aside an amount of current funds that will discharge the principal and interest of the warrants. Those

funds may not be used for any other purpose, and the warrants must be discharged from those funds and may not be refunded.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 252.047. Payment Method for Certain Contracts.

If the contract is for the construction of public works or for the purchase of materials, equipment, and supplies, the municipality may let the contract on a lump-sum basis or unit price basis as the governing body of the municipality determines. If the contract is let on a unit price basis, the information furnished to bidders must specify the approximate quantity needed, based on the best available information, but payment to the contractor must be based on the actual quantity constructed or supplied.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 252.048. Change Orders.

(a) If changes in plans or specifications are necessary after the performance of the contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the governing body of the municipality may approve change orders making the changes.

(b) The total contract price may not be increased because of the changes unless additional money for increased costs is appropriated for that purpose from available funds or is provided for by the authorization of the issuance of time warrants.

(c) If a change order involves a decrease or an increase of $50,000 or less, the governing body may grant general authority to an administrative official of the municipality to approve the change orders.

(c-1) If a change order for a public works contract in a municipality with a population of 300,000 or more involves a decrease or an increase of $100,000 or less, or a lesser amount as provided by ordinance, the governing body of the municipality may grant general authority to an administrative official of the municipality to approve the change order.

(d) The original contract price may not be increased under this section by more than 25 percent. The original contract price may not be decreased under this section by more than 25 percent without the consent of the contractor.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1995, 74th Leg., ch. 706 (S.B. 99), § 1, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 746 (H.B. 52), § 2, effective August 28, 1995; am. Acts 2011, 82nd Leg., ch. 479 (H.B. 679), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.09, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1127 (H.B. 1050), § 7, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1356 (S.B. 1430), § 2, effective June 14, 2013.

Sec. 252.049. Confidentiality of Information in Bids or Proposals.

(a) Trade secrets and confidential information in competitive sealed bids are not open for public inspection.

(b) If provided in a request for proposals, proposals shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 252.050. Lease-Purchase or Installment Purchase of Real Property.

(a) This section applies only to a lease-purchase or installment purchase of real property financed by the issuance of certificates of participation.

(b) The governing body of a municipality may not make an agreement under which the municipality is a lessee in a lease-purchase of real property or is a purchaser in an installment purchase of real property unless the governing body first obtains an appraisal by a qualified appraiser who is not an employee of the municipality. The purchase price may not exceed the fair market value of the real property, as shown by the appraisal.

HISTORY: Enacted by Acts 1989, 71st Leg., 1st C.S., ch. 10 (H.B. 28), § 2, effective October 18, 1989.

Sec. 252.051. Appraisal Required Before Purchase of Property with Bond Proceeds.

A municipality may not purchase property wholly or partly with bond proceeds until the municipality obtains an independent appraisal of the property's market value.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 719 (H.B. 782), § 1, effective September 1, 2011.

Secs. 252.052 to 252.060. [Reserved for expansion].

Subchapter D

Enforcement

Sec. 252.061. Injunction.

If the contract is made without compliance with this chapter, it is void and the performance of the contract, including the payment of any money under the contract, may be enjoined by:

(1) any property tax paying resident of the municipality; or

(2) a person who submitted a bid for a contract for which the competitive sealed bidding requirement applies, regardless of residency, if the contract is for the construction of public works.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 2009, 81st Leg., ch. 979 (H.B. 3668), § 1, effective September 1, 2009.

Sec. 252.062. Criminal Penalties.

(a) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 252.021. An offense under this subsection is a Class B misdemeanor.

(b) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 252.021, other than by conduct described by Subsection (a). An offense under this subsection is a Class B misdemeanor.

(c) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates this chapter, other than by conduct described by Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 3, effective September 1, 1989.

Sec. 252.063. Removal; Ineligibility.

(a) The final conviction of a municipal officer or employee for an offense under Section 252.062(a) or (b) results in the immediate removal from office or employment of that person.

(b) For four years after the date of the final conviction, the removed officer or employee is ineligible:

(1) to be a candidate for or to be appointed or elected to a public office in this state;

(2) to be employed by the municipality with which the person served when the offense occurred; and

(3) to receive any compensation through a contract with that municipality.

(c) This section does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 4, effective September 1, 1989.

SUBTITLE B

COUNTY ACQUISITION, SALE, OR LEASE OF PROPERTY

CHAPTER 262

Purchasing and Contracting Authority of Counties

Subchapter A. General Provisions

Subchapter B. Purchasing Agents

Subchapter C. Competitive Bidding In General

Subchapter A

General Provisions

Sec. 262.001. Appointment of Agent to Make Contracts.

(a) The commissioners court of a county may appoint an agent to make a contract on behalf of the county for:
(1) erecting or repairing a county building;
(2) supervising the erecting or repairing of a county building; or
(3) any other purpose authorized by law.

(b) A contract or other act of an agent appointed under this section that is properly executed on behalf of the county and is within the agent's authority binds the county to the contract for all purposes.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 262.002. Authority to Purchase Road Equipment and Tires Through Comptroller.

(a) The commissioners court of a county may purchase through the comptroller road machinery and equipment, tires, and tubes to be used by the county.

(b) The commission must purchase an item under this section on competitive bids and in accordance with any rules of the commission.

(c) A purchase under this section must be made on the requisition of the commissioners court. When the court sends the requisition to the commission, the court must include with the requisition a general description of the item desired and a certification of the funds available to pay for the item.

(d) The commission may adopt rules to carry out the purpose of this section.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), §§ 1.101, 1.102, effective September 1, 2007.

Sec. 262.003. Small, Sole-Source Purchase Exempt from Competitive Bidding.

(a) Any law that requires a county to follow a competitive procurement procedure in making a purchase requiring the expenditure of $50,000 or less does not apply to the purchase of an item available for purchase from only one supplier.

(b) If a county makes a purchase covered by Subsection (a), the county auditor or other appropriate county officer or employee may not refuse payment for the purchase because a competitive bidding procedure was not followed.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 757 (H.B. 1651), § 12, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 115 (H.B. 197), § 4, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 1266 (H.B. 987), § 3, effective June 19, 2009.

Sec. 262.004. Contract and Other Instruments Vest Rights in County; Suit on Contract or Other Instrument.

(a) A note, bond, bill, contract, covenant, agreement, or writing in which a person is bound to a county, to the court or commissioners of a county, or to another person for the payment of a debt or for the performance of a duty or another action for the county vests in the county the same right, interest, or action that would vest in any other person if the contract had been made with that other person.

(b) A suit may be initiated and prosecuted on an instrument covered by Subsection (a) in the name of a county, or in the name of the person to whom the document was made for the use of the county, in the same manner that any other person may sue on a similar document made to that person.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 262.005. Application of Other Law.

The purchasing requirements of Section 361.426, Health and Safety Code, apply to county purchases made under this chapter.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 303 (S.B. 1340), § 18, effective September 1, 1991.

Sec. 262.006. Least Cost Review Program.

The commissioners court of a county may establish a least cost review program for public improvements to be constructed by the use of personnel, equipment, or facilities of the county that may exceed a cost of:

(1) $100,000; or

(2) an amount less than $100,000 as determined by the commissioners court.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 13.11(f), effective September 1, 1999.

Sec. 262.007. Suit Against County Arising Under Certain Contracts.

(a) A county that is a party to a written contract for engineering, architectural, or construction services or for goods related to engineering, architectural, or construction services may sue or be sued, plead or be impleaded, or defend or be defended on a claim arising under the contract. A suit on the contract brought by a county shall be brought in the name of the county. A suit on the contract brought against a county shall identify the county by name and must be brought in a state court in that county.

(b) The total amount of money recoverable from a county on a claim for breach of the contract is limited to the following:

(1) the balance due and owed by the county under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration;

(2) the amount owed for change orders or additional work required to carry out the contract;

(3) reasonable and necessary attorney's fees that are equitable and just; and

(4) interest as allowed by law.

(c) An award of damages under this section may not include:

(1) consequential damages, except as allowed under Subsection (b)(1);

(2) exemplary damages; or

(3) damages for unabsorbed home office overhead.

(d) This section does not waive a defense or a limitation on damages available to a party to a contract, other than a bar against suit based on sovereign immunity.

(e) This section does not waive sovereign immunity to suit in federal court.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1203 (S.B. 1017), § 2, effective September 1, 2003.

Secs. 262.008 to 262.010. [Reserved for expansion].

Subchapter B

Purchasing Agents

Sec. 262.011. Purchasing Agents.

(a) A board composed as provided by this subsection, by majority vote, may appoint a suitable person to act as the county purchasing agent. In a county with a population of 150,000 or less, the board is composed of the judges of the district courts in the county and the county judge. In any other county, the board is composed of three judges of the district courts in the county and two members of the commissioners court of the county unless the county has fewer than three district court judges, in which case the board is composed of one district court judge and one member of the commissioners court. If members of the board who are district judges must be selected, the selection is made by a majority vote of all the district judges in a county having more than one district judge. If members of the board who are members of the commissioners court must be selected, the selection is made by a majority vote of the commissioners court. The term of office of the county purchasing agent is two years.

(b) The board may remove the county purchasing agent from office.

(c) A person appointed under this section must execute a bond in the amount of $5,000, payable to the county, conditioned that the individual will faithfully perform the duties of county purchasing agent.

(d) The county purchasing agent shall purchase all supplies, materials, and equipment required or used, and contract for all repairs to property used, by the county or a subdivision, officer, or employee of the county, except purchases and contracts required by law to be made on competitive bid. A person other than the county purchasing agent may not make the purchase of the supplies, materials, or equipment or make the contract for repairs.

(e) The county purchasing agent shall supervise all purchases made on competitive bid and shall see that all

purchased supplies, materials, and equipment are delivered to the proper county officer or department in accordance with the purchase contract.

(f) A purchase made by the county purchasing agent shall be paid for by an electronic transfer, check, or warrant drawn by the county auditor on funds in the county treasury in the manner provided by law. The county auditor may not draw and the county treasurer may not honor an electronic transfer, check, or warrant for a purchase unless the purchase is made by the county purchasing agent or on competitive bid as provided by law.

(g) The county purchasing agent may cooperate with the purchasing agent of a municipality in the county to purchase any item in volume as may be necessary. The county treasurer shall honor an electronic transfer, check, or warrant drawn by the county auditor to reimburse the municipality's purchasing agent making the purchase for the county.

(h) The county purchasing agent is not required to make purchases for a municipal-county hospital or other joint undertaking of the municipality and county.

(i) On July 1 of each year, the county purchasing agent shall file with the county auditor and each of the members of the board that appoints the county purchasing agent an inventory of all the property on hand and belonging to the county and each subdivision, officer, and employee of the county. The county auditor shall carefully examine the inventory and make an accounting for all property purchased or previously inventoried and not appearing in the inventory.

(j) To prevent unnecessary purchases, the county purchasing agent, with the approval of the commissioners court, shall transfer county supplies, materials, and equipment from a subdivision, department, officer, or employee of the county that are not needed or used to another subdivision, department, officer, or employee requiring the supplies or materials or the use of the equipment. The county purchasing agent shall furnish to the county auditor a list of transferred supplies, materials, and equipment.

(k) The board that appoints the county purchasing agent shall set the salary of the agent in an amount not less than $5,000 a year, payable in equal monthly installments or by any other distribution at the option of the county. The salary shall be paid by an electronic transfer, check, or warrant drawn on funds in the county treasury.

(*l*) The county purchasing agent may have assistants to aid in the performance of the agent's duties. A person who is authorized by the county purchasing agent to use a county purchasing card while making a county purchase is considered an assistant of the county purchasing agent to the extent the person complies with the rules and procedures prescribed for the use of county purchasing cards as adopted by the county purchasing agent under Subsection (o). The county purchasing agent and assistants may have any help, equipment, supplies, and traveling expenses that are approved and considered advisable by the board that appointed the agent.

(m) A person, including an officer, agent, or employee of a county or of a subdivision or department of a county, commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine of not less than $10 or more than $100. Each act in violation of this section is a separate offense.

(n) This section applies to all purchases of supplies, materials, and equipment for the use of the county and its officers, including purchases made by officers paid out of fees of office or otherwise, regardless of whether the purchase contract is made by the commissioners court or any other officer authorized to bind the county by contract. An officer making a purchase out of fees of office in violation of this section may not deduct the amount of the purchase from the amount of any fees of office due the county.

(o) The county purchasing agent shall adopt the rules and procedures necessary to implement the agent's duties under this section subject to approval by the commissioners court. Notwithstanding Subsection (f) or other law, rules and procedures adopted under this subsection may include rules and procedures for persons to use county purchasing cards to pay for county purchases under the direction and supervision of the county purchasing agent. Procedures for use of purchasing cards may not avoid the competitive bidding requirements of this chapter or other requirements of county financial law.

(p) During each two-year term of office, a county purchasing agent shall complete not less than 25 hours in courses relating to the duties of the county purchasing agent. The courses must be:

(1) accredited by a nationally recognized college or university;

(2) recognized by a national purchasing association, such as the National Association of Purchasing Management; or

(3) courses offered by state agencies, or by state professional associations, related to purchasing.

(q) An electronic transfer under this chapter must provide the same level of internal controls and statutory authorizations as required for a check or warrant.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 87(q), effective August 28, 1989; am. Acts 1989, 71st Leg., ch. 561 (H.B. 1671), §§ 1, 2, effective August 28, 1989; am. Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), §§ 5, 6, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 13.02(a), (d), effective August 26, 1991; am. Acts 1991, 72nd Leg., ch. 874 (H.B. 1147), § 4, effective June 16, 1991; am. Acts 1993, 73rd Leg., ch. 367 (H.B. 1756), § 1, effective August 30, 1993; am. Acts 1999, 76th Leg., ch. 505 (S.B. 1669), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 57 (H.B. 1619), § 1, effective May 9, 2001; am. Acts 2001, 77th Leg., ch. 321 (H.B. 1588), § 1, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 1, effective September 1, 2011.

Sec. 262.0115. Purchasing Agents in Counties with Population of More Than 100,000.

(a) In a county with a population of more than 100,000, the commissioners court may employ a person to act as county

purchasing agent. However, this section does not apply to a county that has appointed a purchasing agent under Section 262.011 and that has not abolished the position as authorized by law.

(b) A purchasing agent employed under this section serves at the pleasure of the commissioners court.

(c) The commissioners court may employ other persons necessary to assist the purchasing agent in performing the agent's functions.

(d) Under the supervision of the commissioners court, the purchasing agent shall carry out the functions prescribed by law for a purchasing agent under Section 262.011 and for any administrative function of the county auditor in regard to county purchases and contracts and shall administer the procedures prescribed by law for notice and public bidding for county purchases and contracts.

(e) A county that has established the position of county purchasing agent under this section may abolish the position at any time. On the abolition of the position, the county auditor shall assume the functions previously performed by the purchasing agent regarding the notice for and opening of competitive bids or proposals under this chapter and Chapter 271.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 11(g), effective August 28, 1989; am. Acts 1995, 74th Leg., ch. 63 (H.B. 1475), § 1, effective May 9, 1995; am. Acts 1999, 76th Leg., ch. 369 (H.B. 2662), § 1, effective May 29, 1999; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 2, effective September 1, 2011.

Sec. 262.012. County Auditors As Purchasing Agents in Certain Counties.

(a) The commissioners court of a county that employs a county auditor jointly with one or more counties under Section 84.008 may require the auditor to act as the purchasing agent for the county, in addition to performing the regular duties of the auditor as required by law.

(b) In a county with a population of 41,680 to 42,100, the county auditor shall act as the purchasing agent for the county in addition to performing the regular duties of the auditor as required by law.

(c) This section applies only to a county in which a county purchasing agent has not been appointed under Section 262.011.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 561 (H.B. 1671), § 3, effective August 28, 1989; am. Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 7, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 204 (H.B. 219), § 1, effective September 1, 1991.

Secs. 262.013 to 262.020. [Reserved for expansion].

Subchapter C

Competitive Bidding In General

Sec. 262.021. Short Title.

This subchapter may be cited as the County Purchasing Act.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 262.022. Definitions.

In this subchapter:

(1) "Bond funds" means money in the county treasury received from the sale of bonds, and proceeds of bonds that have been voted but that have not been issued and delivered.

(2) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(3) "Current funds" means funds in the county treasury that are available in the current tax year, revenue that may be anticipated with reasonable certainty to come into the county treasury during the current tax year, and emergency funds.

(4) "High technology item" means a service, equipment, or good of a highly technical nature, including:

(A) data processing equipment and software and firmware used in conjunction with data processing equipment;

(B) telecommunications, radio, and microwave systems;

(C) electronic distributed control systems, including building energy management systems; and

(D) technical services related to those items.

(5) "Item" means any service, equipment, good, or other tangible or intangible personal property, including insurance and high technology items. The term does not include professional services as defined by Section 2254.002, Government Code.

(5-a) "Lowest and best" means a bid or offer providing the best value considering associated direct and indirect costs, including transport, maintenance, reliability, life cycle, warranties, and customer service after a sale.

(5-b) "Normal purchasing practice" means:

(A) an accepted custom, practice, or standard for government procurement in the state; or

(B) a practice recognized by a national purchasing association regarding the purchase of a particular good or service.

(6) "Purchase" means any kind of acquisition, including by a lease or revenue contract.

(7) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(8) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(9) "Time warrant" means any warrant issued by a county that is not payable out of current funds.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 59(b), effective August 28, 1989; am. Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 8(a), effective September 1, 1989; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 3, effective September 1, 2011.

Sec. 262.0225. Additional Competitive Procedures.

(a) In the procedure for competitive bidding under this subchapter, the commissioners court of the county shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.

(b) A county shall receive bids or proposals under this subchapter in a fair and confidential manner.

(c) A county may receive bids or proposals under this subchapter in hard-copy format or through electronic transmission. A county shall accept any bids or proposals submitted in hard-copy format.

(d) A county that complies in good faith with the competitive bidding requirements of this chapter and receives no responsive bids for an item may procure the item under Section 262.0245.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1063 (H.B. 1981), § 1, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 4, effective September 1, 2011.

Sec. 262.023. Competitive Requirements for Certain Purchases.

(a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding $50,000, the commissioners court of the county must:

(1) comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Chapter 2269, Government Code.

(b) The requirements established by Subsection (a) apply to contracts for which payment will be made from current funds or bond funds or through anticipation notes authorized by Chapter 1431, Government Code, or time warrants. Contracts for which payments will be made through certificates of obligation are governed by The Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271).

(b-1) A county that complies with a method described by Chapter 2269, Government Code, as provided by Subsection (a)(3), to enter into a contract for which payment will be made through anticipation notes authorized by Chapter 1431, Government Code, may not issue anticipation notes for the payment of that contract in an amount that exceeds the lesser of:

(1) 20 percent of the county's budget for the fiscal year in which the county enters into the contract; or

(2) $10 million.

(c) In applying the requirements established by Subsection (a), all separate, sequential, or component purchases of items ordered or purchased, with the intent of avoiding the requirements of this subchapter, from the same supplier by the same county officer, department, or institution are treated as if they are part of a single purchase and of a single contract. In applying this provision to the purchase of office supplies, separate purchases of supplies by an individual department are not considered to be part of a single purchase and single contract by the county if a specific intent to avoid the requirements of this subchapter is not present.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 57(a), effective August 28, 1989; am. Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 9, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 13.02(b), effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 757 (H.B. 1651), §§ 13, 38, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 442 (H.B. 2179), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 505 (S.B. 1669), § 2, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 436 (S.B. 221), § 4, effective May 28, 2001; am. Acts 2001, 77th Leg., ch. 1063 (H.B. 1981), § 2, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1409 (S.B. 510), § 4, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 12.004, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 689 (H.B. 1764), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1266 (H.B. 987), § 4, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 4.04, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.002(23), effective September 1, 2013.

Sec. 262.0235. Procedures Adopted by County Purchasing Agents for Electronic Bids or Proposals.

The county purchasing agent, before receiving electronic bids or proposals, shall adopt rules in conformance with Section 262.011(o) to ensure the identification, security, and confidentiality of electronic bids or proposals.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1063 (H.B. 1981), § 3, effective September 1, 2001.

Sec. 262.024. Discretionary Exemptions.

(a) A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:

(1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;

(2) an item necessary to preserve or protect the public health or safety of the residents of the county;

(3) an item necessary because of unforeseen damage to public property;

(4) a personal or professional service;

(5) any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period;

(6) any land or right-of-way;

(7) an item that can be obtained from only one source, including:

(A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;

(B) films, manuscripts, or books;

(C) electric power, gas, water, and other utility services; and

(D) captive replacement parts or components for equipment;

(8) an item of food;

(9) personal property sold:

(A) at an auction by a state licensed auctioneer;

(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or

(C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government;

(10) any work performed under a contract for community and economic development made by a county under Section 381.004; or

(11) vehicle and equipment repairs.

(b) The renewal or extension of a lease or of an equipment maintenance agreement is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption and if:

(1) the lease or agreement has gone through the competitive bidding procedure within the preceding year;

(2) the renewal or extension does not exceed one year; and

(3) the renewal or extension is the first renewal or extension of the lease or agreement.

(c) If an item exempted under Subsection (a)(7) is purchased, the commissioners court, after accepting a signed statement from the county official who makes purchases for the county as to the existence of only one source, must enter in its minutes a statement to that effect.

(d) The exemption granted under Subsection (a)(8) of this section shall apply only to the sealed competitive bidding requirements on food purchases. Counties shall solicit at least three bids for purchases of food items by telephone or written quotation at intervals specified by the commissioners court. Counties shall award food purchase contracts to the responsible bidder who submits the lowest and best bid or shall reject all bids and repeat the bidding process, as provided by this subsection. The purchasing officer taking telephone or written bids under this subsection shall maintain, on a form approved by the commissioners court, a record of all bids solicited and the vendors contacted. This record shall be kept in the purchasing office for a period of at least one year or until audited by the county auditor.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 59(c), effective August 28, 1989; am. Acts 1989, 71st Leg., ch. 962 (H.B. 302), § 1, effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 1001 (H.B. 860), § 2, effective August 28, 1989; am. Acts 1989, 71st Leg., ch. 1060 (S.B. 24), § 1, effective August 28, 1989; am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 13.03, effective August 26, 1991; am. Acts 1997, 75th Leg., ch. 442 (H.B. 2179), § 2, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1065 (H.B. 2002), § 1, effective June 15, 2001; am. Acts 2007, 80th Leg., ch. 1272 (H.B. 3517), § 3, effective September 1, 2007.

Sec. 262.0241. Mandatory Exemptions: Certain Recreational Services.

(a) This section applies only to a county that:

(1) has a population of 20,000 or less; and

(2) owns not more than one golf course open for public use.

(b) The competitive bidding and competitive proposal procedures prescribed by this subchapter do not apply to the purchase of:

(1) management services for:

(A) a county-owned golf course; or

(B) a retail facility owned by the county and located on the premises of the golf course; and

(2) landscape maintenance services for a county-owned golf course.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1065 (H.B. 2002), § 2, effective June 15, 2001.

Sec. 262.0245. Competitive Procurement Procedures Adopted by County Purchasing Agents or Commissioners Court.

A county purchasing agent or, in a county without a purchasing agent, the commissioners court shall adopt procedures that provide for competitive procurement, to the extent practicable under the circumstances, for the county purchase of an item that is not subject to competitive procurement or for which the county receives no responsive bid.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 13.02(c), effective August 26, 1991; am. Acts 2001, 77th Leg., ch. 1065 (H.B. 2002), § 2, effective June 15, 2001 (renumbered from Sec. 262.0241); am. Acts 2009, 81st Leg., ch. 1266 (H.B. 987), § 5, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 5, effective September 1, 2011.

Sec. 262.025. Competitive Bidding Notice.

(a) A notice of a proposed purchase must be published at least once a week for two consecutive weeks in a newspaper of general circulation in the county, with the first day of publication occurring at least 14 days before the date of the bid opening. If there is no newspaper of general circulation in the county, the notice must be posted in a prominent place in the courthouse for 14 days before the date of the bid opening. Notice published in a newspaper must include:

(1) a general statement of the proposed purchase;

(2) the name and telephone number of the purchasing agent; and

(3) the county website address, if any.

(a-1) Subsection (a) does not require more than two notices in one newspaper or limit the county from providing additional notice for longer periods or in more locations.

(b) The notice must include:

(1) the specifications describing the item to be purchased or a statement of where the specifications may be obtained;

(2) the time and place for receiving and opening bids and the name and position of the county official or employee to whom the bids are to be sent;

(3) whether the bidder should use lump-sum or unit pricing;

(4) the method of payment by the county; and

(5) the type of bond required by the bidder.

(c) If any part of the payment for a proposed purchase will be made through time warrants, the notice also must include a statement of the maximum amount of time warrant indebtedness, the rate of interest on the time warrants, and the maximum maturity date of the time warrants.

(d) In a county with a population of 3.3 million or more, the county and any district or authority created under Article XVI, Section 59, of the Texas Constitution of which the governing body is the commissioners court may require that a minimum of 25 percent of the work be performed by the bidder and, notwithstanding any other law to the contrary, may establish financial criteria for the surety companies that provide payment and performance bonds.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1019 (H.B. 1059), § 1, effective August 28, 1989; am. Acts 2001, 77th Leg., ch. 669 (H.B. 2810), § 78, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 6, effective September 1, 2011.

Sec. 262.0255. Additional Notice and Bond Provisions Relating to Purchase of Certain Equipment.

(a) A notice of a proposed purchase of earth-moving, material-handling, road maintenance, or construction equipment under Section 262.025 may include a request for information about the costs of the repair, maintenance, or repurchase of the equipment.

(b) The commissioners court may require the bidder to furnish, to the county in a contract for the purchase of the equipment, a bond to cover the repurchase costs of the equipment.

(c) A commissioners court purchasing personal property under Section 271.083 of this code or Section 791.025, Government Code, may negotiate with a vendor awarded a cooperative contract under those sections an agreement for the vendor to purchase or accept as trade used equipment owned by the county.

HISTORY: Enacted by Acts 1991, 72nd Leg., ch. 416 (S.B. 986), § 1, effective September 1, 1991; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 7, effective September 1, 2011.

Sec. 262.0256. Pre-Bid Conference for Certain Counties or a District Governed by Those Counties.

(a) The commissioners court of the county or the governing body of a district or authority created under Section 59, Article XVI, Texas Constitution, if the governing body is the commissioners court of the county in which the district is located, may require a principal, officer, or employee of each prospective bidder to attend a mandatory pre-bid conference conducted for the purpose of discussing contract requirements and answering questions of prospective bidders.

(b) After a conference is conducted under Subsection (a), any additional required notice for the proposed purchase may be sent by certified mail, return receipt requested, only to prospective bidders who attended the conference. Notice under this subsection is not subject to the requirements of Section 262.025.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 255 (S.B. 874), § 1, effective May 22, 2001; am. Acts 2003, 78th Leg., ch. 660 (H. B. 2242), § 1, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 725 (H.B. 3089), § 1, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 8, effective September 1, 2011.

Sec. 262.026. Opening of Bids.

(a) The county official who makes purchases for the county shall open the bids on the date specified in the notice. The date specified in the notice may be extended if the commissioners court determines that the extension is in the best interest of the county. All bids, including those received before an extension is made, must be opened at the same time. The commissioners court may adopt an order that delegates the authority to make extensions under this subsection to the county official who makes purchases for the county.

(b) Opened bids shall be kept on file and available for inspection by anyone desiring to see them until the first anniversary of the date of opening. Opened bids are subject to disclosure under Chapter 552, Government Code.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1999, 76th Leg., ch. 505 (S.B. 1669), § 3, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 9, effective September 1, 2011.

Sec. 262.027. Awarding of Contract.

(a) The officer in charge of opening the bids shall present them to the commissioners court in session. Except as provided by Subsection (e), the court shall:

(1) award the contract to the responsible bidder who submits the lowest and best bid; or

(2) reject all bids and publish a new notice.

(b) If two responsible bidders submit the lowest and best bid, the commissioners court shall decide between the two by drawing lots in a manner prescribed by the county judge.

(c) A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given:

(1) notice of the proposed award; and

(2) an opportunity to appear before the commissioners court and present previously unconsidered evidence concerning the lower bid as best, which may include evidence of the bidder's responsibility.

(d) In determining the lowest and best bid for a contract for the purchase of earth-moving, material-handling, road maintenance, or construction equipment, the commissioners court may consider the information submitted under Section 262.0255.

(e) In determining the lowest and best bid for a contract for the purchase of road construction material, the commissioners court may consider the pickup and delivery locations of the bidders and the cost to the county of delivering or hauling the material to be purchased. The commissioners court may award contracts for the purchase of road construction material to more than one bidder if each of the selected bidders submits the lowest and best bid for a particular location or type of material.

(f) Notwithstanding any other requirement of this section, the commissioners court may condition acceptance of a bid on compliance with a requirement for attendance at a mandatory pre-bid conference under Section 262.0256.

(g) If after the award the successful bidder fails to qualify for required bonds, or is otherwise unable to meet the requirements of the award, the commissioners court may award the contract to the next bidder in order of ranking as lowest and best bid.

(h) Before a contract is awarded, a bidder must give written notice to the officer authorized to open bids that the bidder intends to protest an award of the contract under Subsection (c). This subsection does not limit the ability of a bidder to speak at a public meeting of the commissioners court under rules established by the court.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 416 (S.B. 986), § 2, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 127 (S.B. 508), § 1, effective May 11, 1993; am. Acts 2001, 77th Leg., ch. 255 (S.B. 874), § 2, effective May 22, 2001; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 10, effective September 1, 2011.

Sec. 262.0271. Consideration of Health Insurance Provided by Bidder.

(a) [Repealed by Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 24, effective September 1, 2011.]

(b) In purchasing items under this chapter through a competitive bidding process, if a county receives one or more bids from a bidder who provides reasonable health insurance coverage to its employees and requires a subcontractor the bidder intends to use to provide reasonable health insurance coverage to the subcontractor's employees and whose bid is within five percent of the lowest and best bid price received by the county from a bidder who does not provide or require reasonable health insurance coverage, the commissioners court of the county may give preference to the bidder who provides and requires reasonable health insurance coverage.

(c) This section does not prohibit a county from rejecting all bids.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1299 (H.B. 2695), § 1, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), §§ 11, 24, effective September 1, 2011.

Sec. 262.0275. Safety Record of Bidder Considered.

In determining who is a responsible bidder, the commissioners court may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution if:

(1) the commissioners court has adopted a written definition and criteria for accurately determining the safety record of a bidder;

(2) the governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder; and

(3) the determinations are not arbitrary and capricious.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 58(c), effective August 28, 1989.

Sec. 262.0276. Contract with Person Indebted to County.

(a) By an order adopted and entered in the minutes of the commissioners court and after notice is published in a newspaper of general circulation in the county, the commissioners court may adopt rules permitting the county to refuse to enter into a contract or other transaction with a person who owes a debt to the county.

(b) It is not a violation of this subchapter for a county, under rules adopted under Subsection (a), to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the county.

(c) In this section, "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with the county requiring approval by the commissioners court.

(d) In this section, "debt" includes delinquent taxes, fines, fees, and delinquencies arising from written agreements with the county.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 156 (S.B. 850), § 2, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 12, effective September 1, 2011.

Sec. 262.028. Lump-Sum or Unit Price Method.

A purchase may be proposed on a lump-sum or unit price basis. If the county chooses to use unit pricing in its notice, the information furnished bidders must specify the approximate quantities estimated on the best available information, but the compensation paid the bidder must be based on the actual quantities purchased.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 262.029. Time Warrant Election.

If before the date tentatively set for the authorization of the issuance of time warrants applying to a contract covered by this subchapter or if before that authorization a petition signed by at least five percent of the registered voters of the county is filed with the county clerk protesting the issuance of the time warrants, the county may not issue the time warrants unless the issuance is approved at an election ordered and conducted in the manner provided for county bond elections under Chapter 1251, Government Code.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.291, effective September 1, 2001.

Sec. 262.0295. Alternative Multistep Competitive Proposal Procedure.

(a) (1) If the county official who makes purchases for the county determines that it is impractical to prepare detailed specifications for an item to support the award of a purchase contract, the official shall notify the commissioners court of such determination.

(2) Upon a finding by the commissioners court that it is impractical to prepare detailed specifications for an item to support the award of a purchase contract, after a notification of such determination by the county official who makes purchases for the county, the county official who makes purchases for the county may use the multistep competitive proposal procedure provided by this section.

(3) [Repealed by Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 24, effective September 1, 2011.]

(b) Quotations must be solicited through a request for proposals. Public notice for the request for proposals must be made in the same manner as provided in the competitive bidding procedure, except that the notice may include a general description of the item to be purchased, instead of the specifications describing the item or a statement of where the specifications may be obtained, and may request the submission of unpriced proposals.

(c) On the date specified in the notice, the county official shall open the proposals and, within seven days after that date, solicit by mailed request priced bids from the persons who submitted proposals and who qualified under the criteria stated in the first solicitation.

(d) Within 30 days after the date the unpriced proposals are opened under Subsection (c), the county official shall present the priced bids to the commissioners court. The award of the contract shall be made to the responsible offeror whose bid is determined to be the lowest and best evaluated offer resulting from negotiation. All proposals and bids that have been submitted shall be available and open for public inspection after the contract is awarded.

(e) As provided in the request for proposals and under rules adopted by the commissioners court, discussion may be conducted with responsible offerors who submit priced bids determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award for the purpose of obtaining best and final offers.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 10, effective September 1, 1989; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), §§ 13, 24, effective September 1, 2011.

Sec. 262.030. Alternative Competitive Proposal Procedure for Certain Goods and Services.

(a) Except for Subsection (d) of this section, the competitive proposal procedure provided by this section may be used for the purchase of insurance, high technology items, and the following special services:

(1) landscape maintenance;

(2) travel management; or

(3) recycling.

(b) Quotations must be solicited through a request for proposals. Public notice for the request for proposals must be made in the same manner as provided in the competitive bidding procedure. The request for proposals must specify the relative importance of price and other evaluation factors. The award of the contract shall be made to the responsible offeror whose proposal is determined to be the lowest and best evaluated offer resulting from negotiation, taking into consideration the relative importance of price and other evaluation factors set forth in the request for proposals.

(c) If provided in the request for proposals, proposals shall be opened so as to avoid disclosure of contents to competing offerors and kept secret during the process of negotiation. All proposals that have been submitted shall be available and open for public inspection after the contract is awarded, except for trade secrets and confidential information contained in the proposals and identified as such.

(d) A county in which a purchasing agent has been appointed under Section 262.011 or employed under Section 262.0115 may use the competitive proposal purchasing method authorized by this section for the purchase of insurance or high technology items. In addition, the method may be used to purchase other items when the county official who makes purchases for the county determines, with the consent of the commissioners court, that it is in the best interest of the county to make a request for proposals.

(e) As provided in the request for proposals and under rules adopted by the commissioners court, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award for the purpose of obtaining best and final offers.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 59(d), effective August 28, 1989; am. Acts 1995, 74th Leg., ch. 464 (H.B. 2926), § 1, effective August 28, 1995; am. Acts 1995, 74th Leg., ch. 746 (H.B. 52), § 3, effective August 28, 1995; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(85), effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 640 (H.B. 2694), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1272 (H.B. 3517), §§ 4, 5, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 14, effective September 1, 2011.

Sec. 262.0305. Modification After Award.

(a) After award of a contract but before the contract is made, the county official who makes purchases for the county may negotiate a modification of the contract if the modification is in the best interests of the county and does not substantially change the scope of the contract or cause the contract amount to exceed the next lowest bid.

(b) For the modified contract to be effective, the commissioners court must approve the contract.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 11, effective September 1, 1989.

Sec. 262.031. Changes in Plans and Specifications.

(a) If it becomes necessary to make changes in plans, specifications, or proposals after a contract is made or if it becomes necessary to increase or decrease the quantity of items purchased, the commissioners court may make the changes. However, the total contract price may not be increased unless the cost of the change can be paid from available funds.

(b) If a change order involves an increase or decrease in cost of $50,000 or less, the commissioners court may grant general authority to an employee to approve the change orders. However, the original contract price may not be increased by more than 25 percent unless the change order is necessary to comply with a federal or state statute, rule, regulation, or judicial decision enacted, adopted, or rendered after the contract was made. The original contract price may not be decreased by 18 percent or more without the consent of the contractor.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 104 (H.B. 901), § 1, effective May 7, 1993; am. Acts 1993, 73rd Leg., ch. 891 (S.B. 342), § 1, effective June 19, 1993; am. Acts 1995, 74th Leg., ch. 746 (H.B. 52), § 4, effective August 28, 1995.

Sec. 262.032. Bid or Performance Bond; Payment Under Contract.

(a) If the contract is for the construction of public works or is under a contract exceeding $100,000, the bid specifications or request for proposals may require the bidder to furnish a good and sufficient bid bond in the amount of five percent of the total contract price. A bid bond must be executed with a surety company authorized to do business in this state.

(b) Within 30 days after the date of the signing of a contract or issuance of a purchase order following the acceptance of a bid or proposal and prior to commencement of the actual work, the bidder or proposal offeror shall furnish a performance bond to the county, if required by the county, for the full amount of the contract if that contract exceeds $50,000. This subsection does not apply to a performance bond required to be furnished by Chapter 2253, Government Code.

(c) If the contract is for $50,000 or less, the county may provide in the bid notice or request for proposals that no money will be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation to the county.

(d) A bidder or proposal offeror whose rates are subject to regulation by a state agency may not be required to furnish a performance bond or a bid bond under this section.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 59(e), effective August 28, 1989; am. Acts 1991, 72nd Leg., ch. 109 (H.B. 571), § 3, effective August 26, 1991; am. Acts 1991, 72nd Leg., ch. 696 (H.B. 1627), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 33 (S.B. 22), § 1, effective August 30, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(17), effective September 1, 1995.

Sec. 262.033. Injunction.

Any property tax paying citizen of the county may enjoin performance under a contract made by a county in violation of this subchapter.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 262.034. Criminal Penalties.

(a) A county officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 262.023. An offense under this subsection is a Class B misdemeanor.

(b) [Repealed by Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 24, effective September 1, 2011.]

(c) A county officer or employee commits an offense if the officer or employee intentionally or knowingly violates this subchapter, other than by conduct described by Subsection (a). An offense under this subsection is a Class C misdemeanor.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 12, effective September 1, 1989; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), §§ 15, 24, effective September 1, 2011.

Sec. 262.035. Removal; Ineligibility [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 24, effective September 1, 2011.

HISTORY: Enacted by Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 13, effective September 1, 1989.

Sec. 262.036. Selection and Retention of Insurance Broker.

(a) Notwithstanding any other provision in this chapter, a county may select an appropriately licensed insurance agent as the sole broker of record to obtain proposals and coverages for insurance that provides necessary coverage and adequate limits of coverage in all areas of risk, including public official liability, property, casualty, workers' compensation, and specific and aggregate stop-loss coverage for self-funded health care.

(b) The county may retain a broker of record selected under this section only on a fee basis paid by the county. A broker of record retained in this manner may not directly or indirectly receive any other remuneration, compensation, or other form of payment from any other source for the placement of insurance business under the broker of record contract.

(c) A broker of record retained under this section may not submit any insurance carrier proposal to the county or direct any county insurance business to an insurance carrier if the broker has a business relationship or proposed business relationship with the carrier, including an appointment, unless the broker first discloses the nature of that relationship or proposed relationship, in writing, to the county.

(d) A broker who violates this section is subject to any disciplinary remedy available under Chapter 82, Insurance Code, or Section 4005.102, Insurance Code, including license revocation and fine.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 353 (S.B. 1214), § 1, effective June 17, 2005; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 16, effective September 1, 2011.

Sec. 262.037. Qualification.

An officer authorized to make a purchase on behalf of a county or a county department or office may not make any purchase until providing to the county judge a signed acknowledgment that the officer has read and understands this chapter. This section does not apply in a county that has appointed a purchasing agent under Subchapter B.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 17, effective September 1, 2011.

TITLE 12

PLANNING AND DEVELOPMENT

SUBTITLE C

PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 391

Regional Planning Commission

Sec. 391.001. Purpose.

(a) The purpose of this chapter is to encourage and permit local governmental units to:

(1) join and cooperate to improve the health, safety, and general welfare of their residents; and

(2) plan for the future development of communities, areas, and regions so that:

(A) the planning of transportation systems is improved;

(B) adequate street, utility, health, educational, recreational, and other essential facilities are provided as the communities, areas, and regions grow;

(C) the needs of agriculture, business, and industry are recognized;

(D) healthful surroundings for family life in residential areas are provided;

(E) historical and cultural values are preserved; and

(F) the efficient and economical use of public funds is commensurate with the growth of the communities, areas, and regions.

(b) The general purpose of a commission is to make studies and plans to guide the unified, far-reaching development of a region, eliminate duplication, and promote economy and efficiency in the coordinated development of a region.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 391.002. Definitions.

In this chapter:

(1) "Governmental unit" means a county, municipality, authority, district, or other political subdivision of the state.

(2) "Commission" means a regional planning commission, council of governments, or similar regional planning agency created under this chapter.

(3) "Region" means a geographic area consisting of a county or two or more adjoining counties that have, in any combination:

(A) common problems of transportation, water supply, drainage, or land use;

(B) similar, common, or interrelated forms of urban development or concentration; or

(C) special problems of agriculture, forestry, conservation, or other matters.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 391.003. Creation.

(a) Any combination of counties or municipalities or of counties and municipalities may agree, by ordinance, resolution, rule, order, or other means, to establish a commission.

(b) The agreement must designate a region for the commission that:

(1) consists of territory under the jurisdiction of the counties or municipalities, including extraterritorial jurisdiction; and

(2) is consistent with the geographic boundaries for state planning regions or subregions that are delineated by the governor and that are subject to review and change at the end of each state biennium.

(c) A commission is a political subdivision of the state.

(d) This chapter permits participating governmental units the greatest possible flexibility to organize a commission most suitable to their view of the region's problems.

(e) The counties and municipalities making the agreement may join in the exercise of, or in acting cooperatively in regard to, planning, powers, and duties as provided by law for any or all of the counties and municipalities.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 391.004. Plans and Recommendations.

(a) A commission may plan for the development of a region and make recommendations concerning major thoroughfares, streets, traffic and transportation studies, bridges, airports, parks, recreation sites, school sites, public utilities, land use, water supply, sanitation facilities, drainage, public buildings, population density, open spaces, and other items relating to the commission's general purposes.

(b) A plan or recommendation of a commission may be adopted in whole or in part by the governing body of a participating governmental unit.

(c) A commission may assist a participating governmental unit in:

(1) carrying out a plan or recommendation developed by the commission; and

(2) preparing and carrying out local planning consistent with the general purpose of this chapter.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 391.005. Powers.

(a) A commission may contract with a participating governmental unit to perform a service if:

(1) the participating governmental unit could contract with a private organization without governmental powers to perform the service; and

(2) the contract to perform the service does not impose a cost or obligation on a participating governmental unit not a party to the contract.

(b) A commission may:

(1) purchase, lease, or otherwise acquire property;

(2) hold or sell or otherwise dispose of property;

(3) employ staff and consult with and retain experts; or

(4) (A) provide retirement benefits for its employees through a jointly contributory retirement plan with an agency, firm, or corporation authorized to do business in the state; or

(B) participate in the Texas Municipal Retirement System, the Employees Retirement System of Texas, or the Texas County and District Retirement System when those systems by legislation or administrative arrangement permit participation.

(c) Participating governmental units may by joint agreement provide for the manner of cooperation between participating governmental units and provide for the methods of operation of the commission, including:

(1) employment of staff and consultants;

(2) apportionment of costs and expenses;

(3) purchase of property and materials; and

(4) addition of a governmental unit.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 391.006. Governing Body of Commission.

(a) Except as provided by Subsection (c), participating governmental units may by joint agreement determine the number and qualifications of members of the governing body of a commission.

(b) At least two-thirds of the members of a governing body of a commission must be elected officials of participating counties or municipalities.

(c) The governing body of a commission of a region that is consistent with the geographic boundaries of a state planning region shall offer an ex officio, nonvoting membership on the governing body to a member of the legislature who represents a district located wholly or partly in the region of the commission.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 2011, 82nd Leg., ch. 790 (H.B. 2160), § 1, effective June 17, 2011.

Sec. 391.007. Detail or Loan of an Employee.

(a) A state agency or a governmental unit may detail or loan an employee to a commission.

(b) During the period of the detail or loan, the employee continues to receive salary, leave, retirement, and other personnel benefits from the lending agency or governmental unit but works under the direction and supervision of the commission.

(c) The detail or loan of an employee may be on a reimbursable or nonreimbursable basis as agreed by the lending agency or governmental unit and the commission. The detail or loan expires at the mutual consent of the lending agency or governmental unit and the commission.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 391.008. Review and Comment Procedures.

(a) In a state planning region or subregion in which a commission has been organized, the governing body of a governmental unit within the region or subregion, whether or not a member of the commission, shall submit to the commission for review and comment an application for a loan or grant-in-aid from a state agency, and from a federal agency if the project is one for which the federal government requires review and comment by an areawide planning agency, before the application is filed with the state or federal government.

(b) For federally aided projects for which an areawide review is required by federal law or regulation, the commission shall review the application from the standpoint of consistency with regional plans and other considerations as specified in federal or state regulations and shall enter its comments on the application and return it to the originating governmental unit.

(c) For other federally aided projects and for state-aided projects, the commission shall advise the governmental unit on whether the proposed project for which funds are requested has regionwide significance.

(d) If the proposed project has regionwide significance, the commission shall determine whether it is in conflict with a regional plan or policy. It may consider whether the proposed project is properly coordinated with other existing or proposed projects within the region. The commission shall record on the application its view and comments, transmit the application to the originating governmental unit, and send a copy to the concerned federal or state agency.

(e) If the proposed project does not have regionwide significance, the commission shall certify that it is not in conflict with a regional plan or policy.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 391.009. Role of State Auditor, Governor, and State Agencies.

(a) To protect the public interest and promote the efficient use of public funds, the governor, with the technical assistance of the state auditor, may draft and adopt:

(1) rules relating to the operation and oversight of a commission;

(2) rules relating to the receipt or expenditure of funds by a commission, including:

(A) restrictions on the expenditure of any portion of commission funds for certain classes of expenses; and

(B) restrictions on the maximum amount of or percentage of commission funds that may be expended on a class of expenses, including indirect costs or travel expenses;

(3) annual reporting requirements for a commission;

(4) annual audit requirements on funds received or expended by a commission from any source;

(5) rules relating to the establishment and use of standards by which the productivity and performance of each commission can be evaluated; and

(6) guidelines that commissions and governmental units shall follow in carrying out the provisions of this chapter relating to review and comment procedures.

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

(a-2) 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, the state auditor's office shall assist the governor as provided by Subsection (a).

(b) The governor and state agencies shall provide technical information and assistance to the members and staff of a commission to increase, to the greatest extent feasible, the capability of the commission to discharge its duties and responsibilities prescribed by this chapter and to ensure compliance with the rules, requirements, and guidelines adopted under Subsection (a).

(c) In carrying out their planning and program development responsibilities, state agencies shall, to the greatest extent feasible, coordinate planning with commissions to ensure effective and orderly implementation of state programs at the regional level.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1999, 76th Leg., ch. 281 (S.B. 176), § 16, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 694 (S.B. 200), § 1, effective June 13, 2001; am. Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), §§ 9.01, 9.02, effective January 11, 2004.

Sec. 391.0091. State Agency Consultation with Regional Planning Commissions.

(a) In this section, "service" includes a program.

(b) If a state agency determines that a service provided by that agency should be decentralized to a multicounty region, the agency shall use a state planning region or combination of regions for the decentralization.

(c) A state agency that decentralizes a service provided to more than one public entity or nonprofit organization in a region shall consult with the commission for that region in planning the decentralization. The commission shall consult with each affected public entity or nonprofit organization.

(d) A state agency, in planning for decentralization of a service in a region, shall consider using a commission for that service to:

(1) achieve efficiencies through shared costs for:
  (A) executive management;
  (B) administration;
  (C) financial accounting and reporting;
  (D) facilities and equipment;
  (E) data services; and
  (F) audit costs;
(2) improve the planning, coordination, and delivery of services by coordinating the location of services;
(3) increase accountability and local control by placing a service under the oversight of the commission; and
(4) improve financial oversight through the auditing and reporting required under this chapter.

(e) This section does not apply to a service:

(1) that continues to be operated by a state agency through a regional administrative office of that agency; or
(2) for which the state agency determines that a law, rule, or program policy makes use of the geographic area of a single county or adjacent counties more appropriate.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 718 (H.B. 2947), § 1, effective September 1, 2003.

Sec. 391.0095. Audit and Reporting Requirements.

(a) The audit and reporting requirements under Section 391.009(a) shall include a requirement that a commission annually report to the state auditor:

(1) the amount and source of funds received by the commission;
(2) the amount and source of funds expended by the commission;
(3) an explanation of any method used by the commission to compute an expense of the commission, including computation of any indirect cost of the commission;
(4) a report of the commission's productivity and performance during the annual reporting period;
(5) a projection of the commission's productivity and performance during the next annual reporting period;
(6) the results of an audit of the commission's affairs prepared by an independent certified public accountant; and
(7) a report of any assets disposed of by the commission.

(b) The annual audit of a commission may be commissioned by the commission or at the direction of the governor's office, as determined by the governor's office, and shall be paid for from the commission's funds.

(c) A commission shall submit any other report or an audit to the state auditor and the governor.

(d) If a commission fails to submit a report or audit required under this section or is determined by the state auditor to have failed to comply with a rule, requirement, or guideline adopted under Section 391.009, the state auditor shall report the failure to the governor's office. The governor may, until the failure is corrected:

(1) appoint a receiver to operate or oversee the commission; or
(2) withhold any appropriated funds of the commission.

(e) A commission shall send to the governor, the state auditor, and the Legislative Budget Board a copy of each report and audit required under this section or under Section 391.009. The state auditor may review each audit and report, subject to a risk assessment performed by the state auditor and to the legislative audit committee's approval of including the review in the audit plan under Section 321.013, Government Code. If the state auditor reviews the audit or report, the state auditor must be given access to working papers and other supporting documentation that the state auditor determines is necessary to perform the review. If the state auditor finds significant issues involving the administration or operation of a commission or its programs, the state auditor shall report its findings and related recommendations to the legislative audit committee, the governor, and the commission. The governor and the legislative audit committee may direct the commission to prepare a corrective action plan or other response to the state auditor's findings or recommendations. The legislative audit committee may direct the state auditor to perform any additional audit or investigative work that the committee determines is necessary.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 281 (S.B. 176), § 17, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 742 (S.B. 1016), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 9.03, effective January 11, 2004; am.

Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 66, effective September 1, 2003; am. Acts 2019, 86th Leg., ch. 395 (S.B. 790), § 1, effective September 1, 2019.

Sec. 391.00951. Report to Secretary of State.

(a) In this section, "colonia" means a geographic area that:

(1) is an economically distressed area as defined by Section 17.921, Water Code;

(2) is located in a county any part of which is within 62 miles of an international border; and

(3) consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood.

(b) To assist the secretary of state in preparing the report required under Section 405.021, Government Code, the commission on a quarterly basis shall provide a report to the secretary of state detailing any projects funded by the commission that provide assistance to colonias.

(c) The report must include:

(1) a description of any relevant projects;

(2) the location of each project;

(3) the number of colonia residents served by each project;

(4) the exact amount spent or the anticipated amount to be spent on each colonia served by each project;

(5) a statement of whether each project is completed and, if not, the expected completion date of the project; and

(6) any other information, as determined appropriate by the secretary of state.

(d) The commission shall require an applicant for funds administered by the commission to submit to the commission a colonia classification number, if one exists, for each colonia that may be served by the project proposed in the application. If a colonia does not have a classification number, the commission may contact the secretary of state or the secretary of state's representative to obtain the classification number. On request of the commission, the secretary of state or the secretary of state's representative shall assign a classification number to the colonia.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 341 (S.B. 99), § 19, effective June 15, 2007.

Sec. 391.010. Conflict of Interest in Provision of Legal Services.

(a) A member of the governing body of a commission or a person who provides legal services to a commission may not:

(1) provide legal representation before or to the commission on behalf of a governmental unit located, in whole or in part, within the boundaries of the commission; or

(2) be a shareholder, partner, or employee of a law firm that provides those legal services to the governmental unit.

(b) A person who violates Subsection (a) may not receive compensation or reimbursement for expenses from the commission or governmental unit.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 391.011. Funds.

(a) A commission does not have power to tax.

(b) A participating governmental unit may appropriate funds to a commission for the costs and expenses required in the performance of its purposes.

(c) A commission may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental unit, the state, the federal government, or other source.

(d) A commission may not expend funds for an automobile allowance for a member of the governing body of the commission if the member holds another state, county, or municipal office.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1995, 74th Leg., ch. 713 (S.B. 527), § 3, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 280 (S.B. 175), § 18, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1498 (S.B. 177), § 6, effective September 1, 1999.

Sec. 391.0115. Restrictions on Commission Travel Costs.

(a) In reimbursing commission personnel for travel expenses, a commission may not expend funds for travel in excess of the amount of money that may be expended for state personnel under the General Appropriations Act or travel regulations adopted by the comptroller, including any restrictions on mileage reimbursement, per diem, and lodging reimbursement rates.

(b) A member of the governing body of a commission may not be reimbursed from state-appropriated funds, including federal funds, for official travel in an amount in excess of the rates set for travel by state board and commission members. If a hotel is unable or unwilling to provide a commission or its officers or employees a rate equivalent to the rate provided to state employees or if a negotiated conference rate for an officially sanctioned conference or meeting exceeds the applicable state reimbursement rate for lodging, a commission may reimburse for lodging expenses at the rates of the expenses incurred.

(c) A commission may not expend any funds for the purchase of alcoholic beverages or entertainment.

(d) A commission may purchase goods or a service only if the commission complies with the same provisions for purchasing goods or a service that are equivalent to the provisions, including Chapter 252, applying to a local government.

(e) A commission may not spend an amount more than 15 percent of the commission's total expenditures on the commission's indirect costs. For the purposes of this subsection, the commission's capital expenditures and any subcontracts, pass-throughs, or subgrants may not be considered in determining the commission's total direct costs. In this subsection, "pass-through funds" means funds, including subgrants or subcontracts, that are received by a commission from the federal or state government or other grantor for which the commission serves merely as a cash conduit and has no administrative or financial involvement in the program, such as contractor selection, contract provisions, contract methodology payment, or contractor oversight and monitoring.

(f) In this section, "indirect costs" means costs that are not directly attributable to a single action of a commission. The governor shall use the federal Office of Management and Budget circulars A-87 and A-122 or use any rules relating to the determination of indirect costs adopted under Chapter 783, Government Code, in administering this section.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 280 (S.B. 175), § 19, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1498 (S.B. 177), § 7, effective September 1, 1999.

Sec. 391.0116. Restrictions on Employment.

(a) An employee of a commission when using state-appropriated funds, including federal funds, is subject to the same rules regarding lobbying and other advocacy activities as an employee of any state agency.

(b) The nepotism provisions of Chapter 573, Government Code, apply to a commission.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 1498 (S.B. 177), § 7, effective September 1, 1999.

Sec. 391.0117. Salary Schedules.

(a) For each fiscal year, a commission shall adopt a salary schedule containing a classification salary schedule for classified positions and identifying and specifying the salaries for positions exempt from the classification salary schedule.

(b) The salary schedule adopted by the commission may not exceed, for classified positions, the state salary schedule for classified positions as prescribed by the General Appropriations Act adopted by the most recent legislature. A commission may adopt a salary schedule that is less than the state salary schedule.

(c) A salary for a position classified under the salary schedule may not exceed the state salary that has been approved by the state auditor's office and paid by the state for comparable work.

(d) A position may only be exempted from the classification salary schedule adopted by the commission if the exemption and the amount of salary paid for the exempt position is within the range determined appropriate for state exempt positions by the state auditor.

(e) A commission shall submit to the state auditor the commission's salary schedule, including the salaries of all exempt positions, not later than the 45th day before the date of the beginning of the commission's fiscal year. 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 commission's salary schedule or a portion of the schedule, the state auditor shall report the recommendations to the governor's office. The governor's office may not allow the portion of the schedule for which the state auditor has recommendations to go into effect until revisions or explanations are given that are satisfactory to the governor based on recommendations from the state auditor.

(f) This section does not apply to a commission if the most populous county that is a member of the commission has an actual average weekly wage that exceeds the state actual average weekly wage by 20 percent or more for the previous year as determined by the Texas Workforce Commission in its County Employment and Wage Information Report.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 279 (S.B. 174), § 26, effective September 1, 1999; am. Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 9.04, effective January 11, 2004.

Sec. 391.012. State Financial Assistance.

(a) To qualify for state financial assistance, a commission must:

(1) have funds available annually from sources other than federal or state governments equal to or greater than half of the state financial assistance for which the commission applies;

(2) comply with the regulations of the agency responsible for administering this chapter;

(3) offer membership in the commission to all counties and municipalities included in the state planning region;

(4) include any combination of counties or municipalities having a combined population equal to or greater than 60 percent of the population of the state planning region;

(5) include at least one full county;

(6) encompass an area that is economically and geographically interrelated and forms a logical planning region; and

(7) be engaged in a regional planning process.

(b) Within funds available and in accordance with rules issued by the office of the governor, a commission may use state financial assistance to:

(1) promote intergovernmental cooperation by coordinating regional plans and programs with member governments, nonmember governments, state agencies which impact the region, and, where state agencies have regional office structures, state agency regional offices;

(2) function as a regional review agency under the Texas Review and Comment System pursuant to state and federal statutes and regulations;

(3) leverage commission dues, local funds, and state funds to obtain maximum federal funding assistance and private funding for the state and the region;

(4) provide assistance to local governments;

(5) assist state agencies and organizations in developing local and regional input for state plans, in planning for the successful implementation of state programs at the regional level as required in Section 391.009(c), in preparing for and conducting state-sponsored hearings and public meetings, and in disseminating state-generated information and educational materials; and

(6) provide assistance to state agencies and organizations in developing, implementing, and assessing state programs and services within the region as needed.

(c) A commission that qualifies for state financial assistance is eligible annually for an amount determined as follows:

(1) $1,000 for each dues-paying member county;

(2) an additional 10 cents per capita for the population of dues-paying member counties and municipalities; and

(3) the amount necessary to assure that the total amount available to the commission is no less than $50,000.

(d) If state appropriations are more than the amount necessary to fund the level of financial assistance generated by this formula, the governor shall increase the funding for which each commission is eligible in proportion to the amount it would have been eligible to receive in Subsection (c).

(e) If state appropriations are less than the amount necessary to fund the level of financial assistance generated by the formula in Subsection (c) above:

(1) No commission shall receive less than annual financial assistance of $50,000, as long as financial assistance available to all commissions remains at or above the level of assistance allocated in fiscal year 2003.

(2) If available annual financial assistance is less than the amount allocated in fiscal year 2003, assistance to all commissions shall be reduced proportionally from the assistance they would have received at the fiscal year 2003 funding level.

(f) For the purposes of this section, the population of a county is the population outside all dues-paying member municipalities.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 2003, 78th Leg., ch. 1137 (H.B. 3074), § 1, effective June 20, 2003.

Sec. 391.013. Interstate Commissions.

(a) With the advance approval of the governor, a commission that borders another state may:

(1) join with a similar commission or planning agency in a contiguous area of the bordering state to form an interstate commission; or

(2) permit a similar commission or planning agency in a contiguous area of the bordering state to participate in planning functions.

(b) Funds provided a commission may be commingled with funds provided by the government of the bordering state.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 391.014. International Areas.

With the advance approval of the governor, a commission that borders the Republic of Mexico may spend funds in cooperation with an agency, constituent state, or local government of the Republic of Mexico for planning studies encompassing areas lying both in this state and in contiguous territory of the Republic of Mexico.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 391.015. Withdrawal from Commission.

A participating governmental unit may withdraw from a commission by majority vote of its governing body unless it has been otherwise agreed.

HISTORY: Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.

Sec. 391.016. Joining Commission After Withdrawal.

A governmental unit that has withdrawn from a commission under Section 391.015 may join another commission that is adjacent to the unit if:

(1) the transfer is approved by the governing bodies of:
  (A) the unit; and
  (B) the commission the unit wishes to join;
(2) the governmental unit submits a written request for approval of the transfer to the governor that:
  (A) is in the form and manner prescribed by the office of the governor; and
  (B) demonstrates the transfer furthers the purpose of this chapter as described by Section 391.001; and
(3) the governor approves the transfer.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 1237 (H.B. 2736), § 1, effective June 14, 2019.

OCCUPATIONS CODE

TITLE 7

PRACTICES AND PROFESSIONS RELATED TO REAL PROPERTY AND HOUSING

SUBTITLE B

PROFESSIONS RELATED TO PROPERTY TAXATION

CHAPTER 1151

Property Tax Professionals

Subchapter A. General Provisions

Subchapter B. Texas Tax Professional Advisory Committee

Subchapter B-1. Executive Director and Personnel [Repealed]

Subchapter C. Duties of Commission, Executive Director, Department, and Advisory Committee

Subchapter C-1. Public Interest Information and Complaint Procedures [Repealed]

Subchapter D. Registration and Certification

Subchapter E. Enforcement

Subchapter F. Criminal Penalties [Repealed]

Subchapter A

General Provisions

Sec. 1151.001. Short Title.

This chapter may be cited as the Property Taxation Professional Certification Act.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1151.002. Definitions.

In this chapter:

(1) "Appraisal" means a function described by Chapter 23 or 25, Tax Code, that:

(A) is performed by an employee of a political subdivision or by a person acting on behalf of a political subdivision; and

(B) involves an opinion of value of a property interest.

(2) "Assessment" means a function described by Chapter 26, Tax Code, performed by an employee of a political subdivision or by a person acting on behalf of a political subdivision to determine an amount of ad valorem tax for the political subdivision.

(3) "Assessor-collector" means the chief administrator of the tax office of a taxing unit who is responsible for:

(A) assessment under Chapter 26, Tax Code; and

(B) collection under Chapter 31, Tax Code.

(4) [Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(1), effective September 1, 2009.]

(5) "Code of ethics" means a formal statement of ethical standards of conduct adopted by the commission.

(6) "Collection" means a function described by Chapter 31, Tax Code, or Section 33.02, 33.03, or 33.04, Tax Code.

(7) "Collector" means the chief administrator of the tax office of a taxing unit who:

(A) is responsible for collection under Chapter 31, Tax Code; and

(B) is not responsible for assessment.

(7-a) "Commission" means the Texas Commission of Licensing and Regulation.

(7-b) "Committee" means the Texas Tax Professional Advisory Committee.

(7-c) "Department" means the Texas Department of Licensing and Regulation.

(8) "Governing body" means the governing body of a taxing unit as defined by Section 1.04, Tax Code.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), §§ 1, 41(1), effective September 1, 2009.

Sec. 1151.003. Applicability.

This chapter does not apply to a county assessor-collector described by Section 14, Article VIII, Texas Constitution, or an employee of the county assessor-collector.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 429 (S.B. 546), § 2, effective June 14, 2013.

Sec. 1151.004. Prohibition Against Requiring Unprofessional Conduct.

(a) An appraisal district board of directors or a governing body may not, as a necessity for employment, require an appraiser, assessor, or collector to:

(1) act in an unprofessional manner; or

(2) violate this chapter.

(b) The department shall thoroughly investigate a complaint of a violation of this section.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 2, effective September 1, 2009.

Secs. 1151.005 to 1151.050. [Reserved for expansion].

Subchapter B

Texas Tax Professional Advisory Committee

Sec. 1151.051. Membership.

(a) The Texas Tax Professional Advisory Committee consists of seven members appointed by the presiding officer of the commission with the approval of the commission as follows:

(1) two members who are certified under this chapter as registered professional appraisers;

(2) two members who are certified under this chapter as registered Texas collectors or registered Texas assessors; and

(3) three members who represent the public.

(b) A vacancy on the committee is filled in the same manner as the original appointment for the unexpired portion of the term.

(c) The presiding officer of the commission shall designate one member of the committee as the presiding officer.

(d) Each appointment to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(e) Section 2110.008, Government Code, does not apply to the committee.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 2, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1170 (S.B. 287), § 43.01, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 4, effective September 1, 2009.

Sec. 1151.0511. Public Member Eligibility.

A person may not be a public member of the committee if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of property tax appraisal, assessment, or collection;

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

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

(5) at any time has served on an appraisal review board.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 3, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 5, effective September 1, 2009.

Sec. 1151.0512. Membership and Employee Restrictions.

(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 committee if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of property tax appraisal, assessment, or collection; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of property tax appraisal, assessment, or collection.

(c) A person may not be a member of the committee if the person or the person's spouse 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 committee or the department.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 3, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 6, effective September 1, 2009.

Sec. 1151.052. Terms.

Committee members serve six-year terms, with the terms of one or two members expiring on March 1 of each odd-numbered year.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 4, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1170 (S.B. 287), § 43.02, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 7, effective September 1, 2009.

Sec. 1151.053. Meetings [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(3), effective September 1, 2009.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1151.054. Officers [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(4), effective September 1, 2009.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 5, effective September 1, 2003.

Sec. 1151.055. Compensation; Reimbursement.

(a) A committee member may not receive compensation for the member's services.

(b) [Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(5), effective September 1, 2009.]

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), §§ 8, 41(5), effective September 1, 2009.

Sec. 1151.056. Training [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(6), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 6, effective September 1, 2003.

Sec. 1151.057. Grounds for Removal [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(7), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 6, effective September 1, 2003.

Secs. 1151.058 to 1151.070. [Reserved for expansion].

Subchapter B-1

Executive Director and Personnel
[Repealed]

Sec. 1151.071. Executive Director and Personnel [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(8), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 7, effective September 1, 2003.

Sec. 1151.072. Division of Responsibilities [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(8), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 7, effective September 1, 2003.

Sec. 1151.073. Requirements and Standards of Conduct Information [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(8), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 7, effective September 1, 2003.

Sec. 1151.074. Information on State Employee Incentive Program [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(8), effective September 1, 2009 and by Acts 2009, 81st Leg., ch. 614 (H.B. 874), § 4(30), effective June 19, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 7, effective September 1, 2003.

Sec. 1151.075. Equal Employment Opportunity Policy; Report [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(8), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 7, effective September 1, 2003.

Secs. 1151.076 to 1151.100. [Reserved for expansion].

Subchapter C

Duties of Commission, Executive Director, Department, and Advisory Committee

Sec. 1151.101. Fees.

The commission, with the advice of the committee, shall establish fees under this chapter in amounts reasonable and necessary to cover the costs of administering the programs and activities under this chapter.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 10, effective September 1, 2009.

Sec. 1151.1015. Assistance from Comptroller.

The comptroller shall enter into a memorandum of understanding with the department under which the comptroller shall provide:

(1) information on the educational needs of and opportunities for tax professionals;

(2) review and approval of all required educational courses, examinations, and continuing education programs for registrants;

(3) a copy of any report issued by the comptroller under Section 5.102, Tax Code, and if requested by the department a copy of any work papers or other documents collected or created in connection with a report issued under that section; and

(4) information and assistance regarding administrative proceedings conducted under the commission's rules or this chapter.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 8, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 11, effective September 1, 2009.

Sec. 1151.102. General Rulemaking Authority.

The commission may adopt and enforce rules necessary for the performance of the department's duties.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 12, effective September 1, 2009.

Sec. 1151.1021. Negotiated Rulemaking and Alternative Dispute Resolution Policy [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(9), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 9, effective September 1, 2003.

Sec. 1151.103. Establishment of Professional Standards.

The commission shall establish standards of professional practice, conduct, education, and ethics for appraisers, assessors, and collectors consistent with the purposes and intent of this chapter.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 13, effective September 1, 2009.

Sec. 1151.104. Enforcement of Chapter.

The department may ensure strict compliance with and enforce this chapter.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 14, effective September 1, 2009.

Sec. 1151.105. Record of Board Proceedings [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(10), effective September 1, 2009.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1151.106. Classification System for Registrants.

(a) The commission by rule shall:

(1) adopt a classification system for registrants; and

(2) establish minimum requirements for each classification.

(b) The requirements must be based on experience in property taxation administration, education and training, professional performance and achievements, and compliance with the code of ethics.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 15, effective September 1, 2009.

Sec. 1151.107. Roster of Registrants.

(a) The department shall maintain a roster of registrants that includes each registrant's name, place of employment, and classification.

(b) A copy of the roster shall be made available to a registrant and to the public on request.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 16, effective September 1, 2009.

Sec. 1151.108. Committee Duties.

The committee shall:

(1) recommend to the commission rules and standards regarding technical issues relating to tax professionals;

(2) provide advice to the commission regarding continuing education courses and curricula for registrants;

(3) provide advice to the commission regarding the contents of any examination required by the commission under this chapter; and

(4) educate, and respond to questions from, the commission and the department regarding issues affecting tax professionals.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 17, effective September 1, 2009.

Sec. 1151.109. Waiver of Fee or Penalty Prohibited [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(11), effective September 1, 2009.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1151.110. Use of Technology [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(12), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 10, effective September 1, 2003.

Secs. 1151.111 to 1151.130. [Reserved for expansion].

Subchapter C-1

Public Interest Information and Complaint Procedures [Repealed]

Sec. 1151.131. Public Participation [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(13), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 11, effective September 1, 2003.

Sec. 1151.132. Records of Complaints [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(13), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 11, effective September 1, 2003.

Sec. 1151.133. Notification of Investigation [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(13), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 11, effective September 1, 2003.

Secs. 1151.134 to 1151.150. [Reserved for expansion].

Subchapter D

Registration and Certification

Sec. 1151.151. Registration Required; Exemption.

The following persons must register with the department:

(1) the chief appraiser of an appraisal district, an appraisal supervisor or assistant, a property tax appraiser, an appraisal engineer, and any other person authorized to render judgment on, recommend, or certify an appraised value to the appraisal review board of an appraisal district;

(2) a person who engages in appraisal of property for ad valorem tax purposes for an appraisal district or a taxing unit;

(3) an assessor-collector other than a county assessor-collector;

(4) a collector or another person designated by a governing body as the chief administrator of the taxing unit's assessment functions, collection functions, or both; and

(5) a person who performs assessment or collection functions for a taxing unit and is required to register by the chief administrator of the unit's tax office.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 12, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 18, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 429 (S.B. 546), § 3, effective June 14, 2013.

Sec. 1151.152. Eligibility for Registration.

To be eligible for registration, an applicant must:

(1) be at least 18 years of age;

(2) reside in this state;

(3) be of good moral character;
(4) be a graduate of an accredited high school or establish high school graduation equivalency; and
(5) be actively engaged in appraisal, assessment, or collection.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1151.153. Registration Application.

(a) An application for registration must be made on the printed form provided by the department. In prescribing the contents of an application form, the commission shall ensure that the form requires information sufficient to properly classify the applicant.
(b) Each application form the department provides must be accompanied by the code of ethics.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 19, effective September 1, 2009.

Sec. 1151.154. Submission of Application.

An initial application for registration must be accompanied by:
(1) a nonrefundable processing fee; and
(2) a nonrefundable registration fee.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 19(3), effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 20, effective September 1, 2009.

Sec. 1151.155. Action on Application.

(a) The department shall act on an application for registration not later than the 30th day after the date the application is received.
(b) The department shall:
(1) classify and register each applicant the department approves; and
(2) notify the registrant of the requirements for:
(A) maintenance of the registrant's current registration; and
(B) professional certification by the department.
(c) [Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(14), effective September 1, 2009.]

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), §§ 21, 41(14), effective September 1, 2009.

Sec. 1151.156. Discrimination Prohibited.

The department may not refuse to register an applicant because of the race, color, disability, sex, religion, age, or national origin of the applicant.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 22, effective September 1, 2009.

Sec. 1151.157. Issuance and Possession of Identification Card Required.

(a) The department shall issue an identification card to each person registered under this chapter. While on official duty, the registrant shall have the identification card in the registrant's possession.
(b) An identification card issued under Subsection (a) must:
(1) be serially numbered;
(2) describe any registration classification into which the person is placed; and
(3) state the expiration date of the person's registration.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 23, effective September 1, 2009.

Sec. 1151.158. Annual Fee; Expiration and Renewal of Registration.

(a) Except as otherwise provided by the commission, a registration under this chapter is valid for one year and must be renewed annually. A registrant must pay an annual fee. The commission by rule may adopt a system under which registrations expire on various dates during the year.
(b) The department shall notify a registrant under this chapter of the impending expiration of the registrant's registration as provided by Section 51.401(f).

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 24, effective September 1, 2009.

Sec. 1151.1581. Continuing Education.

(a) The commission shall recognize, prepare, or administer continuing education programs for registrants under this chapter.

(b) The comptroller must review and approve all continuing education programs for registrants.

(c) A registrant must participate in the programs to the extent required by the department to keep the person's certificate of registration.

(d) The commission may set fees for continuing education courses and providers of continuing education courses in amounts reasonable and necessary to cover the department's costs in administering the department's duties under this section.

(e) The comptroller may set fees for continuing education courses and providers of continuing education courses in amounts reasonable and necessary to cover the comptroller's costs in administering the comptroller's duties under this section.

(f) As part of the continuing education requirements for a registered professional appraiser who is the chief appraiser of an appraisal district, the commission by rule shall require the registrant to complete:

(1) at least half of the required hours in a program devoted to one or more of the topics listed in Section 1151.164(b); and

(2) at least two of the required hours in a program of professional ethics specific to the chief appraiser of an appraisal district, including a program on the importance of maintaining the independence of an appraisal office from political pressure.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 13, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 25, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 1259 (H.B. 585), § 1, effective January 1, 2014.

Sec. 1151.159. Removal from Roster of Registrants; Reinstatement [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(15), effective September 1, 2009.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1151.160. Certification Levels and Requirements; Rules.

(a) The commission by rule shall adopt minimum requirements for the certification of registrants. The requirements for certification of a registrant must emphasize the areas of responsibility of the registrant in performing the registrant's duties for the taxing unit.

(b) "Registered professional appraiser" is the highest level of certification established by the commission for a person engaged in appraisal. "Registered Texas assessor" is the highest level of certification established by the commission for a person engaged in assessment. "Registered Texas collector" is the highest level of certification established by the commission for a person engaged in collection.

(c) A person registered as an appraiser shall become certified as a registered professional appraiser not later than the fifth anniversary of the date of the person's original registration. The person shall obtain certification by:

(1) successfully completing the certification requirements established by commission rule; or

(2) if the person is certified or licensed under Chapter 1103 as an appraiser by the Texas Appraiser Licensing and Certification Board, passing the appropriate examination required under Section 1151.161.

(d) A person registered as an assessor or assessor-collector other than a county assessor-collector shall become certified as a registered Texas assessor not later than the fifth anniversary of the date of the person's original registration.

(e) A person registered as a collector shall become certified as a registered Texas collector not later than the third anniversary of the date of the person's original registration.

(f) In this subsection, "break in service" means time during which a person is not employed in the type of employment for which the person is registered, other than a period resulting from termination for cause. A registrant who has a break in service is entitled to an adjustment of the applicable anniversary date described by Subsection (c), (d), or (e) equal to the length of the break in service, as determined by commission rule. A person who has a break in service that exceeds five years must submit a new application and proof of completion of current course requirements, unless otherwise excepted under commission rule.

(g) A registrant who has not obtained the certification required by Subsection (c), (d), or (e) within the time required by the applicable subsection is entitled to a one-year extension to meet the certification requirements if:

(1) the applicant submits proof of active military status performed after the date of the applicant's original registration;

(2) the applicant submits proof of leave under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.) taken after the date of the applicant's original registration;

(3) the applicant submits proof of a death or illness in the family or an unforeseen emergency occurring after the date of the applicant's original registration that prevented the registrant from meeting certification requirements;

(4) a chief appraiser, chief administrative officer of a political subdivision, or other person authorized by the commission by rule requests the extension on behalf of an employee;

(5) the applicant requesting the extension is a chief appraiser; or

(6) the applicant meets another reasonable qualification for an extension established by the commission by rule.

(h) The commission shall establish reasonable qualifications for reapplication for a registration by an applicant who does not meet any of the requirements of Subsection (g) or Section 1151.1605.

(i) The commission shall adopt rules as necessary to implement this section.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 26, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 258 (H.B. 1179), §§ 1, 2, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 429 (S.B. 546), § 4, effective June 14, 2013.

Sec. 1151.1605. Reinstatement of Registration [Expired].

[Expired pursuant to Acts 2011, 82nd Leg., ch. 258 (H.B. 1179), § 3, effective December 31, 2013]

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 258 (H.B. 1179), § 3, effective June 17, 2011.

Sec. 1151.161. Examination for Certification; Application; Fee.

(a) The commission by rule shall require a registrant to pass one or more examinations to be certified. The commission by rule shall ensure that any examination required for certification is administered in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

(b) An applicant for examination under this section must apply to take the examination in the manner prescribed by the department.

(c) The department may accept, develop, or contract for the examinations required by this section, including the administration of the examinations. The comptroller must approve the content of an examination accepted, developed, or contracted for by the department. The department may require a third-party vendor to collect a fee associated with the examination directly from examinees.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 14, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 27, effective September 1, 2009.

Sec. 1151.1611. Examination Results [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(16), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 15, effective September 1, 2003.

Sec. 1151.162. Rules Relating to Recertification and Specialization.

The commission may adopt rules:

(1) regarding recertification to ensure that each person certified under this chapter who is engaged in appraisal, assessment, or collection is registered and professionally competent; and

(2) establishing specialized classifications, designations, and requirements as necessary to accomplish the purposes of this chapter, including maintaining high standards of professional practice in all phases of property taxation.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 28, effective September 1, 2009.

Sec. 1151.163. Registration by Endorsement.

The department may waive any prerequisite to obtaining a certificate of registration for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license or certificate of registration issued by another jurisdiction that has requirements substantially equivalent to those of this state.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 16, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 29, effective September 1, 2009.

Sec. 1151.164. Chief Appraiser Training Program.

(a) The department shall implement a training program for newly appointed chief appraisers and shall prescribe the curriculum for the training program as provided by this section.

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

(1) this chapter;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the commission, with an emphasis on the rules that relate to ethical behavior;

(5) the role and functions of the chief appraiser, the appraisal district board of directors, and the appraisal review board;

(6) the importance of maintaining the independence of an appraisal office from political pressure;
(7) the importance of prompt and courteous treatment of the public;
(8) the finance and budgeting requirements for an appraisal district, including appropriate controls to ensure that expenditures are proper; and
(9) 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;
(D) other laws relating to public officials, including conflict-of-interest laws; and
(E) the standards of ethics imposed by the Uniform Standards of Professional Appraisal Practice.
(c) [Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(17), effective September 1, 2009.]

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1111 (H.B. 2382), § 1, effective June 18, 2005; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), §§ 30, 41(17), effective September 1, 2009.

Sec. 1151.165. Inactive Status.

The commission may adopt rules to allow a registrant to place a registration issued by the department on inactive status in the same manner as a license is placed on inactive status under Section 51.4011.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 258 (H.B. 1179), § 4, effective June 17, 2011.

Secs. 1151.166 to 1151.200. [Reserved for expansion].

Subchapter E

Enforcement

Sec. 1151.201. Initiation of Proceedings [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(18), effective September 1, 2009.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1151.202. Denial of Registration; Disciplinary Action.

(a) The department may deny an application for registration of or take other disciplinary action as described by Chapter 51 against a person who violates this chapter or a commission rule.
(b) The commission by rule shall adopt written guidelines to ensure that denials of registration under this section and other disciplinary actions under Chapter 51 are administered consistently.
(c) Before imposing an administrative penalty under Subchapter F, Chapter 51, against a registrant, the department must consider evidence that the registrant:
(1) attempted in good faith to implement or execute a law, policy, rule, order, budgetary restriction, or other regulation provided by the laws of this state, the comptroller, or the governing body or the chief administrator of the appraisal district or taxing jurisdiction that employs the registrant;
(2) acted on the advice of counsel or the comptroller; or
(3) had discretion over the matter on which the complaint is based, if the complaint is based solely on grounds that the registrant decided incorrectly or failed to exercise discretion in favor of the complainant.
(d) The department may notify the local governmental entity that employs a registrant of a complaint against the registrant by sending a copy of the complaint letter to the local governmental entity.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 17, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 31, effective September 1, 2009.

Sec. 1151.2025. Probation [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(19), effective September 1, 2009.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 815 (S.B. 276), § 18, effective September 1, 2003.

Sec. 1151.203. Rules for Proceedings; Notice [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 41(20), effective September 1, 2009.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1151.204. Dismissal of Complaints.

(a) After investigation, the department may dismiss a complaint, in part or entirely, without conducting a hearing if

the complaint does not credibly allege a violation of this chapter or the standards established by the commission for registrants under this chapter.

(b) After investigation, the department shall dismiss a complaint, in part or entirely, without conducting a hearing if:

(1) the complaint challenges:

(A) the imposition of or failure to waive penalties or interest under Sections 33.01 and 33.011, Tax Code;

(B) the appraised value of a property;

(C) the appraisal methodology;

(D) the grant or denial of an exemption from taxation; or

(E) any matter for which Title 1, Tax Code, specifies a remedy, including an action that a property owner is entitled to protest before an appraisal review board under Section 41.41(a), Tax Code; and

(2) the subject matter of the complaint has not been finally resolved in the complainant's favor by an appraisal review board, a governing body, an arbitrator, a court, or the State Office of Administrative Hearings under Section 2003.901, Government Code.

(c) This section does not apply to:

(1) a matter referred to the department by the comptroller under Section 5.102, Tax Code, or a successor statute;

(2) a complaint concerning a registrant's failure to comply with the registration and certification requirements of this chapter; or

(3) a complaint concerning a newly appointed chief appraiser's failure to complete the training program described by Section 1151.164.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 32, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 748 (S.B. 464), § 1, effective June 14, 2013.

Sec. 1151.205. Subpoena Authority.

(a) The department may request and, if necessary, compel by subpoena:

(1) the attendance of witnesses for examination under oath; and

(2) the production of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter or a commission rule for inspection and copying.

(b) If a person does not comply with the subpoena, the department, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the department may be held.

(c) The court shall order compliance with the subpoena if the court determines that good cause exists for the issuance of the subpoena.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 33, effective September 1, 2009.

Sec. 1151.206. Complaint of Violation.

A person may file a complaint with the department concerning a violation of this chapter or a rule adopted by the commission under this chapter.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 36, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 110 (S.B. 972), § 3, effective May 18, 2013 (renumbered from Sec. 1151.253).

Secs. 1151.207 to 1151.250. [Reserved for expansion].

Subchapter F

Criminal Penalties
[Repealed]

Sec. 1151.251. Failure to Register [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 110 (S.B. 972), § 5(5), effective May 18, 2013.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 34, effective September 1, 2009.

Sec. 1151.252. Prohibited Actions While Registration or Certification Is Revoked or Suspended [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 110 (S.B. 972), § 5(5), effective May 18, 2013.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 35, effective September 1, 2009.

Sec. 1151.253. Complaint of Violation [Renumbered].

Renumbered to Tex. Occ. Code § 1151.206 by Acts 2013, 83rd Leg., ch. 110 (S.B. 972), § 3, effective May 18, 2013.

CHAPTER 1152

Property Tax Consultants

Subchapter A

General Provisions

Sec. 1152.001. Definitions.

In this chapter:

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

(2) [Repealed by Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.014(1), effective September 1, 2003 and by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.201(a), effective September 1, 2003.]

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

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

(4) "Person" means an individual, partnership, corporation, or association.

(5) "Property tax consultant" means a person who performs or supervises another person in the performance of property tax consulting services for compensation.

(6) "Property tax consulting services" means:

(A) preparing for another person a rendition statement or property report under Chapter 22, Tax Code;

(B) representing another person in a protest under Subchapter C, Chapter 41, Tax Code;

(C) consulting or advising another person concerning:

(i) the preparation of a rendition statement or property report under Chapter 22, Tax Code; or

(ii) an action the other person may protest under Subchapter C, Chapter 41, Tax Code;

(D) negotiating or entering into an agreement with an appraisal district on behalf of another person concerning an action that is or may be the subject of a protest under Subchapter C, Chapter 41, Tax Code; or

(E) acting as the agent of a property owner designated in accordance with Section 1.111, Tax Code.

(7) "Registrant" means a person who is registered as a property tax consultant or a senior property tax consultant under this chapter.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B.

279), §§ 12.001, 12.014(1), effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.201(a), (b), effective September 1, 2003.

Sec. 1152.002. Exemptions from Registration.

(a) A person is not required to be registered under this chapter if the person:

(1) is acting under a general power of attorney, unless the person represents that the person is a property tax consultant, agent, advisor, or representative;

(2) is licensed to practice law in this state;

(3) is an employee of a property owner or of an affiliated or subsidiary company of a property owner and performs property tax consulting services for:

(A) the property owner; or

(B) a partnership, joint venture, or corporation in which the property owner owns an interest;

(4) is a lessee of a property owner and is designated as the agent of the owner in accordance with Section 1.111, Tax Code;

(5) is a public employee or officer and assists a property owner in the course of the employee's or officer's duties;

(6) is a certified public accountant under Chapter 901;

(7) assists another person in the performance of property tax consulting services or provides testimony on behalf of the other person at a protest hearing under Subchapter C, Chapter 41, Tax Code; or

(8) provides property tax consulting services only in connection with farms, ranches, or single-family residences and:

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

(B) is a licensed real estate appraiser or certified real estate appraiser under Chapter 1103.

(b) A person described by Subsection (a)(7) is not exempt from the registration requirements of this chapter if:

(1) the person is designated as the agent of the other person under Section 1.111, Tax Code; or

(2) more than 50 percent of the person's employment time is devoted to, or more than 50 percent of the person's income is derived from, performing or supervising the performance of property tax consulting services.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 705 (H.B. 2844), § 1, effective June 20, 2003.

Secs. 1152.003 to 1152.050. [Reserved for expansion].

Subchapter B

Duties of Commission, Executive Director, and Department

Sec. 1152.051. Standards of Conduct for Registrants.

The commission by rule shall establish standards of practice, conduct, and ethics for registrants.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.003, effective September 1, 2003.

Sec. 1152.052. Money Received by Department.

The department shall receive and account for all money derived under this chapter.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1152.053. Fee Increase [Repealed].

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 200 (H.B. 3442), § 14(d), effective September 1, 2003; Repealed by Acts 2015, 84th Leg., ch. 448 (H.B. 7), § 31(l)(17), effective September 1, 2015.

Secs. 1152.054 to 1152.100. [Reserved for expansion].

Subchapter C

Property Tax Consultants Advisory Council

Sec. 1152.101. Definition.

In this subchapter, "council" means the Property Tax Consultants Advisory Council.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1152.102. Council Membership.

(a) The council is composed of seven 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).

(c) Except as provided by Subsection (d), each person appointed for membership on the council must:

(1) be a registered senior property tax consultant;

(2) be a member of a nonprofit and voluntary trade association:

(A) whose membership consists primarily of persons who perform property tax consulting services in this state or who engage in property tax management in this state for other persons;

(B) that has written experience and examination requirements for membership; and

(C) that subscribes to a code of professional conduct or ethics;

(3) be a resident of this state for the five years preceding the date of the appointment; and

(4) have performed or supervised the performance of property tax consulting services as the person's primary occupation continuously for the five years preceding the date of the appointment.

(d) One member of the council must be a public member.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.004, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 457 (H.B. 2548), § 2, effective September 1, 2009.

Sec. 1152.103. Membership Restrictions.

A person is not eligible for appointment as a member of the council if the person is:

(1) required to register with the secretary of state under Chapter 305, Government Code;

(2) required to register with the department under Chapter 1151; or

(3) exempt from the registration requirements imposed by this chapter, except as provided by Section 1152.102.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 450 (H.B. 2447), § 37, effective September 1, 2009.

Sec. 1152.104. Terms; Vacancy.

(a) Members of the council serve staggered three-year terms, with the terms of two members expiring on February 1 of each year.

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

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.005, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.204, effective September 1, 2003.

Sec. 1152.105. Presiding Officer.

The presiding officer of the commission, with the commission's approval, shall appoint a member of the council to serve as presiding officer of the council for two years.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.006, effective September 1, 2003.

Sec. 1152.106. Meetings; Vote Required for Action.

(a) The council shall meet at least semiannually at the call of the presiding officer or at the call of a majority of its members.

(b) A decision of the council is not effective unless it receives the affirmative vote of at least four members.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1152.107. Compensation; Reimbursement.

A council member is not entitled to receive compensation for serving as a member. A council member is entitled to reimbursement for reasonable expenses incurred in performing duties as a member, subject to applicable limitations in the General Appropriations Act.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1152.108. Council Powers.

The council shall:

(1) recommend to the commission 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 contents for the senior property tax consultant registration examination and standards of acceptable performance;

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

(5) advise the commission in establishing educational requirements for initial applicants.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.007, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.205, effective September 1, 2003.

Secs. 1152.109 to 1152.150. [Reserved for expansion].

Subchapter D

Registration Requirements

Sec. 1152.151. Registration Required.

(a) A person may not perform property tax consulting services for compensation unless the person holds a certificate of registration issued under this chapter.

(b) A person may not represent that a person is a registered property tax consultant, agent, advisor, or representative unless the person is a registrant.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1152.152. Association with Senior Property Tax Consultant Required.

(a) A registered property tax consultant may not perform property tax consulting services for compensation unless the person is employed by or associated with and acting for:

(1) a registered senior property tax consultant; or

(2) an attorney who is licensed to practice law in this state and who has successfully completed the senior property tax consultant registration examination required under Section 1152.160.

(b) Subsection (a) does not apply to a person who is registered under Section 1152.156(a)(2) or 1152.158.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 1064 (H.B. 2352), § 1, effective September 1, 2007.

Sec. 1152.153. Voluntary Registration.

(a) A person who is not required to hold a certificate of registration under this chapter may register if the person satisfies the registration requirements of this chapter.

(b) A person exempt from the registration requirements of this chapter who elects to register is subject to this chapter.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1152.154. Registration Application; Fees.

(a) An applicant for registration must file an application with the department on a printed form prescribed by the executive director.

(b) The application must be accompanied by:

(1) a nonrefundable application fee; and

(2) a registration fee.

(c) The department shall refund the registration fee if the executive director does not approve the application.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 26.022, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.206, effective September 1, 2003.

Sec. 1152.155. General Eligibility for Registration.

(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 under this chapter or Chapter 51.

(b) Notwithstanding Subsection (a), a person is eligible for registration if the person holds:

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

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

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.008, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.207, effective September 1, 2003.

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 40 classroom hours of educational courses approved by the executive director, including at least four hours of instruction on laws and legal issues in this state related to property tax consulting services and pass a competency examination under Section 1152.160; 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 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.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 26.023, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.208, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1313 (H.B. 2591), § 1, effective September 1, 2009.

Sec. 1152.157. Eligibility to Register As Senior Property Tax Consultant.

In addition to satisfying the requirements of Section 1152.155, an applicant for registration as a senior property tax consultant must:

(1) acquire at least 25 credits as provided by Section 1152.159;

(2) have performed or supervised the performance of property tax consulting services as the applicant's primary occupation for at least four of the seven years preceding the date of application; and

(3) pass the examination adopted under Section 1152.160 or hold a professional designation in property taxation granted by a nonprofit and voluntary trade association, institute, or organization:

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

(B) that has written experience and examination requirements for granting the designation; and

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

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1152.158. Registration of Certain Real Estate Brokers.

Sections 1152.156 and 1152.157 do not apply to a person who:

(1) applied for registration before March 1, 1992;

(2) on the date of application held an active real estate broker license under The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes), as that law existed on the application date; and

(3) does not perform or supervise the performance of property tax consulting services for compensation in connection with personal property.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1152.159. Credits for Senior Property Tax Consultant Applicants.

(a) The executive director 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 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 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 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 determines appropriate.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 26.024, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.208, effective September 1, 2003.

Sec. 1152.160. Registration Examinations.

(a) The executive director shall:

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

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

(3) establish the standards for passing the examinations.

(b) The department shall offer the examinations at times and places designated by the executive director.

(c) To be eligible to take an examination, an applicant must pay to the department an examination fee.

(d) The examination must test the applicant's knowledge of:

(1) property taxation;

(2) the property tax system;

(3) property tax administration;

(4) ethical standards; and

(5) general principles of appraisal, accounting, and law as they relate to property tax consulting services.

(e) An attorney who is licensed to practice law in this state may take the senior property tax consultant registration examination under this section without completing any other eligibility requirements for registration as a senior property tax consultant under this chapter.

(f) The department shall accept, develop, or contract for the examinations required by this section, including the administration of the examination.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.009, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.208, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1064 (H.B. 2352), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1313 (H.B. 2591), § 2, effective September 1, 2009.

Sec. 1152.161. Examination Results [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.014(2), effective September 1, 2003.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1152.162. Issuance of Certificate of Registration.

(a) The executive director 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 shall issue to an applicant who qualifies for registration the appropriate certificate of registration.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 26.025, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.208, effective September 1, 2003.

Sec. 1152.163. Waiver for Applicant Registered or Licensed in Another State [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.014(3), effective September 1, 2003.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.209, effective September 1, 2003.

Secs. 1152.164 to 1152.200. [Reserved for expansion].

Subchapter E

Renewal of Certificate of Registration

Sec. 1152.201. Term of Certificate of Registration.

Except as otherwise provided by the commission, a certificate of registration expires on the first anniversary of the date of issuance.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.010, effective September 1, 2003.

Sec. 1152.202. Procedure for Renewal.

(a) The executive director shall issue to an eligible registrant a certificate of renewal of registration on the timely receipt of the required renewal fee.

(b), (c) [Repealed by Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.014(4), effective September 1, 2003.]

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), §§ 12.011, 12.014(4), effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.210, effective September 1, 2003.

Sec. 1152.203. Required Continuing Education [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.014(5), effective March 1, 2004.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.211, effective September 1, 2003.

Sec. 1152.204. Recognition of Educational Programs and Courses.

(a) The commission by rule shall recognize appropriate continuing education programs for registrants.

(b) The commission 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 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 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; 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 does not recognize the provider's educational program or course.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.012, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.211, effective September 1, 2003.

Secs. 1152.205 to 1152.230. [Reserved for expansion].

Subchapter E-1

Prohibited Acts

Sec. 1152.231. General Prohibited Acts.

(a) A person required to register under this chapter may not serve as a registered senior property tax consultant for more than 10 registered property tax consultants unless each additional tax consultant sponsored or supervised by the registered senior property tax consultant has for the previous six months:

(1) been employed and engaged as a tax consultant on a full-time basis;

(2) performed tax consultant related services as an employee of a property owner; or

(3) performed licensed appraisal services.

(b) Except for protests filed with the approval of a lessee under Section 41.413, Tax Code, a person required to register under this chapter may not file a protest under Chapter 41, Tax Code, without the approval of the property owner.

(c) A person required to register under this chapter may not falsify an agent appointment, exemption application, protest, or other legal document that is filed with or presented to an appraisal district, an appraisal review board, or a taxing unit.

(d) A person required to register under this chapter may not file a motion or protest concerning residential property on behalf of a person whom the registrant does not represent unless the registrant has authorization from:

(1) that person; or

(2) another person, other than the agent or the firm that employs the agent, who is authorized by the person to designate agents under Section 1.111, Tax Code.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1313 (H.B. 2591), § 3, effective January 1, 2010.

Sec. 1152.232. Prohibited Acts: Solicitation of Business.

A person required to register under this chapter may not solicit a property tax consulting assignment by assuring a specific outcome.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1313 (H.B. 2591), § 3, effective January 1, 2010.

Sec. 1152.233. Prohibited Acts: Use of Internet Website.

(a) A person required to register under this chapter may not maintain an Internet website for any purpose associated with the provision of tax consulting services by the registrant that has a domain name or other Internet address that implies that the website is a government website.

(b) A person required to register under this chapter may not use or maintain an Internet website for the purpose of soliciting clients if the website does not identify the company prominently on the home page of the website.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1313 (H.B. 2591), § 3, effective January 1, 2010.

Sec. 1152.234. Prohibited Acts: Certain Legal Actions.

A person required to register under this chapter may not engage the services of an attorney for purposes of filing an appeal under Chapter 42, Tax Code, without the prior consent of the client.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 1313 (H.B. 2591), § 3, effective January 1, 2010.

Secs. 1152.235 to 1152.250. [Reserved for expansion].

Subchapter F

Penalties and Enforcement

Sec. 1152.251. Disciplinary Powers of Commission.

After a hearing, the commission 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 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.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 12.013, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.211, effective September 1, 2003.

Sec. 1152.252. Criminal Penalties [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 110 (S.B. 972), § 5(5), effective May 18, 2013.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

SUBTITLE C

REGULATION OF CERTAIN TYPES OF HOUSING AND BUILDINGS

CHAPTER 1201

Manufactured Housing

Subchapter A. General Provisions

Subchapter B. Department Powers and Duties

Subchapter C. Licensing

Subchapter D. Practice

Subchapter E. Manufactured Home Statements of Ownership

Subchapter A

General Provisions

Sec. 1201.001. Short Title.

This chapter may be cited as the Texas Manufactured Housing Standards Act.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.002. Legislative Findings and Purposes; Liberal Construction.

(a) The legislature finds that:
(1) there is a growing need to provide state residents with safe, affordable, and well-constructed housing;
(2) manufactured housing has become a primary housing source for many state residents;
(3) statutes and rules in effect before September 1, 1969, were inadequate to:
(A) fully protect the consumer; and
(B) prevent certain discrimination in this state regarding manufactured housing;
(4) the state is responsible for:
(A) protecting state residents who want to purchase manufactured housing by regulating the construction and installation of manufactured housing;
(B) providing economic stability to manufactured housing manufacturers, retailers, installers, and brokers; and
(C) providing fair and effective consumer remedies; and
(5) the expansion of certain regulatory powers is:
(A) necessary to address the problems described by Subdivisions (1)—(4); and
(B) the most economical and efficient means to address those problems and serve the public interest.
(b) The purposes of this chapter are to:
(1) encourage the construction of housing for state residents; and
(2) improve the general welfare and safety of purchasers of manufactured housing in this state.
(c) This chapter shall be liberally construed to promote its policies and accomplish its purposes.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.003. Definitions.

In this chapter:
(1) "Advertisement" means a commercial message that promotes the sale or exchange of a manufactured home and that is presented on radio, television, a public-address system, or electronic media or appears in a newspaper, a magazine, a flyer, a catalog, direct mail literature, an inside or outside sign or window display, point-of-sale literature, a price tag, or other printed material. The term does not include educational material or material required by law.
(2) "Affiliate" means a person who is under common control.
(3) "Alteration" means the replacement, addition, modification, or removal of equipment in a new manufactured home after sale by a manufacturer to a retailer but before sale and installation by a retailer to a purchaser in a manner that may affect the home's construction, fire safety, occupancy, or plumbing, heating, or electrical system. The term includes the modification of a manufactured home in a manner that may affect the home's compliance with the appropriate standards but does not include:
(A) the repair or replacement of a component or appliance that requires plug-in to an electrical receptacle, if the replaced item is of the same configuration and rating as the replacement; or
(B) the addition of an appliance that requires plug-in to an electrical receptacle and that was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which the appliance is connected.
(4) "Attached" in reference to a manufactured home means that the home has been:
(A) installed in compliance with the rules of the department; and
(B) connected to a utility, including a utility providing water, electric, natural gas, propane or butane gas, or wastewater service.
(5) "Board" means the Manufactured Housing Board within the Texas Department of Housing and Community Affairs.
(6) "Broker" means a person engaged by one or more other persons to negotiate or offer to negotiate a bargain or contract for the sale or exchange of a manufactured home for which a certificate or other document of title has been issued and is outstanding. The term does not include a person who maintains a location for the display of manufactured homes.
(7) "Business use" means the use of a manufactured home in conjunction with operating a business, for a purpose other than as a permanent or temporary residential dwelling.
(8) "Consumer" means a person, other than a person licensed under this chapter, who seeks to acquire or acquires by purchase or exchange a manufactured home.

(9) "Control" means, with respect to another person, the possession of the power, directly or indirectly, to vote an interest of 25 percent or more.

(9-a) "Credit transaction" has the meaning assigned by Section 347.002(a)(3), Finance Code.

(10) "Department" means the Texas Department of Housing and Community Affairs operating through its manufactured housing division.

(11) "Director" means the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs.

(12) "HUD-code manufactured home":

(A) means a structure:

(i) constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development;

(ii) built on a permanent chassis;

(iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;

(iv) transportable in one or more sections; and

(v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet;

(B) includes the plumbing, heating, air conditioning, and electrical systems of the home; and

(C) does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8(g).

(13) "Installation" means the temporary or permanent construction of the foundation system and the placement of a manufactured home or manufactured home component on the foundation. The term includes supporting, blocking, leveling, securing, anchoring, and properly connecting multiple or expandable sections or components and making minor adjustments.

(14) "Installer" means a person, including a retailer or manufacturer, who contracts to perform or performs an installation function on manufactured housing.

(15) "Label" means a device or insignia that is:

(A) issued by the director to indicate compliance with the standards, rules, and regulations established by the United States Department of Housing and Urban Development; and

(B) permanently attached to each transportable section of each HUD-code manufactured home constructed after June 15, 1976, for sale to a consumer.

(16) [Repealed.]

(17) "License holder" or "licensee" means a person who holds a department-issued license as a manufacturer, retailer, broker, salesperson, or installer.

(18) "Manufactured home" or "manufactured housing" means a HUD-code manufactured home or a mobile home.

(19) "Manufacturer" means a person who constructs or assembles manufactured housing for sale or exchange in this state.

(20) "Mobile home":

(A) means a structure:

(i) constructed before June 15, 1976;

(ii) built on a permanent chassis;

(iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;

(iv) transportable in one or more sections; and

(v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; and

(B) includes the plumbing, heating, air conditioning, and electrical systems of the home.

(21) "New manufactured home" means a manufactured home that is not a used manufactured home, regardless of its age.

(21-a) "Nonresidential use" means use of a manufactured home for a purpose other than as a permanent or temporary residential dwelling.

(22) "Person" means an individual or a partnership, company, corporation, association, or other group, however organized.

(23) "Related person" means a person who:

(A) directly participates in management or policy decisions; and

(B) is designated by an entity and satisfies the requirements of Sections 1201.104 and 1201.113 on behalf of the entity, if the entity is licensed or seeking licensure under this chapter.

(24) "Retailer" means a person who:

(A) is engaged in the business of buying for resale, selling, or exchanging manufactured homes or offering manufactured homes for sale or exchange to consumers, including a person who maintains a location for the display of manufactured homes; and

(B) sells or exchanges at least two manufactured homes to consumers in a 12-month period.

(25) "Rules" means the rules of the department.

(26) "Salesperson" means a person who, as an employee or agent of a retailer or broker, sells or offers to sell manufactured housing to a consumer.

(26-a) "Sales purchase contract" means the contract between a retailer and a consumer for the purchase of a manufactured home from the retailer.

(27) "Salvaged manufactured home" means a manufactured home determined to be salvaged under Section 1201.461.

(28) "Seal" means a device or insignia issued by the director that, for title purposes, is to be attached to a used manufactured home as required by the director.

(29) "Standards code" means the Texas Manufactured Housing Standards Code.

(30) "Statement of ownership " means a statement issued by the department and setting forth:

(A) the ownership of a manufactured home in this state as provided by Section 1201.205; and

(B) other information required by this chapter.

(31) [Repealed.]

(32) "Used manufactured home" means a manufactured home which has been occupied for any use or for which a statement of ownership has been issued. The term does not include:

(A) a manufactured home that was used as a sales model at a licensed retail location; or

(B) a manufactured home that:

(i) was sold as a new manufactured home and installed but never occupied;

(ii) had a statement of ownership; and

(iii) was taken back from the consumer or transferee because of a first payment default or agreement to rescind or unwind the transaction.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 1, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.251(a), effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 1, effective January 1, 2008; am. Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.03, effective September 1, 2013; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), §§ 1, 85, effective September 1, 2017.

Sec. 1201.004. Definitions Binding.

The definitions of "mobile home," "HUD-code manufactured home," and "manufactured housing" provided by Section 1201.003 are binding as a matter of law on each person and agency in this state, including a home-rule municipality or other political subdivision. A mobile home is not a HUD-code manufactured home and a HUD-code manufactured home is not a mobile home for any purpose under state law. Those terms may not be defined in a manner that is not identical to the definitions provided by Section 1201.003.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.005. Consumer Waiver Void.

A waiver by a consumer of this chapter is contrary to public policy and void.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.006. Applicability of Business & Commerce Code.

The Business & Commerce Code applies to transactions relating to manufactured housing except to the extent that it conflicts with this chapter.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.007. Exception for Real Estate Brokers and Salespersons.

This chapter does not:

(1) modify or amend Chapter 1101 or 1102; or

(2) apply to a person who is licensed as a real estate broker or salesperson under Chapter 1101 and who, as agent of a buyer or seller, negotiates the sale or lease of a manufactured home and the real property to which the home is attached if:

(A) the same person is the record owner of both the manufactured home and the real property; and

(B) the sale or lease occurs in a single real estate transaction.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.008. Regulation by Municipality.

(a) A municipality may prohibit the installation of a mobile home for use as a dwelling in the municipality. The prohibition must be prospective and may not apply to a mobile home previously legally permitted by and used as a dwelling in the municipality. If a mobile home is replaced by a HUD-code manufactured home in the municipality, the municipality shall grant a permit for use of the manufactured home as a dwelling in the municipality.

(b) On application, the municipality shall permit the installation of a HUD-code manufactured home for use as a dwelling in any area determined appropriate by the municipality, including a subdivision, planned unit development, single lot, and rental community or park. An application to install a new HUD-code manufactured home for use as a dwelling is considered to be granted unless the municipality in writing denies the application and states the reason for the denial not later than the 45th day after the date the application is received.

(c) Subsections (a) and (b) do not affect the validity of an otherwise valid deed restriction.

(d) Except as approved by the department, a local governmental unit may not require a permit, a fee, a bond, or insurance for the transportation and installation of manufactured housing by a licensed retailer or installer. This subsection does not prohibit the collection of actual costs incurred by a local governmental unit that result from the transportation of a manufactured home.

(e) Notwithstanding any zoning or other law, in the event that a manufactured home occupies a lot in a municipality, the owner of the manufactured home may remove the manufactured home from its location and place another manufactured home on the same property, provided that the replacement is a newer manufactured home and is at least as large in living space as the prior manufactured home.

(f) An owner's ability to replace the home as a result of a fire or natural disaster cannot be restricted. Other than in the case of a fire or natural disaster, a general-rule or home-rule municipality by an ordinance or charter may limit the ability of the owner to replace his home to a single replacement.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 2, effective January 1, 2008.

Sec. 1201.009. Electronic Means Authorized.

If feasible, any action required under this chapter may be accomplished by electronic means.

HISTORY: Enacted by Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 1, effective September 1, 2009.

Sec. 1201.010. Electronic Public Records Required.

The department shall provide to the public through the department's Internet website searchable and downloadable information regarding manufactured home ownership records, lien records, installation records, license holder records, and enforcement actions.

HISTORY: Enacted by Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 2, effective September 1, 2017.

Secs. 1201.011 to 1201.050. [Reserved for expansion].

Subchapter B

Department Powers and Duties

Sec. 1201.051. Administration and Enforcement of Chapter.

The director shall administer and enforce this chapter.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.052. General Rulemaking Authority.

(a) The director shall adopt rules, issue orders, and otherwise act as necessary to ensure compliance with the purposes of this chapter to implement and provide for uniform enforcement of this chapter and the standards code.

(b) To protect the public health, safety, and welfare and to ensure the availability of low cost manufactured housing for all consumers, the director shall adopt rules to:

(1) protect the interests of consumers who occupy or want to purchase or install manufactured housing; and

(2) govern the business conduct of license holders.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.053. Rules Relating to Compliance with National Standards for Manufactured Housing Construction and Safety; State Plan.

(a) The board shall adopt rules and otherwise act as necessary to:

(1) comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.), including adopting and enforcing rules reasonably required to implement the notification and correction procedures provided by 42 U.S.C. Section 5414; and

(2) provide for the effective enforcement of all HUD-code manufactured housing construction and safety standards in order to have the state plan authorized by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) approved by the secretary of housing and urban development.

(b) The state plan described by Subsection (a)(2) must provide for a third-party inspection agency approved by the United States Department of Housing and Urban Development to act as an in-plant inspection agency.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 3, effective January 1, 2008.

Sec. 1201.054. Procedure for Adopting Rules.

(a) Rules must be adopted in accordance with Chapter 2001, Government Code, and with this section.

(b) If requested, the board shall, after at least 10 days' notice, hold a hearing on any rule that it proposes to adopt, other than a rule that is to be adopted under emergency rulemaking, in which case only the requirements of Chapter 2001, Government Code, shall apply.

(c) A rule takes effect on the 30th day after the date of publication of notice that the rule has been adopted, except that a rule relating to installation standards may not take effect earlier than the 60th day after the date of publication of notice unless the board has determined that an earlier effective date is required to meet an emergency and the standard was adopted under the emergency rulemaking provisions of Chapter 2001, Government Code.

(d) To maintain affordability of manufactured homes in this state, the board shall:

(1) conduct a cost benefit analysis for any rule, process, or policy change that will increase a fee or another incurred cost by more than $50 for license holders or consumers; and

(2) present at the next board meeting an analysis detailing whether the need for the rule, process, or policy change justifies the increase.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 4, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 3, effective September 1, 2017.

Sec. 1201.055. Inspection, Review, and Related Fees.

(a) With guidance from the federal Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.) and from the rules and regulations adopted under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.), the board shall establish fees as follows:

(1) if the department acts as a design approval primary inspection agency, a schedule of fees for the review of HUD-code manufactured home blueprints and supporting information, to be paid by the manufacturer seeking approval of the blueprints and supporting information;

(2) except as provided by Subsection (e), a fee for the inspection of each HUD-code manufactured home manufactured or assembled in this state, to be paid by the manufacturer of the home;

(3) a fee for the inspection of an alteration made to the structure or plumbing, heating, or electrical system of a HUD-code manufactured home, to be charged on an hourly basis and to be paid by the person making the alteration;

(4) a fee for the inspection of the rebuilding of a salvaged manufactured home, to be paid by the retailer;

(5) a fee for the inspection of a used manufactured home to determine whether the home is habitable for the issuance of a new statement of ownership; and

(6) a fee for the issuance of a seal for a used mobile or HUD-code manufactured home.

(b) In addition to the fees imposed under Subsections (a)(2), (3), and (4), a manufacturer or a person making an alteration, as appropriate, shall be charged for the actual cost of travel of a department representative to and from:

(1) the manufacturing facility, for an inspection described by Subsection (a)(2); or

(2) the place of inspection, for an inspection described by Subsection (a)(3) or (4).

(c) The board shall establish a fee for the inspection of the installation of a mobile or HUD-code manufactured home, to be paid by the installer of the home.

(c-1) The department may permit the use of any device or procedure that has been reviewed and approved by a licensed engineer provided that such use or procedure complies with any instructions, conditions, or other requirements specified by that engineer.

(d) The board shall charge a fee for a consumer complaint home inspection requested by a manufacturer or retailer under Section 1201.355(b), to be paid by the manufacturer or retailer.

(e) The fee described by Subsection (a)(2) does not apply if an inspection agency authorized by the United States Department of Housing and Urban Development, other than the department, acts as the in-plant inspection agency.

(f) The fee described by Subsection (c) must accompany notice to the department of the exact location of the mobile or HUD-code manufactured home. The department shall make an appropriate fee distribution to a local governmental unit that performs an inspection under a contract or other official designation if that unit does not collect a local inspection fee.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 2, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 5, effective January 1, 2008; am. Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.04, effective September 1, 2013; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 4, effective September 1, 2017.

Sec. 1201.056. License Fees.

(a) The board shall establish fees for the issuance and renewal of licenses for:

(1) manufacturers;

(2) retailers;
(3) brokers;
(4) salespersons; and
(5) installers.

(b) The board by rule may establish a fee for reprinting a license issued under this chapter.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.05, effective September 1, 2013.

Sec. 1201.057. Instruction Fee.

The board shall charge a fee to each person attending a course of instruction described by Section 1201.104.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.058. Amount of Fees.

(a) The board shall establish reasonable fees for all matters under this chapter providing for fees. If the department's rules provide an option to file a document electronically, the department may charge a discounted fee for the electronic filing.

(b) [Repealed]

(c) All fees established by this chapter or the rules are deemed to be earned and not subject to refund after receipt by the department.

(d) Notwithstanding Subsection (c), the director may, in limited and appropriate circumstances and in accordance with rules adopted by the board, approve the refund of fees.

(e) If the governor by executive order or proclamation declares a state of disaster under Chapter 418, Government Code, the director, in accordance with rules adopted by the board, may waive the imposition of any fee under this chapter in the affected area.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 6, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 2, effective September 1, 2009; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 85(2), effective September 1, 2017.

Sec. 1201.059. Fees for Statements of Ownership and Location [Repealed].

Repealed by Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 73(a)(1), effective January 1, 2008.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 3, effective June 1, 2003.

Sec. 1201.060. Venue for Hearing.

A hearing under this chapter shall be held in Travis County unless all parties agree to another location.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.061. Cooperation with Local Governmental Units.

The department shall cooperate with all local governmental units in this state.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.062. Seal Property of Department.

A seal is the property of the department.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Secs. 1201.063 to 1201.100. [Reserved for expansion].

Subchapter C

Licensing

Sec. 1201.101. License Required.

(a) A person may not construct or assemble in this state or ship into this state a new HUD-code manufactured home unless the person holds, at the time the home is constructed or assembled, a manufacturer's license.

(b) Except as otherwise provided by this chapter, a person may not sell or exchange, or offer to sell or exchange, two or more manufactured homes to consumers in this state in a 12-month period unless the person holds a retailer's license.

(c) A person may not offer to negotiate or negotiate for others a bargain or contract for the sale or exchange of two or more manufactured homes to consumers in this state in a 12-month period unless the person holds a broker's license.

(d) A person may not act as an installer in this state unless the person holds an installer's license.

(e) A person may not repair, rebuild, or otherwise alter a salvaged manufactured home unless the person holds a retailer's license.

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer or broker who sponsored the salesperson's application as required by Section 1201.103(d).

(f-1) A retailer may not be licensed to operate more than one location under a single license.

(g) A person may not make an announcement concerning the sale or exchange of, or offer to sell or exchange, a manufactured home to a consumer in this state through an advertisement unless the person holds a manufacturer's, retailer's, or broker's license. This subsection does not apply to:

(1) a person exempt from licensing; or

(2) an advertisement concerning real property on which there is a manufactured home that has been converted to real property in accordance with Section 1201.2055.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 4, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 7, effective January 1, 2008; am. Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.06, effective September 1, 2013; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 5, effective September 1, 2017.

Sec. 1201.102. Exceptions to License Requirement.

(a) A licensed installer may employ unlicensed persons to assist in performing installation functions provided that the licensed installer maintains a list of the persons so employed. The director may issue an order to prohibit a person who is not licensed as an installer from performing installation functions under the oversight of a licensed installer.

(b) A licensee may engage another person who is not licensed under this chapter but possesses another license issued by the State of Texas to provide goods and services subject to that other license. Without limiting the generality of the foregoing, this includes engaging others to install, connect, or otherwise work on air conditioning, plumbing, and electrical systems.

(c) An individual who holds a retailer's license or broker's license or who is a related person of such a licensee is not required to apply for a salesperson's license.

(c-1) An individual who is listed as an owner, principal, partner, corporate officer, registered agent, or related person of an entity that is licensed as a retailer or broker may act on behalf of that license holder in the capacity of a retailer, broker, or salesperson without holding the appropriate license if at least one individual who is listed as an owner, principal, partner, corporate officer, registered agent, or related person of the entity has satisfied the requirements of Sections 1201.104 and 1201.113.

(d) A person who holds a real estate broker's or salesperson's license under Chapter 1101 may act as a broker or salesperson under this chapter without holding a license or filing a bond or other security as required by this chapter if negotiations for the sale or exchange of a manufactured home are conducted for a consumer for whom the person is also acting as a real estate broker or salesperson under Chapter 1101 consistent with Section 1201.007.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.252(a), effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 8, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 6, effective September 1, 2017.

Sec. 1201.1025. Exemption from Retailer's License Requirement.

(a) Notwithstanding any other law, in any 12-month period a person is exempt from holding a retailer's license as required by Section 1201.101(b) if during that period the person sells or offers to sell not more than three manufactured homes.

(b) The department by rule shall develop a form necessary for a person to establish eligibility for the exemption provided by this section.

(c) A person who is eligible for an exemption under this section remains subject to the other applicable provisions of this subchapter regarding the sale of manufactured homes.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 1270 (H.B. 944), § 1, effective September 1, 2013.

Sec. 1201.103. License Application.

(a) An applicant for a license as a manufacturer, retailer, broker, or installer must file with the director a license application containing:

(1) the legal name, address, and telephone number of the applicant and each person who will be a related person at the time the requested license is issued;

(2) all trade names, and the names of all other business organizations, under which the applicant does business subject to this chapter, the name of each such business organization registered with the secretary of state, and the address of such business organization;

(3) the dates on which the applicant became the owner and operator of the business; and

(4) the location to which the license will apply.

(a-1) All required records of a licensee under Subsection (a) are to be maintained at the licensee's principal office or such other location within this state as the licensee may designate.

(b) A license application must be accompanied by:

(1) proof of the security required by this subchapter;

(2) payment of the fee required for issuance of the license; and

(3) the information and the cost required under Section 1201.1031.

(c) If a change occurs in the information filed with the director under Subsection (a), the applicant shall amend the application to state the correct information.

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides any information the director considers necessary and that is sponsored by a currently licensed retailer or broker; and

(2) pay the required fee.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 2, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 9, effective January 1, 2008; am. Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.07, effective September 1, 2013.

Sec. 1201.1031. Criminal History Record Information Requirement for License.

(a) The department shall require that an applicant for a license or renewal of an unexpired license submit a complete and legible set of fingerprints, on a form prescribed by the board, to the department or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The applicant is required to submit a set of fingerprints only once under this section unless a replacement set is otherwise needed to complete the criminal history check required by this section.

(b) The department shall refuse to issue a license to or renew the license of a person who does not comply with the requirement of Subsection (a).

(c) The department shall conduct a criminal history check of each applicant for a license or renewal of a license using information:

(1) provided by the individual under this section; and

(2) made available to the department by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The department may enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section.

(e) The applicant shall pay the cost of a criminal history check under this section.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.08, effective September 1, 2013.

Sec. 1201.104. Qualifications for License.

(a) Except as provided by Subsection (g), as a requirement for a manufacturer's, retailer's, broker's, installer's, or salesperson's license, a person who was not licensed or registered with the department or a predecessor agency on September 1, 1987, must, not more than 12 months before applying for the person's first license under this chapter, attend and successfully complete eight hours of instruction in the law, including instruction in consumer protection regulations.

(a-1) If the applicant is not an individual, the applicant must have at least one related person who satisfies the requirements of Subsection (a). If that applicant is applying for a retailer's license, the related person must be a management official who satisfies the requirements of Subsections (a) and (a-2) for each retail location operated by the applicant.

(a-2) An applicant for a retailer's license must complete four hours of specialized instruction relevant to the sale and exchange of manufactured homes. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(a-3) An applicant for an installer's license must complete four hours of specialized instruction relevant to the installation of manufactured homes. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(a-4) An applicant for a joint installer-retailer license must comply with Subsections (a-2) and (a-3), for a total of eight hours of specialized instruction. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(b) Except in the case of an applicant for a salesperson's license, successful completion of the course of instruction is a prerequisite to obtaining the license.

(c) An applicant for a salesperson's license may apply for a license without having completed the course of instruction if the person successfully completes the course not later than the 90th day after the date of the person's licensure. If the person fails to complete such course successfully and in a timely manner, the person's license is automatically suspended until the person successfully completes the course.

(d) The course of instruction must be offered at least quarterly.

(e) The board shall adopt rules relating to course content and approval.

(f) An applicant for an initial installer's license shall receive a license on a provisional basis. The person's provisional status remains in effect until a sufficient number of installations completed by the person have been inspected by the department and found not to have any identified material violations of the department's rules. The board, with the advice of the advisory committee to be established under Section 1201.251, shall adopt rules to establish what constitutes a sufficient number of installations under this subsection.

(g) Subsections (a), (a-2), (a-3), and (a-4) do not apply to a license holder who applies:

(1) for a license for an additional business location; or

(2) to renew or reinstate a license.

(h) An examination must be a requirement of successful completion of any initial required course of instruction under this section. The period needed to complete an examination under this subsection may not be used to satisfy the minimum education requirements under Subsection (a), (a-2), (a-3), or (a-4). If the examination failure rate exceeds 25 percent, the board shall:

(1) review the examination and the examination procedures; and

(2) adopt rules intended to maintain the historical passage rate for the examination.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 10, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 3, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 74.06, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.09, effective September 1, 2013; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 7, effective September 1, 2017.

Sec. 1201.105. Security Required.

(a) The department may not issue or renew a license unless a bond or other security in a form prescribed by the director is filed with the department as provided by this subchapter. The bond or other security is payable to the manufactured homeowner consumer claims program.

(b) If a bond is filed, the bond must be issued by a company authorized to do business in this state and must conform to applicable provisions of the Insurance Code. If other security is filed, that security must be maintained in or by a federally insured depository institution located in this state.

(c) If the department experiences significant problems in obtaining timely reimbursements from a surety or the surety has experienced a deterioration in its financial condition, the board may direct the director to stop accepting bonds issued by the surety.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 10, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 8, effective September 1, 2017.

Sec. 1201.106. Security: Amount.

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:

(1) $100,000 for a manufacturer;

(2) $50,000 for a retailer;

(3) $50,000 for a broker; or

(4) $25,000 for an installer.

(a-1) Notwithstanding the provisions of Subsection (a), the director may require additional security for the licensing, renewal, or relicensing of a person, or the sponsoring of a salesperson, who, either directly, as a related person, or through a related person, has been the subject of a license revocation, has caused the manufactured homeowner consumer claims program to incur unreimbursed costs or liabilities in excess of available surety bond coverage, or has failed to pay an administrative penalty that has been assessed by final order.

(b) To ensure the availability of prompt and satisfactory warranty service, a manufacturer that does not have a licensed manufacturing plant or other facility in this state from which warranty service and repairs can be provided shall file a bond or other security in the additional amount of $100,000.

(c) The bond or other security is open to successive claims up to the face value of the bond or other security. The surety is not liable for successive claims in excess of the face value of the bond, regardless of the number of years the bond remains in force.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 3, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 11, effective January 1, 2008; am. Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.10, effective September 1, 2013; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 9, effective September 1, 2017.

Sec. 1201.107. Security: Location.

(a) A manufacturer, retailer, broker, or installer who maintains a place of business at one or more locations shall file with the department a separate bond or other security for each location.

(b) Property used for the business that is not contiguous to, or located within 300 feet of, a bonded location requires a separate bond. A location at which a manufactured home is shown to the public or at which the home is offered for sale or exchange by a retailer to consumers requires a bond.

(c) A manufactured home installed on a permanent foundation system and offered for sale as real property does not require a bond. A temporary location for a bona fide trade show sponsored by a nonprofit corporation that qualifies for an exemption from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c) of that code does not require a bond.

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale or exchange by a retailer or broker to the public, the retailer or broker must:

(1) identify the bond on file with the department in conjunction with that person's license; and

(2) provide contractually in the sales transaction that the identified bond applies to the sale.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 4, effective June 18, 2005; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 10, effective September 1, 2017.

Sec. 1201.108. Security: Change in Ownership or Location.

(a) A new bond is not required for a change in:

(1) ownership of a licensee or a business entity under which a license holder conducts business; or

(2) location.

(b) A licensee shall notify the department of a change described by Subsection (a) not later than the 10th day before the date the change occurs.

(c) After a change described by Subsection (a), the licensee shall provide to the department a proper endorsement to the original bond showing that the bond continues to apply to the license without interruption.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 12, effective January 1, 2008.

Sec. 1201.109. Security: Cancellation or Other Impairment.

(a) If a bond required by this subchapter is canceled, the license for which the security is filed is suspended on the effective date of cancellation. The surety shall provide written notice to the director before the 60th day preceding the effective date of cancellation.

(b) If a surety files for liquidation or reorganization in bankruptcy or is placed in receivership, the license holder shall obtain other security not later than the 60th day after the date that notice of the filing or receivership is received.

(c) If the required face amount of a security is impaired by the payment of a claim, the license holder shall restore the security to the required face amount not later than the 60th day after the date of impairment.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.110. Security: Duration.

The department shall maintain on file a security other than a bond canceled as provided by Section 1201.109(a) until the later of:

(1) the second anniversary of the date the manufacturer, retailer, broker, or installer ceases doing business; or

(2) the date the director determines that a claim does not exist against the security.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.11, effective September 1, 2013.

Sec. 1201.111. Exceptions to Security and Instruction Requirements.

(a) Notwithstanding any other provision of this chapter, a state or national bank, state or federal savings and loan association, federal savings bank, or state or federal credit union engaged in the business of selling or exchanging, or offering for sale or exchange, manufactured homes that the institution has acquired through repossession of collateral is not required to attend a course of instruction or file a bond or other security to be licensed as a retailer.

(b) A licensed retailer is not required to file a bond or other security to be licensed as a broker or installer.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 11, effective September 1, 2017.

Sec. 1201.112. Temporary Installer's License [Repealed].

Repealed by Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 73(a)(2), effective January 1, 2008.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.113. Continuing Education Programs.

(a) The board shall approve continuing education programs for licensees under this chapter. A continuing education program must be at least eight hours long and must include the current rules of the department and such other matters as the board may deem relevant.

(b) Completion of an approved continuing education program described by Subsection (a) is a prerequisite to renewal of a license.

(c) No test shall be given in relation to any continuing education program.

(d) If the approval of a continuing education program expires between regularly scheduled board meetings, the director may, on receipt of the required renewal application, fee, and necessary documentation of education material, approve the continued administration of the program until the next board meeting.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 5, effective January 1, 2004; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.253(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 5, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), §§ 13, 73(a)(3), effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 4, effective September 1, 2009; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), §§ 12, 13, effective September 1, 2017.

Sec. 1201.114. License Expiration.

Any license under this chapter is valid for two years. A license may be renewed as provided by the director. A person whose license has been suspended or revoked or whose license has expired may not engage in activities that require a license until the license has been reinstated or renewed.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.254(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 6, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 14, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 5, effective September 1, 2009.

Sec. 1201.115. Notice of License Expiration.

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.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.254(a), effective September 1, 2003.

Sec. 1201.116. Procedure for License Renewal.

(a) The department shall renew a license if, before the expiration date of the license, the department receives the renewal application and payment of the required fee as well as the cost required under Section 1201.1031.

(b) If the department needs additional information for the renewal application or verification of continuing insurance or bond coverage, the license holder must provide the requested information or verification not later than the 20th day after the date of receipt of notice from the department.

(c) The renewal license expires on the second anniversary of the date the license was renewed.

(d) 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 1-½ times the normally required renewal fee.

(e) 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.

(f) 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 for obtaining an original license.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.254(a), effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 6, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.12, effective September 1, 2013.

Sec. 1201.117. Renewal of Expired License by Out-of-State Practitioner.

(a) 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 fulfilling the instruction requirements of Section 1201.104(a).

(b) The person must pay to the department a fee that is equal to two times the normally required renewal fee for the license.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.254(a), effective September 1, 2003.

Sec. 1201.118. Rules Relating to Certain Persons.

The board shall adopt rules providing for additional review and scrutiny of any application for an initial or renewal license that involves a person who has previously:

(1) been found in a final order to have participated in one or more violations of this chapter that served as grounds for the suspension or revocation of a license;

(2) been found to have engaged in activity subject to this chapter without possessing the required license;

(3) caused the manufactured homeowner consumer claims program to incur unreimbursed payments or claims; or

(4) failed to abide by the terms of a final order, including the payment of any assessed administrative penalties.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 15, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 14, effective September 1, 2017.

Secs. 1201.119 to 1201.150. [Reserved for expansion].

Subchapter D

Practice

Sec. 1201.1505. Deposit on Specially Ordered Manufactured Homes.

A retailer may require a deposit on a specially ordered manufactured home.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 10, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 16, effective January 1, 2008.

Sec. 1201.151. Refunds.

(a) Except as otherwise provided by this section, a retailer must refund a consumer's deposit not later than the 15th day after the date that a written request for the refund is received from the consumer.

(b) The deposit may be retained only if:

(1) the consumer specially orders from the manufacturer a manufactured home that is not in the retailer's inventory;

(2) the home conforms to the specifications of the special order and any representations made to the consumer;

(3) the consumer fails or refuses to accept delivery and installation of the home by the retailer; and

(4) the consumer was given conspicuous written notice of the requirements for retaining the deposit.

(c) The retailer may not retain more than five percent of the estimated cash price of the specially ordered home and must refund any amount that exceeds five percent.

(d) This section does not apply to:

(1) a deposit held in escrow in a real estate transaction; or

(2) money stated to be a down payment in an executed retail sales contract.

(e) A deposit becomes a down payment upon execution of a sales purchase contract. Thereafter, if the consumer exercises the consumer's three-day right of rescission in accordance with Section 1201.1521, the retailer shall, not later than the 15th day after the date of the rescission, refund to the consumer all money and other consideration received from the consumer, with only the allowable deduction for real property appraisal and title work expenses in accordance with Section 1201.1511.

(f) Retention of real property appraisal and title work expenses authorized by Subsection (e) is not allowed if the consumer exercises the right of rescission in accordance with 12 C.F.R. Section 1026.23.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 7, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), §§ 17, 18, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 15, effective September 1, 2017.

Sec. 1201.1511. Real Property Appraisal and Title Work Expenses.

(a) Notwithstanding Section 1201.151 or 1201.1521, a retailer may collect from a consumer in advance or deduct from the consumer's deposit or down payment any expenses incurred by the retailer if, after receiving a conditional notification of approval from a lender chosen by the consumer, the consumer:

(1) contracts with the retailer to arrange for services that are performed by an appraiser of real property or a title company in connection with real property that will be included in the purchase or exchange or is intended to be pledged by the consumer as collateral for the consumer's purchase or exchange of a manufactured home;

(2) is provided notice of laws relating to rescission and real property appraisal and title work expenses before signing the contract for real property appraisal and title work services; and

(3) is provided an itemized list of the specific real property appraisal and title work expenses incurred by the retailer.

(b) A retailer may not charge to the consumer any fees or expenses other than the real property appraisal and title work expenses disclosed to the consumer under Subsection (a)(3).

(c) The department may demand copies of contracts, invoices, receipts, or other proof of any real property appraisal and title work expenses retained by a retailer.

HISTORY: Enacted by Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 16, effective September 1, 2017.

Sec. 1201.152. Voidable Contract.

(a) If a retailer purchases a new manufactured home from an unlicensed manufacturer in violation of Section 1201.505, a consumer's contract with the retailer for the purchase or exchange of the home is voidable until the second anniversary of the date of purchase or exchange of the home.

(b) If an unlicensed retailer, broker, or installer enters into a contract with a consumer concerning a manufactured home, the consumer may void the contract until the second anniversary of the date of purchase of the home.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 17, effective September 1, 2017.

Sec. 1201.1521. Rescission of Contract for Sale or Exchange of Home.

(a) A person who acquires a manufactured home from or through a licensee by purchase or exchange may, in a cash transaction occurring not later than the third day after the date the sales purchase contract is signed, rescind the contract without penalty or charge other than the real property appraisal and title work expenses incurred in accordance with Section 1201.1511.

(b) A person who acquires a manufactured home from or through a licensee by purchase or exchange may, in a transfer that is based wholly or partly on a credit transaction occurring not later than the third day after the date of the signing of the binding note, security agreement, or other financing credit contract with respect to which the consumer's purchased manufactured home will serve as collateral for the credit transaction, rescind the contract without penalty or charge other than the real property appraisal and title work expenses incurred in accordance with Section 1201.1511.

(c) Subject to rules adopted by the board, a consumer may waive a right of rescission in the event of a bona fide emergency. Such rules shall, to the extent practical, be modeled on the federal rules for the waiver of a right of rescission under 12 C.F.R. Part 1026.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 10, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 19, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 18, effective September 1, 2017.

Sec. 1201.153. Formaldehyde Health Notice.

(a) A retailer or manufacturer may not transfer ownership of a HUD-code manufactured home or otherwise sell, assign, or convey a HUD-code manufactured home to a consumer unless the retailer or manufacturer delivers to the consumer a formaldehyde health notice, subject to the director's rules concerning the notice.

(b) The notice must be delivered before the execution of a mutually binding sales agreement or retail installment sales contract.

(c) The notice must:

(1) contain the information required by the United States Department of Housing and Urban Development; and

(2) be of the type, size, and format required by the director.

(d) A retailer or manufacturer may not vary the content or form of the notice.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 6, effective June 18, 2003.

Sec. 1201.154. Sufficiency of Formaldehyde Health Notice; Retailer and Manufacturer Compliance.

(a) The formaldehyde health notice required by Section 1201.153 is sufficient, as a matter of law, to advise a consumer of the risks of occupying a HUD-code manufactured home.

(b) The consumer's written acknowledgement of the receipt of the notice is conclusive proof of the delivery of the notice and the posting of the notice in compliance with federal regulations.

(c) A retailer's or manufacturer's compliance with United States Department of Housing and Urban Development regulations and the director's rules concerning the notice is conclusive proof that:

(1) the consumer received sufficient notice of the risks of occupying the home; and

(2) the home is habitable with respect to formaldehyde emissions.

(d) A retailer's or manufacturer's compliance, from September 1, 1981, to September 1, 1985, with Section 1201.153 and the revised formaldehyde warning as adopted by the department is conclusive proof that:

(1) the consumer received sufficient notice of the risks of occupying the home; and

(2) the home is habitable with respect to formaldehyde emissions.

(e) A retailer's or manufacturer's knowing and wilful failure to comply with the regulations and rules described by Subsection (c) is conclusive proof that:

(1) the retailer or manufacturer breached the duty to notify the consumer about formaldehyde; and

(2) the home is not habitable.

(f) A retailer's or manufacturer's knowing and wilful failure, from September 1, 1981, to September 1, 1985, to comply with Section 1201.153 and the revised formaldehyde warning as adopted by the department is conclusive proof that:

(1) the retailer or manufacturer breached the duty to notify the consumer about formaldehyde; and

(2) the home is not habitable.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.155. Disclaimer of Implied Warranty.

The seller's proper provision of the warranties and notices as required by Subchapter H or J is a valid disclaimer of an implied warranty of fitness for a particular purpose or of merchantability as described by Chapter 2, Business & Commerce Code.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.156. Advertisement As Offer.

An advertisement relating to manufactured housing is an offer to sell or exchange manufactured housing to consumers.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 19, effective September 1, 2017.

Sec. 1201.157. Retailer As Warehouse.

(a) With respect to the storage of manufactured homes for hire, a licensed retailer is:
(1) a "warehouse" as defined by Section 7.102, Business & Commerce Code; and
(2) a "warehouseman" under Chapter 24, Property Code.
(b) The provisions of the Business & Commerce Code relating to the storage of goods for hire apply to a licensed retailer acting as a warehouse.
(c) A licensed retailer acting as a warehouse and warehouseman satisfies all storage, bonding, insurance, public sale, and security requirements if the storage of a manufactured home occurs on the retailer's lot and the home is secured in the same manner the retailer secures a manufactured home held on the lot as inventory.
(d) In accordance with the provisions of Section 7.210, Business & Commerce Code, a licensed retailer acting as a warehouse to enforce a warehouse's lien is considered to have sold a manufactured home in a commercially reasonable manner if the retailer sells the manufactured home in the same manner the retailer would sell a manufactured home at retail.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 20, effective September 1, 2017.

Sec. 1201.158. Salesperson.

A licensed salesperson may work only for the salesperson's sponsoring retailer or broker.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 20, effective January 1, 2008.

Sec. 1201.159. Broker.

(a) Except as provided by Section 1201.456, a broker shall ensure that the seller gives the buyer the applicable disclosures and warranties that the buyer would have received if the buyer had purchased the manufactured home through a licensed retailer.
(b) A person is not required to be a broker licensed under this chapter but may be required to be a real estate broker or salesperson licensed under Chapter 1101 if:
(1) the manufactured home is attached; and
(2) the home is offered as real property.
(c) A broker shall provide any person who engages the broker's services with a written disclosure of which interests in the transaction, if any, the broker represents.
(d) If the seller is required to possess a license by this chapter, a broker may assist in the sale of a manufactured home only if that seller has a current license.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 7, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 8, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 21, effective January 1, 2008.

Sec. 1201.160. Proof of Insurance Required for Installer [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 15(1), effective September 1, 2009.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.161. Transportation of Manufactured Housing.

(a) Notwithstanding any other statute or rule or ordinance, a licensed retailer or licensed installer is not required to obtain a permit, certificate, or license or pay a fee to transport manufactured housing to the place of installation except as required by the Texas Department of Motor Vehicles under Subchapter E, Chapter 623, Transportation Code.

(b) The department shall cooperate with the Texas Department of Motor Vehicles by providing current lists of licensed manufacturers, retailers, and installers.

(c) The Texas Department of Motor Vehicles shall send the department monthly:

(1) a copy of each permit issued in the preceding month for the movement of manufactured housing on the highways; or

(2) a list of the permits issued in the preceding month and the information on the permits.

(d) Unless the information provided for in Subsection (c) is provided electronically, the department shall pay the reasonable cost of providing the copies or the list and information under Subsection (c).

(e) The copies and lists to be provided under this section may be provided electronically.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 22, effective January 1, 2008; am. Acts 2011, 82nd Leg., ch. 1345 (S.B. 1420), § 98, effective September 1, 2011.

Sec. 1201.162. Disclosure by Retailer and Lender.

(a) Before the completion of a credit application or more than one day before entering into any agreement for a sale or exchange that will not be financed, the retailer must provide to the consumer a written disclosure in the form promulgated by the board. The disclosure shall be in at least 12-point type and must address matters of concern relating to costs and obligations that may be associated with home ownership, matters to be considered in making financing decisions, related costs that may arise when purchasing a manufactured home, and such other matters as the board may deem appropriate to promote informed purchase, financing, and related decisions regarding the acquisition and ownership of a manufactured home. The form shall also conspicuously disclose the consumer's right of rescission.

(b) A federally insured financial institution or lender approved or authorized by the United States Department of Housing and Urban Development as a mortgagee with direct endorsement underwriting authority that fully complies with federal Truth in Lending disclosures concerning the terms of a manufactured housing transaction is exempt from the disclosure provisions of this section.

(c) The right of rescission described in Subsection (a) shall apply only to the sale transaction between the retailer and the consumer. Failure by the retailer to comply with the disclosure provisions of this section does not affect the validity of a subsequent conveyance or transfer of title of a manufactured home or otherwise impair a title or lien position of a person other than the retailer. The consumer shall continue to have the right of rescission with regard to the retailer until the end of the third day after the retailer delivers a copy of the disclosure required by Subsection (a). The consumer's execution of a signed receipt of a copy of the disclosure required by Subsection (a) shall constitute conclusive proof of the delivery of the disclosure. If the consumer grants a person other than the retailer a lien on the manufactured home, the right of rescission shall immediately cease on the filing of the lien with the department.

HISTORY: am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 8, effective June 18, 2003; Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.255(a), effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 23, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 21, effective September 1, 2017.

Sec. 1201.163. Chattel Mortgage Transaction: Consumer Protection Disclosures [Repealed].

Repealed by Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 73(a)(4), effective January 1, 2008.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 10, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 9, effective June 18, 2005.

Sec. 1201.164. Advance Copy of Sales Purchase Contract and Disclosure Statements; Offer by Retailer.

(a) In a transaction that is to be financed and that will not be subject to the federal Real Estate Settlement Procedures Act of 1974 (Pub. L. No. 93-533) and its implementing regulations, a retailer shall deliver to a consumer at least 24 hours before the sales purchase contract is fully executed the contract, with all required information included, signed by the retailer. The delivery of the contract, with all required information included, signed by the retailer constitutes a firm offer by the retailer. Except as provided for by Subsection (b), the consumer may accept the offer not earlier than 24 hours after the delivery of the contract. If the consumer has not accepted the offer within 72 hours after the delivery of the contract, the retailer may withdraw the offer.

(b) Before the execution of the sales purchase contract, the consumer may modify or waive the right to rescind and the deadlines for disclosures that are provided by Subsection (a) if the consumer determines that the purchase of the manufactured home is needed to meet a bona fide personal emergency. If the consumer has a bona fide personal emergency that necessitates the immediate purchase of the manufactured home, the consumer shall give the retailer a dated written statement that describes the emergency, specifically modifies or waives the notice periods and any right of rescission, and bears the signature of all of the consumers entitled to the disclosures and right of rescission. In such

event the retailer shall immediately give the consumer all of the disclosures required by this code and sell the manufactured home without the required waiting periods or the right of rescission. The department shall verify with the consumer the consumer's bona fide personal emergency before issuing the statement of ownership.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 10, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), §§ 10, 34(1), effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 24, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 22, effective September 1, 2017.

Sec. 1201.165. Nonbinding Estimate [Repealed].

Repealed by Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 34(1), effective June 18, 2005.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 10, effective June 1, 2003.

Secs. 1201.166 to 1201.200. [Reserved for expansion].

Subchapter E

Manufactured Home Statements of Ownership

Sec. 1201.201. Definitions.

In this subchapter:

(1) "Certificate of attachment" means a written instrument issued solely by and under the authority of the director before September 1, 2001, that provides the information required by former Section 19(l), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), as that subsection existed before that date. Beginning September 1, 2003, a certificate of attachment is considered to be a statement of ownership and may be exchanged for a statement of ownership as provided by Section 1201.214.

(1-a) "Debtor" has the meaning assigned by Section 9.102, Business & Commerce Code.

(2) "Document of title" means a written instrument issued solely by and under the authority of the director before September 1, 2003, that provides the information required by Section 1201.205, as that section existed before that date. Beginning September 1, 2003, a document of title is considered to be a statement of ownership and may be exchanged for a statement of ownership as provided by Section 1201.214.

(3) "First retail sale" means a consumer's initial acquisition of a new manufactured home from a retailer by purchase or exchange. The term includes a bargain, sale, transfer, or delivery of a manufactured home for which the director has not previously issued a statement of ownership, with intent to pass an interest in the home, other than a lien.

(4) "Identification number" means the number permanently attached to or imprinted on a manufactured home or section of the home as prescribed by department rule.

(5) "Inventory" means new and used manufactured homes that:

(A) a retailer has designated as the retailer's inventory for sale pursuant to the process implemented by the department; and

(B) are not used as residential dwellings when so designated.

(6) "Lien" means:

(A) a security interest created by a lease, conditional sales contract, deed of trust, chattel mortgage, trust receipt, reservation of title, or other security agreement if an interest other than an absolute title is sought to be held or given in a manufactured home; or

(B) a lien on a manufactured home created by the constitution or a statute.

(7) "Manufacturer's certificate" means a document that meets the requirements prescribed by Section 1201.204.

(8) "Secured party" has the meaning assigned by Section 9.102, Business & Commerce Code.

(9) "Security agreement" has the meaning assigned by Section 9.102, Business & Commerce Code.

(10) "Security interest" has the meaning assigned by Section 1.201, Business & Commerce Code.

(11) "Subsequent sale" means a bargain, sale, transfer, or delivery of a manufactured home, with intent to pass an interest in the home, other than a lien, from one person to another after the first retail sale and initial issuance of a statement of ownership.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 12, effective June 18, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 24, effective September 1, 2017.

Sec. 1201.202. Application of Chapter to Certain Certificates of Title or Liens.

(a) This chapter applies to a certificate of title to a manufactured home issued before March 1, 1982, under Chapter 501, Transportation Code.

(b) A lien recorded before March 1, 1982, with the Texas Department of Transportation or a predecessor agency of that department is recorded with the department for the purposes of this chapter.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.203. Forms; Rules.

(a) The board shall adopt rules and forms relating to:

(1) the manufacturer's certificate;

(2) the statement of ownership;

(3) the application for a statement of ownership; and

(4) the issuance of an initial or revised statement of ownership.

(b) The board shall adopt rules for the documenting of the ownership of a manufactured home that has been previously owned in this state or another state. The rules must protect a lienholder recorded with the department.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 13, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 25, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 25, effective September 1, 2017.

Sec. 1201.204. Manufacturer's Certificate.

(a) A manufacturer's certificate must show:

(1) on a form prescribed by the director, the original transfer of a manufactured home from the manufacturer to the retailer; and

(2) on a form prescribed by the director, each subsequent transfer of a manufactured home between retailers and from retailer to owner, if the transfer from retailer to owner involves a completed application for the issuance of a statement of ownership.

(b) At the first retail sale of a manufactured home, a manufacturer's certificate automatically converts to a document that does not evidence any ownership interest in the manufactured home described in the document. A security interest in inventory evidenced by a properly recorded inventory finance lien automatically converts to a security interest in proceeds and cash proceeds.

(c) After the first retail sale of a manufactured home, the retailer must submit the original manufacturer's certificate for that home to the department. If an application for an initial statement of ownership is made without the required manufacturer's certificate and the retailer does not provide it as required, the department shall, on or before the issuance of the requested statement of ownership, send written notice to each party currently reflected on the department's records as having a recorded lien on the inventory of that retailer with respect to that home. Failure to include the original manufacturer's certificate with such an application does not impair a consumer's ability to obtain, on submittal of an otherwise complete application, a statement of ownership free and clear of any liens other than liens created by or consented to by the consumer.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 13, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 25, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 7, effective September 1, 2009; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 26, effective September 1, 2017.

Sec. 1201.205. Statement of Ownership Form.

A statement of ownership must be evidenced by a board-approved form issued by the department setting forth:

(1) the name and address of the seller and the name and, if it is different from the location of the home, the mailing address of the new owner;

(2) the manufacturer's name and address and any model designation, if available;

(3) in accordance with the board's rules:

(A) the outside dimensions of the manufactured home when installed for occupancy, as measured to the nearest one-half foot at the base of the home, exclusive of the tongue or other towing device; and

(B) the approximate square footage of the home when installed for occupancy;

(4) the identification number for each section or module of the home;

(5) the physical address where the home is installed for occupancy, including the name of the county, and, if it is different from the physical address, the mailing address of the owner of the home;

(6) in chronological order of recordation, the date of each lien, other than a tax lien, on the home and the name and address of each lienholder, or, if a lien is not recorded, a statement of that fact;

(7) a statement regarding tax liens as follows:

"On January 1st of each year, a new tax lien comes into existence on a manufactured home in favor of each taxing unit having jurisdiction where the home is actually located on January 1st. In order to be enforced, any such lien must be recorded with the Texas Department of Housing and Community Affairs - Manufactured Housing Division as provided by law. You may check that division's records through its website or contact that division to learn any recorded tax liens. To find out about the amount of any unpaid tax liabilities, contact the tax office for the county where the home was actually located on January 1st of that year.";

(8) a statement that if two or more eligible persons, as determined by Section 1201.213, file with the application for the issuance of a statement of ownership an agreement signed by all the persons providing that the home is to be held jointly with a right of survivorship, the director shall issue the statement of ownership in all the names;

(9) the location of the home;

(10) a statement of whether the owner has elected to treat the home as real property;

(11) statements of whether the home is a salvaged manufactured home and whether the home is reserved for business use only or for another nonresidential use; and

(12) any other information the board requires.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 13, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 25, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 27, effective September 1, 2017.

Sec. 1201.2055. Election by Owner.

(a) In completing an application for the issuance of a statement of ownership, an owner of a manufactured home shall indicate whether the owner elects to treat the home as real property. An owner may elect to treat a manufactured home as real property only if the home is attached to:

(1) real property that is owned by the owner of the home; or

(2) land leased to the owner of the home under a long-term lease, as defined by department rule.

(b) [Repealed by Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 15(2), effective September 1, 2009.]

(c) If the department issues a statement of ownership to an owner of a manufactured home treated as personal property, the statement of ownership on file with the department is evidence of ownership of the home. A lien, charge, or other encumbrance on a home treated as personal property may be made only by filing the appropriate document with the department.

(d) If an owner elects to treat a manufactured home as real property, the department shall issue to the owner a copy of the statement of ownership that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Not later than the 60th day after the date the department issues a copy of the statement of ownership to the owner, the owner must:

(1) file the copy in the real property records of the county in which the home is located; and

(2) notify the department and the chief appraiser of the applicable appraisal district that the copy has been filed.

(e) A real property election for a manufactured home is not considered to be perfected until a copy of the statement of ownership has been filed and the department and the chief appraiser of the applicable appraisal district have been notified of the filing as provided by Subsection (d).

(f) [Repealed by Acts 2011, 82nd Leg., ch. 46 (H.B. 1510), § 8(1), effective September 1, 2011.]

(g) After a real property election is perfected under Subsection (e):

(1) the home is considered to be real property for all purposes; and

(2) no additional issuance of a statement of ownership is required with respect to the manufactured home, unless:

(A) the home is moved from the location specified on the statement of ownership;

(B) the real property election is changed; or

(C) the use of the property is changed as described by Section 1201.216.

(h) The provisions of this chapter relating to the construction or installation of a manufactured home or to warranties for a manufactured home apply to a home regardless of whether the home is considered to be real or personal property.

(i) Notwithstanding the 60-day deadline specified in Subsection (d), if the closing of a mortgage loan to be secured by real property including the manufactured home is held, the loan is funded, and a deed of trust covering the real property and all improvements on the property is recorded and the licensed title company or attorney who closed the loan failed to complete the conversion to real property in accordance with this chapter, the holder or servicer of the loan may apply for a statement of ownership electing real property status, obtain a copy of the statement of ownership, and make the necessary filings and notifications to complete such conversion at any time provided that:

(1) the record owner of the home, as reflected on the department's records, has been given at least 60 days' prior written notice at:

(A) the location of the home and, if it is different, the mailing address of the owner as specified in the department records; and

(B) any other location the holder or servicer knows or believes, after a reasonable inquiry, to be an address where the owner may have been or is receiving mail or is an address of record;

(2) such notification shall be given by certified mail; and

(3) the department by rule shall require evidence that the holder or servicer requesting such after-the-fact completion of a real property election has complied with the requirements of this subsection.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 14, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 11, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 26, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 15(2), effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 46 (H.B. 1510), § 1, 8(1), effective September 1, 2011; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 28, effective September 1, 2017.

Sec. 1201.206. Application for Issuance of Statement of Ownership.

(a) At the first retail sale of a manufactured home, the retailer shall provide for the installation of the home and ensure that the application for the issuance of a statement of ownership is properly completed. The consumer shall return the completed application to the retailer. In accordance with Section 1201.204, the retailer shall surrender to the

department the original manufacturer's statement of origin at the same time that the retailer applies for the first statement of ownership.

(b) Not later than the 60th day after the date of the retail sale, the retailer shall provide to the department the completed application for the issuance of a statement of ownership. If for any reason the retailer does not timely comply with the requirements of this subsection, the consumer may apply for the issuance of the statement.

(c) Not later than the 60th day after the date of each subsequent sale or transfer of a home that is considered to be personal property, the seller or transferor shall provide to the department a completed application for the issuance of a new statement of ownership. If for any reason the seller or transferor does not timely comply with the requirements of this subsection, the consumer may apply for the issuance of the statement.

(d) [Repealed by Acts 2011, 82nd Leg., ch. 46 (H.B. 1510), § 8(2), effective September 1, 2011.]

(e) Ownership of a manufactured home does not pass or vest at a sale or transfer of the home until a completed application for the issuance of a statement of ownership is filed with the department.

(f) If the owner of a manufactured home relocates the home, the owner shall apply for the issuance of a new statement of ownership not later than the 60th day after the date the home is relocated. The department shall require that the owner submit evidence that the home was relocated in accordance with the requirements of the Texas Department of Motor Vehicles.

(g) When an application is filed for the issuance of a statement of ownership for a used manufactured home that is not in a retailer's inventory or is being converted from personal property to real property in accordance with Section 1201.2075, a statement from the tax assessor-collector for the taxing unit having power to tax the manufactured home shall also be filed with the department. The statement from the tax assessor-collector must indicate that, with respect to each January 1 occurring in the 18-month period preceding the date of the sale, there are no perfected and enforceable tax liens on the manufactured home that have not been extinguished and canceled in accordance with Section 32.015, Tax Code, or personal property taxes due on the manufactured home.

(h) If a person selling a manufactured home to a consumer for residential use fails to file with the department the application for the issuance of a statement of ownership and the appropriate filing fee before the 61st day after the date of the sale, the department may assess a fee of at least $100 against the seller. The department shall have the authority to enforce the collection of any fee from the seller through judicial means. The department shall place on the application for the issuance of a statement of ownership the following legend in a clear and conspicuous manner:

"THE FILING OF AN APPLICATION FOR THE ISSUANCE OF A STATEMENT OF OWNERSHIP LATER THAN SIXTY (60) DAYS AFTER THE DATE OF A SALE TO A CONSUMER FOR RESIDENTIAL USE MAY RESULT IN A FEE OF UP TO ONE HUNDRED DOLLARS ($100.00). ANY SUCH APPLICATION THAT IS SUBMITTED LATE MAY BE DELAYED UNTIL THE FEE IS PAID IN FULL."

(i) [Repealed.]

(i-1) [Repealed.]

(j) [Repealed.]

(k) Notwithstanding any provision in this chapter to the contrary, if a person has acquired a manufactured home and the owner of record or any intervening owners of liens or equitable interests cannot be located to assist in documenting the chain of title, the department may issue a statement of ownership to the person claiming ownership if the person can provide a supporting affidavit describing the chain of title and such reasonable supporting proof as the director may require.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 15, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), §§ 12, 34(1), effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 27, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 8, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 46 (H.B. 1510), § 8(2), effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1135 (H.B. 2741), § 4, effective September 1, 2013; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), §§ 29, 30, 85(3), effective September 1, 2017.

Sec. 1201.207. Issuance of Statement of Ownership.

(a) Except as provided for in Subsection (a-1), the department shall process any completed application for the issuance of a statement of ownership not later than the 15th working day after the date the application is received by the department. If the department rejects an application, the department shall provide a clear and complete explanation of the reason for the rejection and instructions on how to cure any defects, if possible.

(a-1) For the period immediately following June 30 of each year, the department shall, except for applications relating to new manufactured homes and applications accompanied by a tax certificate, cease issuing statements of ownership until all tax liens filed with the department before June 30 have been processed and either recorded or rejected. During this period the department will post on its Internet website a notice as to when it is anticipated that processing statements of ownership will resume and when it is anticipated that such processing will be within the 15-working-day time frame provided by Subsection (a).

(b) If the department issues a statement of ownership for a manufactured home, the department shall maintain a record of the issuance in its electronic records and shall mail a copy to the owner and each lienholder. The department shall make available to the public on the department's Internet website in a searchable and downloadable format all ownership and lienholder information contained on the statement of ownership.

(c) Except with respect to any change in use, servicing of a loan on a manufactured home, release of a lien on a manufactured home by an authorized lienholder, or change in ownership of a lien on a manufactured home, but subject to Section 1201.2075, if the department has issued a statement of ownership for a manufactured home, the department may issue a subsequent statement of ownership for the home only if all parties reflected in the department's records as having an interest in the manufactured home give their written consent or release their interest, either in writing or by operation of law, or the department has followed the procedures provided by Section 1201.206(k) to document ownership and lien status. Once the department issues a statement of ownership, the department shall not alter the record of the ownership or lien status, other than to change the record to accurately reflect the proper owner's or lienholder's identity or to release a lien if an authorized lienholder files with the department a request for that release, of a manufactured home for any activity occurring before the issuance of the statement of ownership without either the written permission of the owner of record for the manufactured home, their legal representative, or a court order.

(d) Notwithstanding any other provision of this chapter, if the consumer purchases a new manufactured home from a licensed retailer in the ordinary course of business, whether or not a statement of ownership has been issued for the manufactured home, the consumer is a bona fide purchaser for value without notice and is entitled to ownership of the manufactured home free and clear of all liens and to a statement of ownership reflecting the same on payment by the consumer of the purchase price to the retailer. If there is an existing lien on the new manufactured home perfected with the department, the owner of the lien is entitled to recover the value of the lien from the retailer.

(e) Notwithstanding any other provision of this chapter, if the consumer purchases a used manufactured home from a retailer in the ordinary course of business, the consumer takes the manufactured home free and clear of any liens created by the selling retailer even if they are recorded.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 15, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 13, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 27, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 9, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 46 (H.B. 1510), § 2, effective September 1, 2011; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), §§ 31, 32, effective September 1, 2017.

Sec. 1201.2071. Exemption for Certain Emergency Housing.

(a) Sections 1201.204, 1201.205, 1201.206, and 1201.207 do not apply to the purchase of a manufactured home that is purchased by a federal governmental agency and used to provide temporary housing in response to a natural disaster or other declared emergency.

(b) The department shall adopt rules for the application for and automatic issuance of a statement of ownership of a manufactured home described by Subsection (a).

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 811 (H.B. 2315), § 1, effective September 1, 2019.

Sec. 1201.2075. Conversion From Personal Property to Real Property.

(a) Except as provided by Subsection (b) or Section 1201.206(k), the department may not issue a statement of ownership for a manufactured home that is being converted from personal property to real property until:

(1) each lien on the home is released by the lienholder; or

(2) each lienholder gives written consent, to be placed on file with the department.

(b) The department may issue a statement of ownership before the release of any liens or before receiving the consent of any lienholders as required by this section, or without receiving the statement required by Section 1201.206(g), if the department releases a copy of the statement to:

(1) a licensed title insurance company that has issued a commitment to issue a title insurance policy covering all prior liens on the home in connection with a loan that the title company has closed; or

(2) a federally insured financial institution or licensed attorney who has obtained from a licensed title insurance company a title insurance policy covering all prior liens on the home.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 16, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 27, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 33, effective September 1, 2017.

Sec. 1201.2076. Conversion from Real Property to Personal Property.

(a) The department may not issue a statement of ownership for a manufactured home that is being converted from real property to personal property until the department has inspected the home and determined that it is habitable and:

(1) each lien, including a tax lien, on the home is released by the lienholder; or

(2) each lienholder, including a taxing unit, gives written consent, to be placed on file with the department.

(a-1) Notwithstanding Subsection (a), the department may not require an inspection for habitability before issuing a statement of ownership with respect to a manufactured home if the home is being sold to or ownership is otherwise being transferred to a retailer. The department remains subject to the other requirements of Subsection (a).

(b) For the purposes of Subsection (a)(1), the department may rely on a commitment for title insurance, a title insurance policy, or a lawyer's title opinion to determine that any liens on real property have been released.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 14, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 27, effective January 1, 2008; am. Acts 2011, 82nd Leg., ch. 46 (H.B. 1510), § 3, effective September 1, 2011; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 34, effective September 1, 2017.

Sec. 1201.208. Payment of Taxes Required for Issuance of Statement of Ownership.

(a) Any licensee who sells or exchanges a new manufactured home to any consumer is responsible for the payment of all required sales and use tax on such home.

(b) If it is determined that a new manufactured home was sold or exchanged without the required sales and use tax being paid, the payment shall be made from the fund, up to the available penal amount of the licensee's bond or the remaining balance of the security for the license, and a claim for reimbursement shall be filed with the licensee's surety or the amount deducted from the security for the license.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), §§ 17, 18, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 27, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 35, effective September 1, 2017.

Sec. 1201.209. Grounds for Refusal to Issue or for Suspension or Revocation of Statement of Ownership.

The department may not refuse to issue a statement of ownership and may not suspend or revoke a statement of ownership unless:

(1) the application for issuance of the statement of ownership contains a false or fraudulent statement, the applicant failed to provide information required by the director, or the applicant is not entitled to issuance of the statement of ownership;

(2) the director has reason to believe that the manufactured home is stolen or unlawfully converted, or the issuance of a statement of ownership would defraud the owner or a lienholder of the manufactured home;

(3) the director has reason to believe that the manufactured home is salvaged, and an application for the issuance of a new statement of ownership that indicates that the home is salvaged has not been filed;

(4) the required fee has not been paid;

(5) the state sales and use tax has not been paid in accordance with Chapter 158, Tax Code, and Section 1201.208; or

(6) a tax lien was filed and recorded under Section 1201.219 and the lien has not been extinguished.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 19, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.256(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 15, effective June 18, 2005; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 36, effective September 1, 2017.

Sec. 1201.210. Procedure for Refusal to Issue or Suspension or Revocation of Statement of Ownership.

(a) If the director refuses to issue or suspends or revokes a statement of ownership, the director shall give, by certified mail, written notice of that action to:

(1) the seller and purchaser or transferor and transferee, as applicable; and

(2) the holder of a lien or security interest of record.

(b) An action by the director under Subsection (a) is a contested case under Chapter 2001, Government Code.

(c) A notice of appeal and request for hearing must be filed with the director not later than the 30th day after the date of notice of the director's action. If appeal is not timely made, the revocation or suspension described in the notice of the director's action becomes final.

(d) [Repealed.]

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), §§ 20, 21, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 28, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), §§ 37, 38, 85(4), effective September 1, 2017.

Sec. 1201.211. Transfer of Title [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 52(1), effective June 18, 2003.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.212. Transfer of Ownership by Operation of Law.

(a) If the ownership of a manufactured home in this state is transferred by inheritance, devise, or bequest, by bankruptcy, receivership, judicial sale, or other involuntary divestiture of ownership, or by any other operation of law, the department shall issue a new statement of ownership after receiving a copy of:

(1) the order or bill of sale from an officer making a judicial sale;

(2) the order appointing a temporary administrator;

(3) the probate proceedings;

(4) the letters testamentary or the letters of administration; or

(5) if administration of an estate is not necessary, an affidavit by all of the heirs at law showing:

(A) that administration is not necessary; and

(B) the name in which the statement of ownership should be issued.

(b) The department may issue a new statement of ownership in the name of the purchaser at a foreclosure sale:

(1) for a lien or security interest foreclosed according to law by nonjudicial means, if the lienholder or secured party files an affidavit showing the nonjudicial foreclosure according to law; or

(2) for a foreclosed constitutional or statutory lien, if the person entitled to the lien files an affidavit showing the creation of the lien and the resulting divestiture of title according to law.

(c) The department shall issue a new statement of ownership to a survivor if:

(1) an agreement providing for a right of survivorship is signed by two or more eligible persons, as determined under Section 1201.213; and

(2) on the death of one of the persons, the department is provided with a copy of the death certificate of that person.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 22, effective June 18, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 39, effective September 1, 2017.

Sec. 1201.213. Eligibility to Sign Right of Survivorship Agreement.

(a) A person is eligible to sign a right of survivorship agreement under this subchapter if the person:

(1) is married and the spouse of the signing person is the only other party to the agreement;

(2) is unmarried and attests to that unmarried status by affidavit; or

(3) is married and provides the department with an affidavit from the signing person's spouse that attests that the signing person's interest in the manufactured home is the signing person's separate property.

(b) If the statement of ownership is being issued in connection with the sale of the home, the seller is not eligible to sign a right of survivorship agreement under this subchapter unless the seller is the child, grandchild, parent, grandparent, or sibling of each other person signing the agreement. A family relationship required by this subsection may be a relationship established by adoption.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 23, effective June 18, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 40, effective September 1, 2017.

Sec. 1201.214. Document of Title; Certificate of Attachment.

(a) Effective September 1, 2003, all outstanding documents of title or certificates of attachment are considered to be statements of ownership.

(b) An owner or lienholder may provide to the department a document of title or certificate of attachment and any additional information required by the department and request that the department issue a statement of ownership to replace the document of title or certificate of attachment. The department shall mail to the owner or lienholder a copy of the statement of ownership issued under this subsection.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 24, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), §§ 29, 73(a)(5), effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 41, effective September 1, 2017.

Sec. 1201.215. Previous Owner or Lienholder Unavailable [Repealed].

Repealed by Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 34(1), effective June 18, 2005.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 24, effective June 1, 2003.

Sec. 1201.216. Change in Use.

(a) If the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or intends to treat the home as a salvaged manufactured home or reserve the home for a business use or another nonresidential use, the department shall indicate on the statement of ownership for the home that:

(1) the owner of the home has elected to treat the home as described by this subsection; and

(2) except as provided by Section 1201.2055(h), the home is no longer a manufactured home for purposes of regulation under this chapter or of recordation of liens, including tax liens.

(b) On application and subject to Sections 1201.2076 and 1201.209, the department shall issue for the structure described in the application a new statement of ownership restoring the structure's designation as a manufactured home only after an inspection and determination that the structure is habitable as provided by Section 1201.453.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 24, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), §§ 16, 34(1), effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 30, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 42, effective September 1, 2017.

Sec. 1201.217. Manufactured Home Abandoned.

(a) The owner of real property on which a manufactured home owned by another is located may declare the home abandoned as provided by this section if:

(1) the home has been continuously unoccupied for at least four months; and

(2) any indebtedness secured by the home or related to a lease agreement between the owner of the real property and the owner of the home is considered delinquent.

(b) Before declaring a manufactured home abandoned, the owner of real property on which the home is located must send a notice of intent to declare the home abandoned to the record owner of the home, all lienholders at the addresses listed on the home's statement of ownership on file with the department, the tax collector for each taxing unit that imposes ad valorem taxes on the real property where the home is located, and any intervening owners of liens or equitable interests. The notice must include the address where the home is currently located. If the person giving such notice knows that a person to whom the notice is being given no longer resides and is no longer receiving mail at a known address, a reasonable effort shall be made to locate the person and give the person notice at an address where the person is receiving mail. Mailing of the notice by certified mail, return receipt requested, postage prepaid, to the persons required to be notified by this subsection constitutes conclusive proof of compliance with this subsection.

(c) On receipt of a notice of intent to declare a manufactured home abandoned, the record owner of the home, a lienholder, a tax assessor-collector for a taxing unit that imposes ad valorem taxes on the real property on which the home is located, or an intervening owner of a lien or equitable interest may enter the real property on which the home is located to remove the home. The real property owner must disclose to the record owner, lienholder, tax assessor-collector, or intervening owner seeking to remove the home the location of the home and grant the person reasonable access to the home. A person removing a home is responsible to the real property owner for any damage to the real property resulting from the removal of the home.

(d) If the manufactured home remains on the real property for at least 45 days after the date the notice is postmarked:

(1) all liens on the home are extinguished; and

(2) the real property owner may declare the home abandoned and may apply to the department for a statement of ownership listing the real property owner as the owner of the manufactured home.

(d-1) When applying for a statement of ownership under this section, the real property owner shall include with the application an affidavit stating that:

(1) the person owns the real property where the manufactured home is located; and

(2) the name of the person to whom title to the home will be transferred under this section is the same name that is listed in the real property or tax records indicating the current ownership of the real property.

(e) A new statement of ownership issued by the department under this section transfers, free of any liens, if there is evidence of United States Postal Service return receipt from all lienholders, title to the manufactured home to the real property owner.

(f) This section does not apply if the person who owns the real property on which the manufactured home is located and who is declaring that the home is abandoned, or any person who is related to or affiliated with that person, has now, or has ever owned, an interest in the manufactured home.

(g) Notwithstanding Subsection (f), an owner of real property on which a manufactured home has been abandoned may apply for a new statement of ownership with respect to a home that was previously declared abandoned and then resold and abandoned again.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 17, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 31, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 10, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 46 (H.B. 1510), § 4, effective September 1, 2011; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 43, effective September 1, 2017.

Sec. 1201.218. Permanent Attachment of Manufactured Home: Exception to Cancellation of Title [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 52(1), effective June 18, 2003.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.219. Perfection, Effect, and Release of Liens.

(a) A lien on manufactured homes in inventory is perfected only by filing the lien with the department on the required form. Once perfected, the lien applies to the manufactured homes in the inventory as well as to any proceeds from the sale of those homes. The department may suspend or revoke the license of a retailer who fails to satisfy a perfected inventory lien.

(b) Except as provided by Subsection (a) and subject to Subsection (d), a lien on a manufactured home is perfected only by filing with the department the notice of lien on a form provided by the department. The department shall disclose on its website the date of each lien filing. A lien recorded with the department has priority, according to the chronological order of recordation, over another lien or claim against the manufactured home.

(b-1) Notwithstanding any other law, a lien perfected with the department may be released only by filing a request for the release with the department on the form provided by the department or by following the department's procedures for electronic lien release on the department's Internet website. This subsection does not apply to the release of a tax lien perfected with the department.

(c) Notwithstanding any other provision of this section or any other law, the filing of a lien security agreement on the inventory of a retailer does not prevent a buyer in the ordinary course of business, as defined by Section 1.201, Business & Commerce Code, from acquiring good and marketable title free of that lien, and the department may not consider that lien for the purpose of title issuance.

(d) A tax lien on a manufactured home not held in a retailer's inventory is perfected only by filing with the department the notice of the tax lien on a form provided by the department in accordance with the requirements of Chapter 32, Tax Code. The form must require the disclosure of the original dollar amount of the tax lien and the name and address of the person in whose name the manufactured home is listed on the tax roll. The department shall disclose on its Internet website the date of each tax lien filing, the original amount of the tax lien claimed by each filing, and the fact that the amount shown does not include additional sums, including interest, penalties, and attorney's fees. The statement required by Section 1201.205(7) is notice to all persons that the tax lien exists. A tax lien recorded with the department has priority over another lien or claim against the manufactured home. Tax liens shall be filed by the tax collector for any taxing unit having the power to tax the manufactured home. A single filing by a tax collector is a filing for all the taxing units for which the tax collector is empowered to collect.

(e) A tax lien perfected with the department may be released only by:

(1) filing with the department a tax certificate or tax paid receipt in accordance with Section 32.015, Tax Code;

(2) filing a request for the release with the department on the form provided by the department;

(3) following the department's procedures for electronic tax lien release on the department's Internet website;

(4) a tax collector filing a tax lien release with the department as provided by Subsection (f); or

(5) the department in the manner provided by Subsection (h).

(f) On request by any person, a tax collector shall file a tax lien release with the department if the four-year statute of limitations to file a suit for collection of personal property taxes in Section 33.05(a)(1), Tax Code, has expired.

(g) The department may request that a tax collector confirm that no tax suit has been timely filed on any manufactured home tax lien more than four years in delinquency. The department may make a request under this subsection electronically, and a taxing authority may provide notice of the existence or absence of a timely filed tax suit electronically.

(h) The department shall remove from a manufactured home's statement of ownership a reference to any tax lien delinquent more than four years for which no suit has been timely filed in accordance with Section 33.05(a)(1), Tax Code, if:

(1) a tax collector confirms no suit has been filed; or

(2) the department:

(A) has submitted to a tax collector two requests under Subsection (g) sent not fewer than 15 days apart; and

(B) has not received any response from the tax collector before the 60th day after the tax collector's receipt of the second request.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 25, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), §§ 18, 34(1), effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 32, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 11, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 46 (H.B. 1510), § 5, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1095 (H.B. 3613), §§ 2, 3, effective September 1, 2013; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 44, effective September 1, 2017.

Sec. 1201.220. Report to Chief Appraiser.

(a) The department shall make available in electronic format, or in hard-copy format on request, to each chief appraiser of an appraisal district in this state a monthly report that, for each manufactured home reported as having been installed during the preceding month in the county for which the district was established and for each manufactured home previously installed in the county for which a transfer of ownership was recorded by the issuance of a statement of ownership during the preceding month, lists:

(1) the name of the owner of the home;

(2) the name of the manufacturer of the home, if available;

(3) the model designation of the home, if available;

(4) the identification number of each section or module of the home;

(5) the address or location where the home was reported as installed; and

(6) the reported date of the installation of the home.

(b) The department shall make the report required by this section available to the public on the department's Internet website in a searchable and downloadable format.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 26, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.257(b), effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 32, effective January 1, 2008; am. Acts 2011, 82nd Leg., ch. 46 (H.B. 1510), § 6, effective September 1, 2011; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 45, effective September 1, 2017.

Sec. 1201.221. Information on Ownership and Tax Lien.

(a) On written request, the department shall provide information held by the department on:
(1) the current ownership and location of a manufactured home; and
(2) the existence of all tax liens on that home for which notice has been filed with the department.
(b) A request under Subsection (a) must contain:
(1) the name of the owner of the home as reflected on the statement of ownership; or
(2) the identification number of the home.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 27, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 19, effective June 18, 2005; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 46, effective September 1, 2017.

Sec. 1201.222. Certain Manufactured Homes Considered Real Property.

(a) A manufactured home is treated as real property only if:
(1) the owner of the home has elected to treat the home as real property as provided by Section 1201.2055; and
(2) a copy of the statement of ownership for the home has been filed in the real property records of the county in which the home is located.
(b) [Repealed by Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 34(1), effective June 18, 2005.]
(c) Installation of a manufactured home considered to be real property under this chapter must occur in a manner that satisfies the lending requirements of the Federal Housing Administration (FHA), Fannie Mae, or Freddie Mac for long-term mortgage loans or for FHA insurance. The installation of a new manufactured home must meet, in addition to applicable state standards, the manufacturer's specifications required to validate the manufacturer's warranty.
(d) A civil action to enjoin a violation of this section may be brought by:
(1) a purchaser in the county in which the violation occurs; or
(2) the county in which the violation occurs.
(e) [Repealed by Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 51, effective June 1, 2003.]
(f) This section does not require a retailer or retailer's agent to obtain a license under Chapter 1101.

HISTORY: am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), §§ 28, 51, effective June 1, 2003; Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.258(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 34(1), effective June 18, 2005; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 47, effective September 1, 2017.

Secs. 1201.223 to 1201.250. [Reserved for expansion].

Subchapter F

Standards

Sec. 1201.251. Standards and Requirements Adopted by Board.

(a) The board shall adopt standards and requirements for:
(1) the installation and construction of manufactured housing that are reasonably necessary to protect the health, safety, and welfare of the occupants and the public; and
(2) the construction of HUD-code manufactured homes in compliance with the federal standards and requirements established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.).
(b) The standards and requirements adopted under Subsection (a)(1) are the standards code.
(c) The standards adopted under Subsection (a)(1) must ensure that manufactured housing installed on both permanent and nonpermanent foundation systems resists overturning and lateral movement, according to the design loads for the particular wind zone for which the housing was constructed.
(d) In order to ensure that the determinations required by this section are properly made by qualified persons:
(1) the board's rules may provide for the approval of foundation systems and devices that have been approved by licensed engineers; and
(2) any generic installation standards promulgated by rule shall first be reviewed by an advisory committee established by the board comprised of representatives of manufacturers, installers, and manufacturers of stabilization systems or devices, including one or more licensed engineers.
(e) The advisory committee established by Subsection (d) shall make a report to the board setting forth each comment and concern over any proposed rules. The members of the committee shall have no personal liability for providing this advice.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), §§ 33, 34, effective January 1, 2008.

Sec. 1201.252. Power of Local Governmental Unit to Adopt Different Standard.

(a) A local governmental unit of this state may not adopt a standard for the construction or installation of

manufactured housing in the local governmental unit that is different from a standard adopted by the board unless, after a hearing, the board expressly approves the proposed standard.

(b) To adopt a different standard under this section, the local governmental unit must demonstrate that public health and safety require the different standard.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 35, effective January 1, 2008.

Sec. 1201.253. Hearing on Standard or Requirement.

The director shall publish notice and conduct a public hearing before:

(1) adopting a standard or requirement authorized by this subchapter;

(2) amending a standard authorized by this subchapter; or

(3) approving a standard proposed by a local governmental unit under Section 1201.252.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 36, effective January 1, 2008.

Sec. 1201.254. Effective Date of Requirement or Standard.

Each requirement or standard that is adopted, modified, amended, or repealed by the board must state its effective date.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 36, effective January 1, 2008.

Sec. 1201.255. Installation of Manufactured Housing.

(a) Except as authorized under Section 1201.252, manufactured housing that is installed must be installed in compliance with the standards and rules adopted and orders issued by the department. An uninstalled manufactured home may not be occupied for any purpose other than to view the home on a retailer's sales lot.

(b) An installer may not install a used manufactured home at a location on a site that has evidence of ponding, runoff under heavy rains, or bare uncompacted soil unless the installer first obtains the owner's signature on a form promulgated by the board disclosing that such conditions may contribute to problems with the stabilization system for that manufactured home, including possible damage to that home, and the owner accepts that risk.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 36, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 12, effective September 1, 2009; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 48, effective September 1, 2017.

Sec. 1201.256. Wind Zone Regulations.

(a) Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, and Willacy counties are in Wind Zone II. All other counties are in Wind Zone I.

(b) To be installed in a Wind Zone II county, a manufactured home constructed on or after September 1, 1997, must meet the Wind Zone II standards adopted by the United States Department of Housing and Urban Development.

(c) A manufactured home constructed before September 1, 1997, may be installed in a Wind Zone I or II county without restriction.

(d) A retailer who sells a manufactured home constructed on or after September 1, 1997, to Wind Zone I standards must, before the execution of a mutually binding sales agreement or retail installment sales contract, give the consumer notice that:

(1) the home was not designed or constructed to withstand a hurricane force wind occurring in a Wind Zone II or III area;

(2) installation of the home is not permitted in a Wind Zone II county in this state; and

(3) another state may prohibit installation of the home in a Wind Zone II or III area.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Secs. 1201.257 to 1201.300. [Reserved for expansion].

Subchapter G

Inspections and Monitoring

Sec. 1201.301. State Inspectors.

(a) The director may employ state inspectors to:

(1) carry out the functions the department is required to perform under this chapter;

(2) implement this chapter; and

(3) enforce the rules adopted and orders issued under this chapter.

(b) In enforcing this chapter, the director may authorize a state inspector to travel inside or outside of the state to inspect a licensee.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 37, effective January 1, 2008.

Sec. 1201.302. Inspection by Local Governmental Units.

(a) To ensure that a manufactured home sold or installed in this state complies with the standards code, the director may by contract provide for a federal agency or an agency or political subdivision of this state or another state to perform an inspection or inspection program under this chapter or under rules adopted by the board.

(b) On request, the department shall authorize a local governmental unit in this state to perform an inspection or enforcement activity related to the construction of a foundation system or the erection or installation of manufactured housing at a homesite under a contract or other official designation and rules adopted by the board. The department may withdraw the authorization if the local governmental unit fails to follow the rules, interpretations, and written instructions of the department.

(c) The department:

(1) shall advise each local governmental unit biennially in writing of the program for contracting installation inspections;

(2) shall encourage local building inspection officials to perform enforcement and inspection activities for manufactured housing installed in the local governmental unit; and

(3) may establish cooperative inspection training programs.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), §§ 38, 39, effective January 1, 2008.

Sec. 1201.303. Inspections.

(a) The director may inspect manufactured homes at the state border and adopt rules necessary for the inspection of manufactured homes entering this state to ensure:

(1) compliance with:

(A) the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);

(B) the standards code; and

(C) the rules adopted by the director; and

(2) payment of any use tax owed to the state.

(b) The department shall establish an installation inspection program in which at least 75 percent of installed manufactured homes are inspected on a sample basis for compliance with the standards and rules adopted and orders issued by the director. The program must place priority on inspecting multisection homes and homes installed in Wind Zone II counties.

(c)-(g) [Repealed by Acts 2017, 85th Leg., (H.B. 2019), § 85, effective September 1, 2017.]

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 74.07, effective September 28, 2011; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 85(5), effective September 1, 2017.

Sec. 1201.304. Inspection Search Warrants.

If required by law or otherwise necessary, the director may obtain an inspection search warrant.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.305. Program Monitoring.

The director may enter into a contract with the United States Department of Housing and Urban Development or its designee to monitor the programs of that department.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Secs. 1201.306 to 1201.350. [Reserved for expansion].

Subchapter H

Warranties

Sec. 1201.351. Manufacturer's Warranty.

(a) The manufacturer of a new HUD-code manufactured home shall warrant, in a separate written document, that:

(1) the home is constructed or assembled in accordance with all building codes, standards, requirements, and regulations prescribed by the United States Department of Housing and Urban Development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.); and

(2) the home and all appliances and equipment included in the home are free from defects in materials or workmanship except for cosmetic defects.

(b) The manufacturer's warranty is in effect until at least the first anniversary of the date of initial installation of the home at the consumer's homesite or the closing of the consumer's purchase or acquisition of an already installed new home, whichever is later.

(c) At the time the manufacturer delivers the home to the retailer, the manufacturer shall also deliver to the retailer:

(1) the manufacturer's warranty; and

(2) the warranties given by the manufacturers of appliances or equipment installed in the home.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 40, effective January 1, 2008.

Sec. 1201.352. Retailer's Warranty on a New HUD-Code Manufactured Home.

(a) The retailer of a new HUD-code manufactured home shall warrant to the consumer in writing that:

(1) installation of the home at the initial homesite was or will be, as applicable, completed in accordance with all department standards, rules, orders, and requirements; and

(2) appliances and equipment included with the sale of the home and installed by the retailer are or will be:

(A) installed in accordance with the instructions or specifications of the manufacturers of the appliances or equipment; and

(B) free from defects in materials or workmanship.

The warranty may expressly disclaim or limit any warranty regarding cosmetic defects.

(b) The retailer's warranty on a new HUD-code manufactured home is in effect until the first anniversary of the later of the date of initial installation of the home at the consumer's homesite or the closing of the consumer's purchase or acquisition of the home.

(c) Before the signing of a binding retail installment sales contract or other binding purchase agreement on a new HUD-code manufactured home, the retailer must give the consumer a copy of:

(1) the manufacturer's warranty;

(2) the retailer's warranty;

(3) the warranties given by the manufacturers of appliances or equipment included with the home; and

(4) the name and address of the manufacturer or retailer to whom the consumer is to give notice of a warranty service request.

(d) Not later than the 30th day after the installation of a new HUD-code manufactured home, the retailer shall deliver to the consumer a copy of the warranty given by the licensed installer.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 20, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 41, effective January 1, 2008.

Sec. 1201.353. Notice of Need for Warranty Service.

(a) The consumer shall give written notice to the manufacturer, retailer, or installer, as applicable, of a need for warranty service or repairs.

(b) Written notice to the department is deemed to be notice to the manufacturer, retailer, or installer commencing three business days after receipt and forwarding of the notice by the department to the licensee by regular mail or electronic mail of a scanned copy of the notice.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 41, effective January 1, 2008.

Sec. 1201.354. Corrective Action Required.

The manufacturer, retailer, or installer, as applicable, shall take appropriate corrective action within a reasonable period as required by department rules to fulfill the written warranty obligation.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 41, effective January 1, 2008.

Sec. 1201.355. Consumer Complaint Home Inspection.

(a) If the manufacturer, retailer, or installer does not provide the consumer with proper warranty service, the consumer may, at any time, request the department to perform a consumer complaint home inspection. The department may not charge a fee for the inspection.

(b) On payment of the required inspection fee, the manufacturer, retailer, or installer may request the department to perform a consumer complaint home inspection if the manufacturer, retailer, or installer:

(1) believes the consumer's complaints are not covered by the warranty of the manufacturer, retailer, or installer, as applicable;

(2) believes that the warranty service was properly provided; or

(3) disputes responsibility concerning the warranty obligation.

(c) The department shall perform a consumer complaint home inspection not later than the 30th day after the date of receipt of a request for the inspection.

(d) Notwithstanding any other provision of this section, the department may make an inspection at any time if it believes that there is a reasonable possibility that a condition exists that would present an imminent threat to health or safety.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 41, effective January 1, 2008.

Sec. 1201.356. Report and Order; Amendment; Compliance.

(a) Not later than the 10th day after the date of a consumer complaint home inspection, the department shall send a written report and any order to the consumer, manufacturer, retailer, and installer by certified mail, return receipt requested.

(b) The report shall specify:

(1) each of the consumer's complaints; and

(2) whether the complaint is covered by the manufacturer's, retailer's, or installer's warranty and, if so, which of those warranties.

(c) The director shall issue to the manufacturer, retailer, or installer an appropriate order for corrective action by the manufacturer, retailer, or installer specifying a reasonable period for completion of the corrective action. With regard to new manufactured homes, both the installer and the retailer are responsible for the warranty of installation. If the department determines that a complaint is covered by the installation warranty, the director shall issue the order to the installer for the corrective action. If the installer fails to perform the corrective action, the installer shall be subject to the provisions of Section 1201.357. In that instance, the director shall issue the same order for corrective action to the retailer with a new time frame not to exceed 10 days unless additional time is needed for compliance upon a showing of good cause. If the retailer is compelled to perform corrective action because of the failure of the installer to comply with the director's order, the retailer may seek reimbursement from the installer. The period for the performance of any required warranty work may be shortened by the director as much as is feasible if the warranty work is believed necessary to address a possible imminent threat to health or safety.

(d) The department may issue an amended report and order if all parties receive notice of and are given an opportunity to respond to that report and order. The amended report and order supersede the initial report and order.

(e) The manufacturer, retailer, or installer shall comply with the report and order of the director.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 42, effective January 1, 2008.

Sec. 1201.357. Failure to Provide Warranty Service.

(a) If the manufacturer, retailer, or installer, as applicable, fails to provide warranty service within a period specified by the director, the manufacturer, retailer, or installer must show good cause in writing as to why the manufacturer, retailer, or installer failed to provide the service.

(b) If the manufacturer, retailer, or installer, as applicable, fails or refuses to provide warranty service in accordance with the department order under Section 1201.356, the director shall hold an informal meeting at which the manufacturer, retailer, or installer must show cause as to why the manufacturer's, retailer's, or installer's license should not be suspended or revoked and at which the consumer may express the person's views. Following the meeting, the director shall either resolve the matter by agreed order, dismiss the matter if no violation is found to have occurred, or institute an administrative action, which may include license suspension or revocation, the assessment of administrative penalties, or a combination of such actions.

(b-1) As authorized by Section 1201.6041, the director may order a manufacturer, retailer, or installer, as applicable, to pay a refund directly to a consumer as part of an agreed order described by Subsection (b) instead of or in addition to instituting an administrative action under this chapter.

(c) If the manufacturer, retailer, or installer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, the manufacturer, retailer, or installer must make that allegation in the written statement required by Subsection (a). The department shall investigate the allegation, and if the department determines that the allegation is credible, the department shall issue a new order specifying the date and time of the proposed corrective action. The department shall send the order to the consumer and the manufacturer, retailer, or installer, as applicable, by certified mail, return receipt requested. If the consumer refuses to comply with the department's new order, the manufacturer, retailer, or installer, as applicable:

(1) is discharged from the obligations imposed by the relevant department orders;

(2) has no liability to the consumer with regard to that warranty; and

(3) is not subject to an action by the department for failure to provide warranty service.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 21, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 43, effective January 1, 2008; am. Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.13, effective September 1, 2013.

Sec. 1201.358. Failure to Show Good Cause; Hearing Results.

(a) Failure by the manufacturer, retailer, or installer to show good cause under Section 1201.357(a) is a sufficient basis for suspension or revocation of the manufacturer's, retailer's, or installer's license.

(b) If the director determines that an order was incorrect regarding a warranty obligation, the director shall issue a final order stating the correct warranty obligation and the right of the manufacturer, retailer, or installer to indemnification from one of the other parties.

(c) The director may issue an order:

(1) directing a manufacturer, retailer, or installer whose license is not revoked, suspended, or subject to an administrative sanction under Section 1201.357(b) and who is not out of business to perform the warranty obligation of a manufacturer, retailer, or installer whose license is revoked, suspended, or subject to an administrative sanction under Section 1201.357(b) or who is out of business; and

(2) giving the manufacturer, retailer, or installer performing the obligation the right of indemnification against another party.

(d) A manufacturer, retailer, or installer entitled to indemnification under this section is a consumer for purposes of Subchapter I and may recover actual damages from the manufactured homeowner consumer claims program.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 43, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 13, effective September 1, 2009; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 49, effective September 1, 2017.

Sec. 1201.359. Application of Warranties If HUD-Code Manufactured Home Moved.

(a) The manufacturer's and retailer's warranties do not apply to any defect or damage caused by moving a new HUD-code manufactured home from the initial installation site.

(b) Conspicuous notice of the warranty exception under Subsection (a) must be given to the consumer at the time of sale.

(c) The warrantor has the burden of proof to show that the defect or damage is caused by the move.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.360. Warranty for HUD-Code Manufactured Home Permanently Attached to Real Property.

(a) The seller of real property to which a new HUD-code manufactured home is permanently attached may give the initial purchaser a written warranty that combines the manufacturer's warranty and the retailer's warranty required by this subchapter if:

(1) the statement of ownership reflects that the owner has elected to treat the home as real property;

(2) the home is actually located where the statement of ownership reflects that it is located; and

(3) a copy of the statement of ownership has been filed in the real property records for the county in which the home is located.

(b) If a combination warranty is given under this section, the manufacturer and retailer are not required to give separate written warranties, but the manufacturer and retailer are jointly liable with the seller of the real property to the purchaser for the performance of their respective warranty obligations.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 30, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.259(a), effective September 1, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 50, effective September 1, 2017.

Sec. 1201.361. Installer's Warranty.

(a) For all installations, the installer shall give the manufactured home owner a written warranty that the installation of the home was performed in accordance with all department standards, rules, orders, and requirements. The warranty for the installation of a new HUD-code manufactured home is to be given by the retailer, who is responsible for installation. If the retailer subcontracts this function to a licensed installer, the retailer and installer are jointly and severally responsible for performance of the warranty.

(b) The warranty must conspicuously disclose the requirement that the consumer notify the installer of any claim in writing in accordance with the terms of the warranty. Unless the warranty provides for a longer period, the installer or retailer has no obligation or liability under the person's warranty for any defect described in a written notice received from the consumer more than two years after the later of the date of purchase or the date of installation.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 22, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 44, effective January 1, 2008.

Sec. 1201.362. Inspections Not Limited; Corrections.

(a) Nothing in this chapter shall limit the ability of the department to inspect a manufactured home at any time.

(b) Notwithstanding the limitations and terms of any warranty, the director may, whenever the department identifies any aspect of an installation that does not conform to applicable requirements, order the licensee who performed the installation to correct it, or, if that licensee is no longer licensed, reassign correction to a licensed installer and reimburse the person from the fund for the costs of correction.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 45, effective January 1, 2008.

Secs. 1201.363 to 1201.400. [Reserved for expansion].

Subchapter I

Manufactured Homeowner Consumer Claims Program

Sec. 1201.401. Manufactured Homeowner Consumer Claims Program.

(a) The department shall administer the manufactured homeowner consumer claims program to provide a remedy for damages resulting from prohibited conduct by a person licensed under this chapter.

(b) The department may make a payment under the manufactured homeowner consumer claims program only after all other departmental operating expenses are sufficiently funded.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 52, effective September 1, 2017.

Sec. 1201.402. Administration of Trust Fund [Repealed].

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 46, effective January 1, 2008; Repealed by Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 85(6), effective September 1, 2017.

Sec. 1201.403. Amount Reserved in Trust Fund; Payment of Costs [Repealed].

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; Repealed by Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 85(7), effective September 1, 2017.

Sec. 1201.404. Consumer Compensation.

(a) Except as otherwise provided by Subchapter C, a payment made under the manufactured homeowner consumer claims program shall be paid directly to a consumer or, at the director's option, to a third party on behalf of a consumer to compensate a consumer who sustains actual damages resulting from an unsatisfied claim against a licensed manufacturer, retailer, broker, or installer if the unsatisfied claim results from a violation of:

(1) this chapter;

(2) a rule adopted by the director;

(3) the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);

(4) a rule or regulation of the United States Department of Housing and Urban Development; or

(5) Subchapter E, Chapter 17, Business & Commerce Code.

(b) The department is not liable to the consumer if the manufactured homeowner consumer claims program does not have the money necessary to pay the actual damages determined to be payable. The director shall record the date and time of receipt of each verified complaint and, as money becomes available, pay the consumer whose claim is the earliest by date and time to have been found to be verified and properly payable.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 47, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 14, effective September 1, 2009; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 53, effective September 1, 2017.

Sec. 1201.405. Limitations on Claims.

(a) The payment of actual damages is limited to the lesser of:

(1) the amount of actual, reasonable costs, not including attorney's fees, that the consumer has incurred or will incur to resolve the act or omission found to be a violation under Section 1201.404; or

(2) $35,000.

(b) [Repealed by Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 15(3), effective September 1, 2009.]

(c) Under the manufactured homeowner consumer claims program, the department is not liable for and the director may not pay:

(1) punitive, exemplary, double, or treble damages; or

(2) damages for pain and suffering, mental anguish, emotional distress, or other analogous tort claims.

(d) Notwithstanding other provisions of this subchapter, this subchapter does not apply to, and a consumer may not recover through the manufactured homeowner consumer claims program as a result of, a claim against a license holder that results from a cause of action directly related to the sale, exchange, brokerage, or installation of a manufactured home before September 1, 1987.

(e) In determining the amount of actual damages under this section, the director shall make an independent inquiry as to the damages actually incurred, unless the damages have been previously established through a contested trial.

(f) Under the manufactured homeowner consumer claims program, the department is not liable for and the director may not pay:

(1) actual damages to reimburse an affiliate or related person of a licensee, except when the director issues an order under Sections 1201.358(b) and (c);

(2) actual damages to correct matters that are solely cosmetic in nature;

(3) for attorney's fees; or

(4) actual damages to address other matters, unless the matters involve:

(A) a breach of warranty;

(B) a failure to return or apply as agreed money received from a consumer or money for which the consumer was obligated;

(C) the breach of an agreement to provide goods or services necessary to the safe and habitable use of a manufactured home such as steps, air conditioning, access to utilities, or access to sewage and wastewater treatment; or

(D) perfected and enforceable tax liens not extinguished and canceled in accordance with Section 32.015, Tax Code.

(g) The board by rule may place reasonable limits on the costs that may be approved for payment under the manufactured homeowner consumer claims program , including the costs of reassigned warranty work, and require consumers making claims that may be subject to reimbursement under the manufactured homeowner consumer claims program to provide estimates establishing that the cost will be reasonable. Such rules may also specify such procedures and requirements as the board may deem necessary and advisable for the administration of the manufactured homeowner consumer claims program.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 23, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 48, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 77 (H.B. 2238), § 15(3), effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 530 (S.B. 499), § 1, effective September 1, 2013; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 54, effective September 1, 2017.

Sec. 1201.406. Procedure for Recovery Under Manufactured Homeowner Consumer Claims Program.

(a) To recover under the manufactured homeowner consumer claims program, a consumer must file a written, sworn complaint in the form required by the director not later than the second anniversary of:

(1) the date of the alleged act or omission causing the actual damages; or

(2) the date the act or omission is discovered or should reasonably have been discovered.

(b) On receipt of a verified complaint, the department shall:

(1) notify each appropriate license holder and the issuer of any surety bond issued in connection with their licenses; and

(2) investigate the claim and issue a preliminary determination, giving the consumer, the licensee, and any surety an opportunity to resolve the matter by agreement or to dispute the preliminary determination.

(c) If the matter being investigated is not resolved by agreement or is disputed by written notice to the director before the 31st day after the date of the preliminary determination, the preliminary determination shall automatically become final and the director shall make demand on the surety or deduct any payable amount of the claim from the licensee's security.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 49, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), §§ 55, 56, effective September 1, 2017.

Sec. 1201.407. Disagreement of Parties; Informal Dispute Resolution Process.

(a) If a preliminary determination is disputed, the department shall conduct an informal dispute resolution process, including a home inspection if appropriate, to resolve the dispute.

(b) For a preliminary determination that has been disputed to become final and valid, the department shall make any changes the director determines to be appropriate and issue another written preliminary determination as to the responsibility and liability of the manufacturer, retailer, broker, and installer.

(c) Before making a final determination, the department shall allow a license holder 10 days to comment on this preliminary determination.

(d) After consideration of the comments, if any, the director shall issue a final determination.

(e) The final determination may be appealed to the board on or before the 10th day after the date of its issuance by giving written notice to the director, who shall place the matter before the board at the next meeting held on a date for which the matter could be publicly posted as required by Chapter 551, Government Code.

(f) Any license holder or surety, as applicable, is bound by the department's final determination of responsibility and liability.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 49, effective January 1, 2008.

Sec. 1201.408. Agreement of Parties; Arbitration [Repealed].

Repealed by Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 73(a), effective January 1, 2008.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.409. Payment by Surety or from Other Security.

(a) Except as otherwise provided by Subchapter C, the manufactured homeowner consumer claims program shall be reimbursed by the surety on a bond or from other security filed under Subchapter C for the amount of a claim that is paid out under the manufactured homeowner consumer claims program by the director to a consumer in accordance with this subchapter.

(b) Payment by the surety or from the other security must be made not later than the 30th day after the date of notice from the director that a consumer claim has been paid.

(c) If payment to the manufactured homeowner consumer claims program of a claim is not made by the surety or from the other security in a timely manner, the attorney general shall file suit for recovery of the amount due the manufactured homeowner consumer claims program. Venue for the suit is in Travis County.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 50, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 57, effective September 1, 2017.

Sec. 1201.410. Information on Recovery Under Manufactured Homeowner Consumer Claims Program.

The director shall prepare information for notifying consumers of their rights to recover under the manufactured homeowner consumer claims program, shall post the information on the department's website, and shall make printed copies available on request.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 51, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 58, effective September 1, 2017.

Secs. 1201.411 to 1201.450. [Reserved for expansion].

Subchapter J

Used or Salvaged Manufactured Homes

Sec. 1201.451. Transfer of Good and Marketable Title Required.

(a) Except as otherwise provided by this subchapter, a person may not sell or exchange a used manufactured home without the appropriate transfer of good and marketable title to the home.

(b) Not later than the 60th day after the effective date of the transfer of ownership or the date the seller or transferor obtains possession of the necessary and properly executed documents, the seller or transferor shall forward to the purchaser or transferee the necessary, executed documents. If the seller or transferor fails to forward the documents on a timely basis, the purchaser or transferee may apply directly for the documents. On receipt of the documents, the purchaser or transferee shall apply for the issuance of a statement of ownership.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 31, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 24, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 52, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 59, effective September 1, 2017.

Sec. 1201.452. Seal or Label Required.

(a) Except as otherwise provided by this subchapter, a person may not sell or exchange or negotiate for the sale or exchange of a used manufactured home to a consumer unless the appropriate seal or label is attached to the home.

(b) If the home does not have the appropriate seal or label, the person must:

(1) apply to the department for a seal; and

(2) pay the fee.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 25, effective June 18, 2005; am. Acts 2011, 82nd Leg., ch. 46 (H.B. 1510), § 7, effective September 1, 2011; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 60, effective September 1, 2017.

Sec. 1201.453. Habitability.

Manufactured housing is habitable only if:

(1) there is no defect or deterioration in or damage to the home that creates a dangerous situation;
(2) the plumbing, heating, and electrical systems are in safe working order;
(3) the walls, floor, and roof are:
(A) free from a substantial opening that was not designed; and
(B) structurally sound; and
(4) all exterior doors and windows are in place and operate properly.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 53, effective January 1, 2008.

Sec. 1201.454. Habitability: Prohibited Alteration or Replacement.

A manufacturer, retailer, broker, installer, or lienholder may not repair or otherwise alter a used manufactured home or replace a component or system of a used manufactured home in a way that makes the home not habitable.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.455. Written Disclosure and Warranty of Habitability Required.

(a) Except as otherwise provided by this subchapter, a person may not sell or exchange a used manufactured home to a consumer for use as a dwelling without providing:
(1) a written disclosure, on a form not to exceed two pages prescribed by the department, describing the condition of the home and of any appliances that are included in the home; and
(2) a written warranty that the home is and will remain habitable until the 60th day after the later of the installation date or the date of the purchase agreement.
(b) Unless, not later than the 65th day after the later of the installation date or the date of the sale or exchange, the consumer notifies the seller in writing of a defect that makes the home not habitable, any obligation or liability of the seller under this subchapter is terminated. The warranty must conspicuously disclose that notice requirement to the consumer.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), § 26, effective June 18, 2005; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 61, effective September 1, 2017.

Sec. 1201.456. Habitability: Exception to Warranty Requirement.

The warranty requirement imposed by Section 1201.455 does not apply to a sale or exchange of a used manufactured home from one consumer to another.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 62, effective September 1, 2017.

Sec. 1201.457. Habitability: Change to or From Nonresidential Use or Salvage.

(a) If the sale or exchange of a used manufactured home is to a purchaser for the purchaser's business use, the home is not required to be habitable unless the purchaser discloses to the retailer in writing at the time of purchase that the purchaser intends for a person to be present in the home for regularly scheduled work shifts of not less than eight hours each day. The purchaser of the home shall file with the department an application for the issuance of a statement of ownership indicating that the home is reserved for a business use.
(a-1) If the sale or exchange of a used manufactured home is for the purchaser's nonresidential use other than a business use, the home is not required to be habitable. The purchaser of the home shall file with the department an application for the issuance of a statement of ownership indicating that the home is for a nonresidential use other than a business use.
(b) If a used manufactured home is reserved for a business use or another nonresidential use or is salvaged, a person may not knowingly allow any person to occupy or use the home as a dwelling unless the director issues a new statement of ownership indicating that the home is no longer reserved for that use or is no longer salvaged. On the purchaser's application to the department for issuance of a new statement of ownership, the department shall inspect the home and, if the department determines that the home is habitable, issue a new statement of ownership.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 32, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1284 (H.B. 2438), §§ 27, 28, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 54, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 63, effective September 1, 2017.

Sec. 1201.458. Habitability: Exception for Certain Governmental or Nonprofit Entities.

(a) Notwithstanding any other provision of this subchapter and on a written application by the purchaser or transferee, the director may give express written authorization to a licensed retailer to sell or exchange a used

manufactured home that is not or may not be habitable to or with a governmental housing agency or authority or to a nonprofit organization that provides housing for the homeless.

(b) As a part of the application, the purchaser or transferee must certify to the receipt of a written notice that the home is not or may not be habitable. The consumer protection division of the attorney general's office shall prepare the form of the notice, which must be approved by the director.

(c) The purchaser or transferee may not occupy or allow occupation of the home as a dwelling until the completion of any repair necessary to make the home habitable.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.459. Compliance Not Required for Sale for Collection of Delinquent Taxes.

(a) In selling a manufactured home to collect delinquent taxes, a tax assessor-collector is not required to comply with this subchapter or another provision of this chapter relating to the sale of a used manufactured home.

(b) If a home does not have a serial number, seal, or label, the tax appraiser or tax assessor-collector may apply to the department for a seal if the tax appraiser or assessor-collector assumes full responsibility for the affixation of a seal to the home and the seal is actually affixed on the home.

(c) A seal issued to a tax appraiser or tax assessor-collector is for identification purposes only and does not imply that:

(1) the home is habitable; or

(2) a purchaser of the home at a tax sale may obtain a new statement of ownership from the department without an inspection for habitability.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 33, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 55, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 64, effective September 1, 2017.

Sec. 1201.460. Compliance Not Required for Lienholder.

(a) A holder of a lien recorded on the statement of ownership of a manufactured home that has not been converted to real property who sells or exchanges a repossessed manufactured home covered by that statement of ownership is not required to comply with this chapter if the sale or exchange is:

(1) to or through a licensed retailer; or

(2) to a purchaser for the purchaser's business use or another nonresidential use.

(b) If the sale or exchange of the repossessed manufactured home is to or through a licensed retailer, the retailer is responsible and liable for compliance with this chapter and department rules. The lienholder may not be joined as a party in any litigation relating to the sale or exchange of the home.

(c) If the sale or exchange of the repossessed manufactured home is to a purchaser for the purchaser's business use or another nonresidential use, the lienholder shall apply to the department for the issuance of a new statement of ownership indicating that the home is reserved for a business use or another nonresidential use.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 34, effective June 18, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 65, effective September 1, 2017.

Sec. 1201.461. Salvaged Manufactured Home; Criminal Penalty.

(a) For the purposes of this chapter, a manufactured home is salvaged if the home is scrapped, dismantled, or destroyed or if an insurance company pays the full insured value of the home. The reasonableness of the insurer's judgment that the cost of repairing the home would exceed the full insured value of the home does not affect whether the home is salvaged.

(b) A person who owns a used manufactured home that is salvaged shall apply to the director for the issuance of a new statement of ownership that indicates that the home is salvaged.

(c) If a new manufactured home is salvaged, the retailer shall remove the label and surrender the label and the manufacturer's certificate under Section 1201.204 to the director for issuance of a statement of ownership that indicates that the home is salvaged.

(d) A person may not sell, convey, or otherwise transfer to a consumer in this state a manufactured home that is salvaged. A salvaged manufactured home may be sold only to a licensed retailer.

(e) A person may not repair, rebuild, or otherwise refurbish a salvaged manufactured home unless the person complies with the rules of the director relating to rebuilding a salvaged manufactured home. For purposes of this subsection, "refurbish" means any general repairs, improvements, or aesthetic changes to a manufactured home that do not constitute the rebuilding of a salvaged manufactured home.

(f) If a salvaged manufactured home is rebuilt in accordance with this chapter and the rules of the director, the director shall, on application, issue a new statement of ownership that indicates that the home is no longer salvaged.

(g) A county or other unit of local government that identifies a manufactured home within its jurisdiction that has been declared salvage may impose on that home such inspection, correction, and other requirements as it could apply if the home were not a manufactured home.

(h) A licensee may not participate in the sale, exchange, or installation for use as a dwelling of a manufactured home that is salvage and that has not been repaired in accordance with this chapter and the department's rules. An act that is prohibited by this subsection is deemed to be a practice that constitutes an imminent threat to health or safety and is subject to the imposition of penalties and other sanctions provided for by this chapter. A violation of this subsection is a Class B misdemeanor.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 35, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), §§ 56, 57, effective January 1, 2008; am. Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.14, effective September 1, 2013; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 66, effective September 1, 2017.

Secs. 1201.462 to 1201.500. [Reserved for expansion].

Subchapter K

Prohibited Practices

Sec. 1201.501. Prohibited Construction by Manufacturer.

A manufacturer may not construct a HUD-code manufactured home in this state for sale or resale unless the manufacturer:

(1) supplies the department with proof of acceptance by a design approval primary inspection agency authorized by the United States Department of Housing and Urban Development;

(2) purchases the required labels; and

(3) has the home inspected by an in-plant inspection agency authorized by the United States Department of Housing and Urban Development.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.502. Prohibited Shipping by Manufacturer.

A manufacturer may not ship a HUD-code manufactured home into this state for sale or resale unless the manufacturer complies with:

(1) all requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.); and

(2) all standards, rules, and regulations of the United States Department of Housing and Urban Development.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.503. Prohibited Alteration.

Before the sale to a consumer of a new manufactured home to which a label has been attached and before installation of the home, a manufacturer, retailer, broker, or installer may not alter the home or cause the home to be altered without obtaining prior written approval from a licensed engineer and providing evidence of such approval to the department.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 58, effective January 1, 2008.

Sec. 1201.504. Prohibited Sale or Exchange.

(a) A manufacturer may not sell or exchange, or offer to sell or exchange, a manufactured home to a person in this state who is not a licensed retailer.

(b) A retailer may not sell or exchange, or offer to sell or exchange, a new HUD-code manufactured home that was constructed by a manufacturer who was not licensed by the department at the time of construction.

(c) A retailer, broker, or salesperson may not sell or exchange, or offer to sell or exchange, a manufactured home to a consumer in this state for use as a dwelling unless the appropriate seal or label is attached to the home.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 67, effective September 1, 2017.

Sec. 1201.505. Prohibited Purchase.

A retailer may not purchase for resale to a consumer a new HUD-code manufactured home that was constructed by a manufacturer who was not licensed by the department at the time of construction.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.506. Credit.

(a) A retailer or broker:

(1) shall comply with Subtitles A and B, Title 4, Finance Code, and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.);

(2) may not advertise an interest rate or finance charge that is not expressed as an annual percentage rate; and

(3) shall comply with all applicable provisions of the Finance Code.

(b) A violation of this section does not create a cause of action or claim for damages for a consumer. The consumer may not recover more than the penalties provided by Subtitles A and B, Title 4, Finance Code, and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 59, effective January 1, 2008.

Sec. 1201.507. False or Misleading Information.

(a) A retailer or salesperson may not:

(1) assist a consumer in preparing or providing false or misleading information on a document related to the purchase or financing of a manufactured home; or

(2) submit to a credit underwriter or lending institution information known to be false or misleading.

(b) A salesperson may not submit to a retailer information known to be false or misleading.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.508. Down Payment.

(a) A retailer may not state payment of a down payment in a retail installment sales contract or other credit document unless the retailer has actually received the entire down payment at the time of execution of the document.

(b) If part of the down payment is consideration other than cash, including a loan or trade-in, the retailer must expressly state that fact in the retail installment sales contract or other credit document.

(c) A cash down payment may not be derived in any part from a rebate or other consideration received by, or to be given to, the consumer from the retailer or manufacturer.

(d) The retailer may not require a consumer to make a down payment on the acquisition of a manufactured home from the retailer's inventory until the time the installment contract is executed.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 36, effective June 18, 2003.

Sec. 1201.509. Prohibited Retention of Deposit.

A retailer, salesperson, or agent of the retailer may not refuse to refund a consumer's deposit except as provided by Section 1201.151.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.510. Prohibited Installation of Air Conditioning Equipment.

A retailer or an installer may not contract with a person for the installation of air conditioning equipment in connection with the installation of a manufactured home unless the person is licensed by the state as an air conditioning and refrigeration contractor.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.511. Prohibited Real Estate Transaction.

(a) This section applies to a transaction in which a manufactured home is sold as personal property.

(b) A retailer may not sell, represent for sale, or offer for sale real property in conjunction with the sale of a manufactured home except as authorized by the department consistent with Chapter 1101.

(c) A retailer, broker, or salesperson or a person acting on behalf of a retailer or broker may not receive or accept compensation or consideration of any kind from the seller of the real property or a person acting on the seller's behalf. No part of the down payment on the purchase of the manufactured home or any fees, points, or other charges or "buy-downs" may be paid from money from the seller of the real property or a person acting on the seller's behalf.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 37, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.260(a), effective September 1, 2003.

Sec. 1201.512. Prohibited Delivery or Installation of Manufactured Home.

(a) In this section, "homesite" means the land on which the foundation system for a manufactured home is or will be located.

(b) Unless the retailer, broker, or salesperson complies with the requirements of the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.), Subchapter I, Chapter 16, Water Code, and any other applicable local, state, or

federal law, and ensures the consumer's compliance with applicable law by requiring the evidence described by Subsection (c), a retailer, broker, or salesperson who sells or exchanges a new or used manufactured home to a consumer for use as a permanent dwelling in this state may not:

(1) deliver or arrange for the delivery of the home to a homesite in a special flood hazard area designated by the director of the Federal Emergency Management Agency;

(2) install or arrange for the installation of the home at a homesite in that area; or

(3) assist the consumer in the delivery or installation of, or in making arrangements for the delivery or installation of, the home to or at a homesite in that area.

(c) Before closing on the acquisition of a new or used manufactured home for use as a permanent dwelling in this state, a consumer seeking to acquire the home must provide to the retailer, broker, or salesperson selling or exchanging the home satisfactory evidence that the home will not be located, in a manner that violates local, state, or federal law, on a homesite in a special flood hazard area designated by the director of the Federal Emergency Management Agency. A consumer may satisfy the evidentiary requirement of this subsection by providing the retailer, broker, or salesperson, as applicable, with a copy of any required permit to install a septic tank on the homesite.

(d) The following are exempt from the application of this section:

(1) a manufactured home that on August 31, 2003, was inhabited and located on real property zoned before September 1, 2003, by a local political subdivision for the purpose of developing homesites in a special flood hazard area designated by the director of the Federal Emergency Management Agency, if the home will remain on or be relocated to real property zoned as described by this subsection; and

(2) real property zoned before September 1, 2003, by a local political subdivision for the purpose of developing homesites in a special flood hazard area designated by the director of the Federal Emergency Management Agency.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1016 (H.B. 543), § 1, effective June 20, 2003; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 68, effective September 1, 2017.

Sec. 1201.513. Disposition of Trade-Ins and Occupancy of Homes Before Closing.

(a) A retailer may not sell a trade-in manufactured home before the closing of the sale in connection with which the retailer receives the trade-in.

(b) A retailer may not knowingly permit a consumer to occupy a manufactured home that is the subject of a sale or exchange to that consumer before the closing of any required financing unless the consumer is first given a form adopted by the board disclosing that if for any reason the financing does not close, the consumer may be required to vacate the home.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 60, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 69, effective September 1, 2017.

Secs. 1201.514 to 1201.550. [Reserved for expansion].

Subchapter L

Disciplinary Procedures

Sec. 1201.551. Denial of License; Disciplinary Action.

(a) The director may deny, permanently revoke, or suspend for a definite period and specified sales location or geographic area a license if the director determines that the applicant or license holder:

(1) knowingly and wilfully violated this chapter or a rule adopted or order issued under this chapter;

(2) unlawfully retained or converted money, property, or any other thing of value from a consumer in the form of a down payment, sales or use tax, deposit, or insurance premium;

(3) failed repeatedly to file with the department a completed application for a statement of ownership before the 61st day after the date of the sale of a manufactured home as required by Section 1201.206 or the date of the installation, whichever occurred later;

(4) failed to give or breached a manufactured home warranty required by this chapter or by the Federal Trade Commission;

(5) engaged in a false, misleading, or deceptive act or practice as described by Subchapter E, Chapter 17, Business & Commerce Code;

(6) failed to provide or file a report required by the department for the administration or enforcement of this chapter;

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

(8) acquired a criminal record during the five-year period preceding the application date that, in the opinion of the director, makes the applicant unfit for licensing;

(9) failed to file a bond or other security for each location as required by Subchapter C;

(10) has had another license issued by this state revoked or suspended; or

(11) failed to pay the required fee to obtain or renew a license.

(b) The director may suspend or revoke a license if, after receiving notice of a claim, the license holder or the license

holder's surety fails or refuses to pay a final claim paid under the manufactured homeowner consumer claims program for which demand for reimbursement was made.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 38, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 61, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 70, effective September 1, 2017.

Sec. 1201.552. License Revocation, Suspension, or Denial; Hearing.

The director may issue an order to revoke, suspend, or deny a new or renewal license. If, before the 31st day after an order revoking, suspending, or denying a license is issued, the person against whom the order is issued requests a hearing by giving written notice to the director, the director shall set a hearing before the State Office of Administrative Hearings. If the person does not request a hearing before the 31st day after the date the order is issued, the order becomes final. Any administrative proceedings relating to the revocation, suspension, or denial of a license under this subsection shall be a contested case under Chapter 2001, Government Code. The board shall issue an order after receiving a proposal for decision.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 61, effective January 1, 2008.

Sec. 1201.553. Judicial Review.

Judicial review of any order, decision, or determination of the board is instituted by filing a petition with a district court in Travis County as provided by Chapter 2001, Government Code.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 61, effective January 1, 2008.

Sec. 1201.554. Probation.

The department may place on probation a person whose license is suspended. If a license suspension is probated, the department may require the person 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 department; or

(3) continue or review professional education until the person attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.254(b), effective September 1, 2003.

Secs. 1201.555 to 1201.600. [Reserved for expansion].

Subchapter M

Enforcement Provisions and Penalties

Sec. 1201.601. Action Against Retailer or Manufacturer: Holder of Debt Instrument.

(a) If a consumer files a cause of action against a retailer or manufacturer, a claim based on an act of the retailer or manufacturer that the consumer could assert against the holder of the manufactured home debt instrument must be asserted against the holder in the primary suit against the retailer or manufacturer.

(b) A judgment obtained in the primary suit against the retailer or manufacturer is conclusive proof as to the holder of the debt instrument and admissible in an action by the consumer against the holder only if the consumer joins the holder in the primary suit.

(c) The holder of the debt instrument is entitled to full indemnity from the retailer or manufacturer for a claim based on an act or omission of the retailer or manufacturer.

(d) If the consumer asserts against the holder of the debt instrument a claim or defense that arises from a claim or defense of the consumer against the retailer, the consumer's relief against the holder arising from claims and defenses of the consumer against the retailer is limited to recovery of an amount not to exceed the total amount paid by the consumer to the holder and to cancellation of the balance remaining on the instrument. If the balance remaining on the instrument is canceled, the manufactured home shall be returned to the holder.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.602. Action Against Manufacturer, Installer, or Retailer: Abatement or Bar.

(a) Notwithstanding any other law, a suit alleging that a manufacturer, installer, or retailer failed to perform warranty service or failed to comply with a written or implied warranty is abated if:

(1) a plea in abatement is filed with the court not later than the 45th day after the movant's answer date; and

(2) the manufacturer, installer, or retailer requests a consumer complaint home inspection under Section 1201.355.

(b) The abatement continues until the earlier of:

(1) the date on which the department performs a consumer complaint home inspection and the manufacturer, installer, or retailer is given an opportunity to comply with the inspection report, determinations, and orders of the director; or

(2) the expiration of a period not to exceed 150 days.

(c) A consumer's refusal to allow the manufacturer, installer, or retailer to perform warranty service in accordance with the inspection report, determinations, and orders of the director bars a cause of action relating to an alleged failure to:

(1) comply with a written or implied warranty; or

(2) perform warranty service.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.603. Deceptive Trade Practices.

(a) A person's violation of this chapter or the failure by a manufacturer, installer, or retailer to comply with an implied warranty is a deceptive trade practice actionable under Subchapter E, Chapter 17, Business & Commerce Code.

(b) The venue provisions of Subchapter E, Chapter 17, Business & Commerce Code, apply to a claim under Subsection (a). The remedies available under Subchapter E, Chapter 17, Business & Commerce Code, are cumulative of the remedies under this chapter.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.604. Consumer Recovery for Prohibited Retention of Deposit.

In addition to any other remedy, a consumer may recover from a retailer, salesperson, or agent of the retailer who violates Section 1201.151:

(1) three times the amount of the deposit; and

(2) reasonable attorney's fees.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.

Sec. 1201.6041. Direct Consumer Compensation.

(a) Instead of requiring a consumer to apply for compensation under the manufactured homeowner consumer claims program under Subchapter I, the director may order a manufacturer, retailer, broker, or installer, as applicable, to pay a refund directly to a consumer who sustains actual damages resulting from an unsatisfied claim against a licensed manufacturer, retailer, broker, or installer if the unsatisfied claim results from a violation of:

(1) this chapter;

(2) a rule adopted by the director;

(3) the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);

(4) a rule or regulation of the United States Department of Housing and Urban Development; or

(5) Subchapter E, Chapter 17, Business & Commerce Code.

(b) For purposes of this section, the refund of a consumer's actual damages is determined according to Section 1201.405.

(c) The director shall prepare information for notifying consumers of the director's option to order a direct refund under this section, shall post the information on the department's Internet website, and shall make printed copies available on request.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.15, effective September 1, 2013; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 71, effective September 1, 2017.

Sec. 1201.605. Administrative Penalty.

(a) The director may assess against a person who fails to comply with this chapter, the rules adopted under this chapter, or any final order of the department an administrative penalty in an amount not to exceed $10,000 for each violation of this chapter and:

(1) reasonable attorney's fees;

(2) administrative costs;

(3) witness fees;

(4) investigative costs; and

(5) deposition expenses.

(b) The director may assess against a licensee who fails to provide information to a consumer as required by this chapter an administrative penalty in an amount not to exceed:

(1) $1,000 for the first violation;

(2) $2,000 for the second violation; and
(3) $4,000 for each subsequent violation.

(c) In determining the amount of an administrative penalty assessed under this section, the director shall consider:
(1) the seriousness of the violation;
(2) the history of previous violations;
(3) the amount necessary to deter future violations;
(4) efforts made to correct the violation; and
(5) any other matters that justice may require.

(d) The director may impose an administrative penalty in accordance with this section. If, before the 31st day after the date a person receives notice of the imposition of an administrative penalty, the person requests a hearing by giving written notice to the director, the director shall set a hearing before the State Office of Administrative Hearings. If the person does not request a hearing before the 31st day after the date the person receives notice of the imposition of the administrative penalty, the penalty becomes final. Any administrative proceedings relating to the imposition of an administrative penalty under this subsection shall be a contested case under Chapter 2001, Government Code. The board shall issue an order after receiving a proposal for decision.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 338 (S.B. 521), § 39, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 62, effective January 1, 2008.

Sec. 1201.606. Criminal Penalty.

(a) A person or a director, officer, or agent of a corporation commits an offense if the person, director, officer, or agent knowingly and wilfully violates this chapter or a rule adopted or order issued by the department in a manner that threatens consumer health or safety.

(b) An offense under this section is a Class A misdemeanor punishable by:
(1) a fine of not more than $4,000;
(2) confinement in county jail for a term of not more than one year; or
(3) both the fine and confinement.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.261(a), effective September 1, 2003.

Sec. 1201.607. Issuance of Orders and Requests for Hearings.

Any order issued by the director under this chapter, if not appealed before the 31st day after the date the order was issued, shall automatically become a final order. If the person made the subject of the order files a written request for a hearing with the director, the order shall be deemed to have been appealed and shall be a contested case under Chapter 2001, Government Code. The director shall set any appealed order for a hearing before the State Office of Administrative Hearings, and the board shall issue a final order after receiving and reviewing the proposal for decision issued pursuant to such hearing.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 63, effective January 1, 2008.

Sec. 1201.608. Inspection of Licensee Records.

(a) The department may inspect a licensee's records during normal business hours without advance notice if the director believes that such inspection is necessary to prevent a violation of this chapter, to protect a consumer or another licensee, or to assist another state or federal agency in an investigation.

(b) The director may request or issue subpoenas for a licensee's records.

(c) The department may carry out "sting" or undercover investigations in accordance with board-adopted rules if the director believes such action to be appropriate in order to detect and address suspected violations of this chapter.

(d) While an investigation is pending, information obtained by the department in connection with that investigation is confidential unless disclosure of the information is specifically permitted or required by other law.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 63, effective January 1, 2008.

Sec. 1201.609. Acting Without License; Criminal Penalty.

A person who is not exempt under this chapter and who, without first obtaining a license required under this chapter, performs an act that requires a license under this chapter commits an offense. An offense under this section is a Class B misdemeanor. A second or subsequent conviction for an offense under this section is a Class A misdemeanor.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 63, effective January 1, 2008.

Sec. 1201.610. Cease and Desist.

(a) The director may issue without notice and hearing an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter if the director has reasonable

cause to believe that a person has violated or is about to violate any provision of this chapter or a rule adopted under this chapter.

(b) The director may issue an order to any person to cease and desist from violating any law, rule, or written agreement or to take corrective action with respect to any such violations if the violations in any way are related to the sale, financing, or installation of a manufactured home or the providing of goods or services in connection with the sale, financing, or installation of a manufactured home unless the matter that is the basis of such violation is expressly subject to inspection and regulation by another state agency; provided, however, that if any matter involves a law that is subject to any other administration or interpretation by another agency, the director shall consult with the person in charge of the day-to-day administration of that agency before issuing an order.

(c) An order issued under Subsection (a) or (b) must contain a reasonably detailed statement of the facts on which the order is based. If a person against whom the order is issued requests a hearing before the 31st day after the date the order is issued, the director shall set and give notice of a hearing. The hearing shall be governed by Chapter 2001, Government Code. Based on the findings of fact, conclusions of law, and recommendations of the hearings officer, the board by order may find that a violation has occurred or has not occurred.

(d) If a hearing is not requested under Subsection (c) before the 31st day after the date an order is issued, the order is considered final and not appealable.

(e) The director, after giving notice, may impose against a person who violates a cease and desist order an administrative penalty in an amount not to exceed $1,000 for each day of the violation. In addition to any other remedy provided by law, the director may institute in district court a suit for injunctive relief and for the collection of the administrative penalty. A bond is not required of the director with respect to injunctive relief granted under this subsection.

(f) If a person licensed under this chapter fails to pay an administrative penalty that has become final or fails to comply with an order of the director that has become final, in addition to any other remedy provided by law, the director, after not less than 10 days' notice to the person, may without a prior hearing suspend the person's license. The suspension shall continue until the person has complied with the cease and desist order or paid the administrative penalty. During the period of suspension, the person may not perform any act requiring a license under this chapter, and all compensation received by the person during the period of suspension is subject to forfeiture to the person from whom it was received.

(g) An order of suspension under Subsection (f) may be appealed. An appeal is a contested case governed by Chapter 2001, Government Code. A hearing of an appeal of an order of suspension issued under Subsection (f) shall be held not later than the 15th day after the date of receipt of the notice of appeal. The appellant shall be provided at least three days' notice of the time and place of the hearing.

(h) An order revoking the license of a retailer, broker, installer, or salesperson may provide that the person is prohibited, without obtaining prior written consent of the director, from being a related person of a licensee.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 63, effective January 1, 2008; am. Acts 2013, 83rd Leg., ch. 1079 (H.B. 3361), § 3.16, effective September 1, 2013.

Sec. 1201.611. Sanctions and Penalties.

(a) The board shall adopt rules relating to the administrative sanctions that may be enforced against a person regulated by the department.

(b) If a person charged with the violation accepts the determination of the director, the director shall issue an order approving the determination and ordering that the person pay the recommended penalty.

(c) Not later than the 30th day after the date on which the decision is final, the person charged shall:

(1) pay the penalty in full; or

(2) if the person files a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both the fact of the violation and the amount of the penalty:

(A) forward the amount assessed to the department for deposit in an escrow account;

(B) in lieu of payment into escrow, post with the department a supersedeas bond for the amount of the penalty, in a form approved by the director and effective until judicial review of the decision is final; or

(C) without paying the amount of the penalty or posting the supersedeas bond, pursue judicial review.

(d) A person charged with a penalty who is financially unable to comply with Subsection (c)(2) is entitled to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(e) If the person charged does not pay the penalty and does not pursue judicial review, the department or the attorney general may bring an action for the collection of the penalty.

(f) Judicial review of the order of the director assessing the penalty is subject to the substantial evidence rule and shall be instituted by filing a petition with a district court in Travis County.

(g) If, after judicial review, the penalty is reduced or not assessed, the director shall remit to the person charged the appropriate amount, plus accrued interest if the penalty has been paid, or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the director under this subsection shall be paid at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank

and shall be paid for the period beginning on the date the assessed penalty is paid to the director and ending on the date the penalty is remitted.

(h) [Repealed by Acts 2017, 85th Leg., (H.B. 2019), § 85(8), effective September 1, 2017.]

(i) All proceedings conducted under this section and any review or appeal of those proceedings are subject to Chapter 2001, Government Code.

(j) If it appears that a person is in violation of, or is threatening to violate, any provision of this chapter or a rule or order related to the administration and enforcement of the manufactured housing program, the attorney general, on behalf of the director, may institute an action for injunctive relief to restrain the person from continuing the violation and for civil penalties not to exceed $1,000 for each violation and not exceeding $250,000 in the aggregate. A civil action filed under this subsection shall be filed in district court in Travis County. The attorney general and the director may recover reasonable expenses incurred in obtaining injunctive relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 863 (H.B. 1460), § 63, effective January 1, 2008; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), § 85(8), effective September 1, 2017.

TRANSPORTATION CODE

TITLE 7

VEHICLES AND TRAFFIC

SUBTITLE B

DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CARDS

CHAPTER 521

Driver's Licenses and Certificates

Subchapter C. Department License Records

Subchapter C

Department License Records

Sec. 521.049. Information Supplied to Certain Governmental Entities.

(a) The department shall disclose information relating to the name, date of birth, and most recent address as shown in department records to the Texas Department of Health during an emergency or epidemic declared by the commissioner of health to notify individuals of the need to receive certain immunizations.

(b) The department may not charge a fee for information disclosed to a law enforcement agency or other governmental agency for an official purpose, except that the department may charge its regular fees for information provided to those governmental agencies in bulk for research projects.

(c) The department may make information from driver's license record files, including class-type listings, available to an official of the United States, the state, or a political subdivision of this state for government purposes only.

(d) To assist chief appraisers in determining the eligibility of individuals for residence homestead exemptions from ad valorem taxation under Section 11.13, Tax Code, and the applicability to certain individuals of additional notice provisions under Subchapters C and D, Chapter 23, Tax Code, the department shall provide, without charge, to the chief appraiser of each appraisal district in this state:

(1) a copy of each driver's license record or personal identification certificate record held by the department; or

(2) information relating to the name, date of birth, driver's license or personal identification certificate number, and most recent address as shown in the records of individuals included in the department's driver's license or personal identification certificate records.

(e) A driver's license record or personal identification certificate record provided under Subsection (d)(1) may not include information relating to an individual's social security number or any accident or conviction information about an individual.

(f) The department shall respond to a request for a driving record check received from another state under 49 C.F.R. Section 384.206 within 30 days of the date of the request.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 2007, 80th Leg., ch. 424 (S.B. 1372), § 1, effective January 1, 2008; am. Acts 2007, 80th Leg., ch. 766 (H.B. 3514), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(104), effective September 1, 2009; am. Acts 2015, 84th Leg., ch. 352 (H.B. 1464), § 7, effective September 1, 2015.

WATER CODE

TITLE 4

GENERAL LAW DISTRICTS

CHAPTER 49

Provisions Applicable to All Districts

Subchapter D. Election Provisions

Subchapter E. Fiscal Provisions

Subchapter F. Issuance of Bonds

Subchapter G. Audit of Districts

Subchapter H. Powers and Duties

Subchapter D

Election Provisions

Sec. 49.101. General.

All elections shall be generally conducted in accordance with the Election Code except as otherwise provided for by this code. Write-in candidacies for any district office shall be governed by Subchapter C, Chapter 146, Election Code.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.102. Confirmation and Director Election.

(a) Before issuing any bonds or other obligations, an election shall be held within the boundaries of the proposed district on a uniform election date provided by Section 41.001, Election Code, to determine if the proposed district shall be established and, if the directors of the district are required by law to be elected, to elect permanent directors.

(b) Notice of a confirmation or director election shall state the day and place or places for holding the election, the propositions to be voted on, and, if applicable, the number of directors to be voted on.

(c) The ballots for a confirmation election shall be printed to provide for voting "For District" and "Against District." Ballots for a directors election shall provide the names of the persons appointed by the governing body who qualified and are serving as temporary directors at the time the election is called. If the district has received an application by a write-in candidate, the ballots shall also have blank places after the names of the temporary directors in which a voter may write the names of any candidates appearing on the list of write-in candidates required by Section 146.031, Election Code.

(d) Immediately after the confirmation and director election, the presiding judge shall take returns of the results to the temporary board. The temporary board shall canvass the returns and declare the results at the earliest practicable time.

(e) If a majority of the votes cast in the election favor the creation of the district, then the temporary board shall declare that the district is created and enter the result in its minutes. If a majority of the votes cast in the election are against the creation of the district, the temporary board shall declare that the district was defeated and enter the result in its minutes. A copy of the order shall be filed with the commission not later than the 30th day after the date of the election.

(f) The order canvassing the results of the confirmation election shall contain a description of the district's boundaries and shall be filed with the executive director and in the deed records of the county or counties in which the district is located not later than the 30th day after the date of the election.

(g) The temporary board shall also declare the persons receiving the highest number of votes for directors to have been elected as permanent directors.

(h) Unless otherwise agreed, the elected directors shall decide the initial terms of office by lot, with a simple majority of the elected directors serving until the second succeeding directors election and the remaining elected directors serving until the next directors election.

(i) A district, at an election required under Subsection (a), may submit to the qualified voters of the district the proposition of whether a plan as authorized by Section 49.351 should be implemented or entered into by the district.

(j) The provisions of this section shall not be applicable to any district exercising the powers of Chapter 375, Local Government Code, or any district created by a special Act of the legislature that does not require a confirmation election.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 4, effective June 17, 2001; am. Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 6, effective September 1, 2013; am. Acts 2019, 86th Leg., ch. 608 (S.B. 911), § 2, effective September 1, 2019.

Sec. 49.1025. Qualified Voters in Confirmation Election.

(a) In this section, "developer of property in the district" has the meaning assigned by Section 49.052(d).

(b) A voter in a confirmation election or an election held jointly with a confirmation election on the same date and in conjunction with the confirmation election to authorize taxes and bonds must be a qualified voter of the district. For the purposes of an election described by this subsection, a person is not a qualified voter if the person:

(1) on the date of the election:

(A) is a developer of property in the district;

(B) is related within the third degree of affinity or consanguinity to a developer of property in the district;

(C) is an employee of a developer of property in the district; or

(D) has resided in the district less than 30 days; or

(2) received monetary consideration from a developer of property in the district in exchange for the person's vote.

(c) In addition to the procedures for accepting a voter under Section 63.001, Election Code, the election officer shall provide to the voter the form of the affidavit required by this section. The election officer must receive a completed affidavit before marking the voter as accepted under Section 63.001(e), Election Code. If the voter does not submit a completed affidavit to the election officer or the information stated on the affidavit demonstrates the voter is not a qualified voter as provided by this section, the voter may be accepted only to vote provisionally under Section 63.011, Election Code.

(d) The district shall submit original or certified copies of voter affidavits to the office of the attorney general in a transcript of the proceedings of the confirmation election.

(e) The office of the attorney general shall prescribe the form of the voter affidavit.

(f) The voter affidavit must require the voter to state under oath:

(1) the address of the voter and that the voter resides in the territory of the district;

(2) the date the voter changed the voter's residence to the address provided under Subdivision (1); and

(3) that the voter, to the best of the voter's knowledge, believes that the voter's registration is effective on the date of the election.

(g) The affidavit must include the following statement: "I am not a developer of property in the district, related within the third degree of affinity or consanguinity to a developer of property in the district, or an employee of a developer of property in the district. I have not received monetary consideration from a developer of property in the district for my vote in this election."

(h) Compliance with this section or the validity of a voter affidavit may only be challenged in an election contest under Title 14, Election Code.

HISTORY: Enacted by Acts 2017, 85th Leg., ch. 848 (H.B. 2358), § 1, effective January 1, 2018.

Sec. 49.103. Terms of Office of Directors.

(a) Except as provided by Section 49.102, the members of the board of a district shall serve staggered four-year terms.

(b) Unless a district holds its general election for officers on a date as otherwise provided by statute, after confirmation of a district, an election shall be held on the uniform election date, provided by Section 41.001, Election Code, in May of each even-numbered year to elect the appropriate number of directors.

(c) The permanent directors may assign a position number to each director's office, in which case directors shall thereafter be elected by position and not at large.

(d) A district may provide for the election of all directors, or a majority of directors, from single-member districts, which shall be geographically described within the boundaries of the district in a manner that is equitable for the electors within such districts and within the district generally.

(e) Section 49.002 notwithstanding, in all areas of conflict the provisions of Subsections (a) and (b) shall take precedence over all prior statutory enactments.

(f) This section does not apply to:

(1) any special law district or authority that is not required by the law creating the district or authority to elect its directors by the public; or

(2) a special utility district operating under Chapter 65.

(g) [Repealed by Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 32, effective September 1, 2013.]

(h) If authorized by the board in the proceedings calling a director election, the secretary of the board or the secretary's designee, on receipt of the certification required by Section 2.052(b), Election Code, shall post notice that the election is not to be held. The notice must be posted, on or before the commencement of early voting, at each polling place that would have been used in the election. If the notice is timely posted:

(1) the board or the board's designee is not required to:

(A) post or publish notice of the election;

(B) prepare or print ballots and election materials; or

(C) hold early and regular voting; and

(2) the board shall meet at the earliest practicable time to declare each unopposed candidate elected to office.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 4, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 340 (S.B. 79), § 5, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 248 (H.B. 1541), § 9, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 471 (H.B. 57), § 5, effective October 1, 2005; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 26.006, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 105 (S.B. 902), §§ 7, 32, effective September 1, 2013; am. Acts 2017, 85th Leg., ch. 127 (H.B. 999), § 1, effective September 1, 2017.

Sec. 49.104. Alternative Election Procedures.

(a) Notwithstanding the provisions and requirements of the Election Code and general laws, any two or more districts situated in the same county and in which substantially all of the land is being or has been developed as part of a single community development plan and which are served by common water supply and waste disposal systems may by mutual agreement designate a common election office and common early and regular polling places within one or more of the districts, but outside the boundaries of one or more of the districts, for the conduct of director election

proceedings and early and regular balloting in director elections. This alternative election procedure may only be used if the common election office and polling places so designated:

(1) are within buildings open to the public;

(2) are within the boundaries of at least one of the districts;

(3) meet the requirements of the Election Code and general laws as polling places; and

(4) are located not more than five miles from any portion of the boundaries of any of the participating districts.

(b) Such districts may also agree on and designate a common election officer and common early and regular voting officials for some or all of the director elections to be simultaneously conducted at a common location, any of whom may be nonelective employees of one or more of the districts, so long as the early and regular voting officials are qualified voters within at least one of the districts.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.1045. Certification of Election Results in Less Populous Districts.

(a) This section applies only to a district that:

(1) has 10 or fewer registered voters; and

(2) holds an election jointly with a county in which the district is wholly or partly located.

(b) A district may provide for an inquiry into and certification of the voting results of an election under this section if:

(1) the election results indicate that the number of votes cast in the election was greater than the number of registered voters in the district;

(2) the board determines that the election results are likely to be disputed in court; and

(3) the board can determine from the official list of registered voters prepared by the county voter registrar or county elections administrator for the district election which voters were qualified to vote in the district election and can determine from the signature roster from the joint election who voted in the joint election.

(c) To certify the district votes, the board by rule shall adopt a procedure to determine for each person who signed the signature roster as a voter in the joint election:

(1) whether the person's address on the day of the election was in the district; and

(2) how the person voted in the district election.

(d) The certified votes are the official election results.

(e) Certification of the results under this section does not preclude the filing of an election contest.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 8, effective September 1, 2013.

Sec. 49.105. Vacancies.

(a) Except as otherwise provided in this code, a vacancy on the board and in other offices shall be filled for the unexpired term by appointment of the board not later than the 60th day after the date the vacancy occurs.

(b) If the board has not filled a vacancy by appointment before the 61st day after the date the vacancy occurs, a petition, signed by more than 10 percent of the registered voters of the district, requesting the board to fill the vacancy by appointment may be presented to the board.

(c) If the number of directors is reduced to fewer than a majority or if a vacancy continues beyond the 90th day after the date the vacancy occurs, the vacancy or vacancies may be filled by appointment by the commission if the district is required by Section 49.181 to obtain commission approval of its bonds or by the county commissioners court if the district was created by the county commissioners court, regardless of whether a petition has been presented to the board under Subsection (b). An appointed director shall serve for the unexpired term of the director he or she is replacing.

(d) In the event of a failure to elect one or more members of the board of a district resulting from the absence of, or failure to vote by, the qualified voters in an election held by the district, the current members of the board or temporary board holding the positions not filled at such election shall be deemed to have been elected and shall serve an additional term of office, or, in the case of a temporary board member deemed elected under this subsection, the initial term of office.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1354 (H.B. 846), § 10, effective September 1, 1999; am. Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 9, effective September 1, 2013.

Sec. 49.106. Bond Elections.

(a) Before an election is held to authorize the issuance of bonds, other than refunding bonds, there shall be filed in the office of the district and open to inspection by the public an engineer's report covering the land, improvements, facilities, plants, equipment, and appliances to be purchased or constructed and their estimated cost, together with maps, plats, profiles, and data fully showing and explaining the report. The engineer's report is not:

(1) part of the proposition or propositions to be voted on; or

(2) a contract with the voters.

(b) Notice of a bond election shall contain the proposition or propositions to be voted on, which includes the estimate of the probable cost of design, construction, purchase, and acquisition of improvements and additions thereto, and incidental expenses connected with such improvements and the issuance of bonds.

(c) A bond election may be held on the same day as any other district election. The bond election may be called by a separate election order or as a part of any other election order. The board may submit multiple purposes in a single proposition at an election.

(d) A bond election may be called as a result of an agreement to annex additional territory into the district.

(e) A district's authorization to issue bonds resulting from an election held under this section, or any other law that allows for the qualified voters of a district to authorize the issuance of bonds by a district, remains in effect after the election unless the district is dissolved or is annexed by another district.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 5, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 5, effective June 17, 2001; am. Acts 2003, 78th Leg., ch. 248 (H.B. 1541), § 10, effective June 18, 2003.

Sec. 49.107. Operation and Maintenance Tax.

(a) A district may levy and collect a tax for operation and maintenance purposes, including funds for planning, constructing, acquiring, maintaining, repairing, and operating all necessary land, plants, works, facilities, improvements, appliances, and equipment of the district and for paying costs of proper services, engineering and legal fees, and organization and administrative expenses.

(b) An operation and maintenance tax may not be levied by a district until it is approved by a majority of the electors voting at an election held for that purpose. After such a tax has been authorized by the district's voters, the board shall be authorized to levy the tax and have it assessed and collected as other district taxes.

(c) An operation and maintenance tax election may be held at the same time and in conjunction with any other district election. The election may be called by a separate election order or as part of any other election order.

(d) The proposition in an operation and maintenance tax election may be for a specific maximum rate or for an unlimited rate. The ballot for an operation and maintenance tax election shall be printed to provide for voting for or against the proposition: "An Operation and Maintenance Tax" and either "Not to exceed _____ ($_____) Per One Hundred Dollars ($100) Valuation of Taxable Property" or "At an Unlimited Rate," as applicable. The ballot may describe the general purpose and state the constitutional authorization of the operation and maintenance tax.

(e) If a district has any surplus operation and maintenance tax funds that are not needed for the purposes for which they were collected, the funds may be used for any lawful purpose.

(f) Before a district reimburses a developer of property in the district, as that term is defined in Section 49.052(d), or its assigns, from operation and maintenance tax funds, for planning, constructing, or acquiring facilities, the district shall obtain approval by the executive director.

(g) **[Effective until January 1, 2020]** Sections 26.04, 26.05, and 26.07, Tax Code, do not apply to a tax levied and collected under this section or an ad valorem tax levied and collected for the payment of the interest on and principal of bonds issued by a district.

(g) **[Effective January 1, 2020]** Sections 26.04, 26.05, 26.061, 26.07, and 26.075, Tax Code, do not apply to a tax levied and collected under this section or an ad valorem tax levied and collected for the payment of the interest on and principal of bonds issued by a district.

(h) To the extent authorized by Section 59, Article XVI, Texas Constitution, an operation and maintenance tax to be used for recreational facilities, as defined by Section 49.462, levied by a district located in a county with a population of more than 3.3 million or in a county adjacent to that county may not exceed 10 cents per $100 of assessed valuation of taxable property in the district.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 6, effective June 17, 2001; am. Acts 2003, 78th Leg., ch. 343 (S.B. 624), § 2, effective September 13, 2003; am. Acts 2019, 86th Leg., ch. 944 (S.B. 2), § 86, effective January 1, 2020; am. Acts 2019, 86th Leg., ch. 1128 (H.B. 2590), § 2, effective September 1, 2019.

Sec. 49.108. Contract Elections.

(a) A contract may provide that the district will make payment under the contract from proceeds from the sale of notes or bonds, from taxes, or from any other income of the district or any combination of these.

(b) A district may make payments under a contract from taxes other than operation and maintenance taxes after the provisions of the contract have been approved by a majority of the qualified voters voting at an election held for that purpose. A contract approved by the qualified voters of a district may contain a provision stating that the contract may be modified or amended by the board without voter approval.

(c) A contract election may be held at the same time and in conjunction with any other district election. The election may be called by a separate election order or as part of any other election order.

(d) A contract approved by the voters will constitute an obligation against the taxing power of the district to the extent provided in the contract.

(e) A district that is required under Section 49.181 to obtain approval by the commission of the district's issuance of bonds must obtain approval by the executive director before the district enters into an obligation under this section to collect tax for debt that exceeds three years. This subsection does not apply to contract taxes that are levied to pay for a district's share of bonds that have been issued by another district and approved by the commission or for bonds issued by a municipality.

(f) **[Effective until January 1, 2020]** Sections 26.04, 26.05, and 26.07, Tax Code, do not apply to a tax levied and collected for payments made under a contract approved in accordance with this section.

(f) **[Effective January 1, 2020]** Sections 26.04, 26.05, 26.061, 26.07, and 26.075, Tax Code, do not apply to a tax levied and collected for payments made under a contract approved in accordance with this section.

(g) On or before the first day for early voting by personal appearance at an election held to authorize a contract, a substantially final form of the contract must be filed in the office of the district and must be open to inspection by the public. The contract is not required to be attached as an exhibit to the order calling the election to authorize the contract.

(h) A single contract may contain multiple purposes or provisions for multiple facilities authorized by one or more constitutional provisions. The contract may generally describe the facilities to be acquired or financed by the district without reference to specific constitutional provisions. A contract described by this subsection may be submitted for approval in a single proposition at an election.

(i) A contract between districts to provide facilities or services is not required to specify the maximum amount of bonds or expenditures authorized under the contract if:

(1) the contract provides that the service area cannot be enlarged without the consent of at least two-thirds of the boards of directors of the districts that are:

(A) included in the service area as proposed to be enlarged; or

(B) served by the facilities or services provided in the contract;

(2) the contract provides that bonds or expenditures, payable wholly or partly from contract taxes, are issued or made:

(A) on an emergency basis; or

(B) to purchase, construct, acquire, own, operate, repair, improve, or extend services or facilities necessary to comply with changes in applicable regulatory requirements; or

(3) the contract provides that the bonds or expenditures require prior approval by any district that is obligated to pay debt service on those bonds or to pay for those expenditures wholly or partly with contract taxes.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 6, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1160 (H.B. 2994), § 1, effective June 15, 2001; am. Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 7, effective June 17, 2001; am. Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 10, effective September 1, 2013; am. Acts 2019, 86th Leg., ch. 944 (S.B. 2), § 87, effective January 1, 2020.

Sec. 49.109. Agent During Election Period.

The board may appoint a person, including a district officer, employee, or consultant, to serve as the district's agent under Section 31.123, Election Code.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 11, effective September 1, 2013.

Sec. 49.110. Election Judge.

(a) The notice requirements for the appointment of a presiding election judge under Section 32.009, Election Code, do not apply to an election held by a district.

(b) To serve as an election judge in an election held by a district, a person must be a registered voter of the county in which the district is wholly or partly located. To the extent of any conflict with Section 32.051, Election Code, this section controls.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 11, effective September 1, 2013.

Sec. 49.111. Exemptions from Use of Accessible Voting Systems.

(a) Notwithstanding Sections 61.012 and 61.013, Election Code, a district is exempt from the acquisition, lease, or use of an electronic voting system for an election if:

(1) the election is a confirmation election or an election held jointly with a confirmation election on the same date and in conjunction with the confirmation election, except for an election in which a federal office appears on the ballot;

(2) the most recently scheduled district directors' election was not held, as provided by Section 2.053(b), Election Code; or

(3) fewer than 250 voters voted at the most recently held district directors' election.

(b) A district eligible for the exemption under Subsection (a) must publish notice in a newspaper of general circulation in an area that includes the district or mail notice to each voter in the district regarding the district's intention to hold an election without providing a voting station that meets the requirements for accessibility under 42

U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance. The notice must be published or mailed not later than the later of:

(1) the 75th day before the date of the election; or

(2) the date on which the district adopts the order calling the election.

(c) The notice required by Subsection (b) must:

(1) provide that any voter in the district may request the use of a voting station that meets the accessibility requirements for voting by a person with a disability; and

(2) provide information on how to submit such a request.

(d) The district shall comply with a request for an accessible voting station if the request is received not later than the 45th day before the date of the election.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 11, effective September 1, 2013.

Sec. 49.112. Cancellation of Election; Removal of Ballot Measure.

Before the first day of early voting by personal appearance, the board by order or resolution may cancel an election called at the discretion of the district or may remove from the ballot a measure included at the discretion of the district. A copy of the order or resolution must be posted during the period for early voting by personal appearance and on election day at each polling place that is used or that would have been used in the election.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 11, effective September 1, 2013.

Sec. 49.113. Notice for Filing for Place on Ballot.

A notice required by Section 141.040, Election Code, must be posted at the district's administrative office in the district or at the public place established by the district under Section 49.063 of this chapter not later than the 30th day before the deadline for a candidate to file an application for a place on the ballot of a district directors' election.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 11, effective September 1, 2013.

Secs. 49.114 to 49.150. [Reserved for expansion].

Subchapter E

Fiscal Provisions

Sec. 49.151. Expenditures.

(a) Except as hereinafter provided, a district's money may be disbursed only by check, draft, order, or other instrument that shall be signed by at least a majority of the directors.

(b) The board may by resolution allow the general manager, treasurer, bookkeeper, or other employee of the district to sign disbursements.

(c) The board may allow disbursements of district money to be transferred by federal reserve wire system or by electronic means. The board by resolution may allow the wire or electronic transfers to accounts in the name of the district or accounts not in the name of the district.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 8, effective June 17, 2001; am. Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 12, effective September 1, 2013.

Sec. 49.152. Purposes for Borrowing Money.

The district may issue bonds, notes, or other obligations to borrow money for any corporate purpose or combination of corporate purposes only in compliance with the methods and procedures provided by this chapter or by other applicable law.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1354 (H.B. 846), § 11, effective September 1, 1999.

Sec. 49.153. Revenue Notes.

(a) The board, without the necessity of an election, may borrow money on negotiable or nonnegotiable notes of the district to be paid solely from the revenues derived from the ownership of all or any designated part of the district's works, plants, improvements, facilities, or equipment after deduction of the reasonable cost of maintaining and operating the facilities.

(b) The notes may be first or subordinate lien notes within the discretion of the board, but no obligation may ever be a charge on the property of the district or on taxes levied or collected by the district but shall be solely a charge on the revenues pledged for the payment of the obligation. No part of the obligation may ever be paid from taxes levied or collected by the district.

(c) Except as provided by Subsection (e), a district may not execute a note for a term longer than three years unless the commission issues an order approving the note.

(d) This section does not apply to special water authorities.

(e) Subsection (c) does not apply to:

(1) a note issued to and approved by:

(A) the Farmers Home Administration;

(B) the United States Department of Agriculture;

(C) the Texas Water Development Board;

(D) the North American Development Bank; or

(E) a federally chartered instrumentality of the United States authorized under 12 U.S.C. Section 2128(f) to provide financing for water and waste disposal facilities, provided that the district that executes the note is located wholly in a county that:

(i) does not contain a municipality that has a population of more than 750,000; and

(ii) is not adjacent to a county described by Subparagraph (i); or

(2) a district described by Section 49.181(h).

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 7, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 248 (H.B. 1541), § 11, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 608 (H.B. 1875), § 7, effective June 20, 2003; am. Acts 2013, 83rd Leg., ch. 207 (H.B. 4), § 2.19, effective September 1, 2013.

Sec. 49.154. Bond Anticipation Notes; Tax Anticipation Notes.

(a) The board may declare an emergency in the matter of funds not being available to pay principal of and interest on any bonds of the district payable in whole or in part from taxes or to meet any other needs of the district and may issue tax anticipation notes or bond anticipation notes to borrow the money needed by the district without advertising or giving notice of the sale. A district's bond anticipation notes or tax anticipation notes are negotiable instruments within the meaning and purposes of the Business & Commerce Code notwithstanding any provision to the contrary in that code. Bond anticipation notes and tax anticipation notes shall mature within one year of their date.

(b) Tax anticipation notes may be issued for any purpose for which the district is authorized to levy taxes, and tax anticipation notes shall be secured with the proceeds of taxes to be levied by the district in the succeeding 12-month period. The board may covenant with the purchasers of the notes that the board will levy a sufficient tax to pay the principal of and interest on the notes and pay the costs of collecting the taxes.

(c) Bond anticipation notes may be issued for any purpose for which bonds of the district may be issued or for the purpose of refunding previously issued bond anticipation notes. A district may covenant with the purchasers of the bond anticipation notes that the district will use the proceeds of sale of any bonds in the process of issuance for the purpose of refunding the bond anticipation notes, in which case the board will be required to use the proceeds received from sale of the bonds in the process of issuance to pay principal, interest, or redemption price on the bond anticipation notes.

(d) Districts required to seek commission approval of bonds must have an application for such approval on file with the commission prior to the issuance of bond anticipation notes.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 13, effective September 1, 2013.

Sec. 49.155. Payment of Expenses.

(a) The district may pay out of bond proceeds or other available funds of the district all expenses of the district authorized by this section, including expenses reasonable and necessary to effect the issuance, sale, and delivery of bonds as determined by the board, including, but not limited to, the following:

(1) interest during construction;

(2) capitalized interest not to exceed three years' interest;

(3) reasonable and necessary reserve funds not to exceed two years' interest on the bonds;

(4) interest on funds advanced to the district;

(5) financial advisor, bond counsel, attorney, and other consultant fees;

(6) paying agent, registrar, and escrow agent fees;

(7) right-of-way acquisition;

(8) underwriter's discounts or premiums;

(9) engineering fees, including surveying expenses and plan review fees;

(10) commission and attorney general fees;

(11) printing costs;

(12) all organizational, administrative, and operating costs during creation and construction periods;

(13) the cost of investigation and making plans, including preliminary plans and associated engineering reports;

(14) land required for stormwater control;

(15) costs associated with requirements for federal stormwater permits; and

(16) costs associated with requirements for endangered species permits.

(b) For purposes of this section, construction periods shall mean any periods during which the district is constructing its facilities or there is construction by third parties of above ground improvements within the district, but in no event longer than five years.

(c) The district may reimburse any person for money advanced for the purposes in Subsection (a) and may be charged interest on such funds.

(d) These payments may be made from money obtained from the issuance of notes or the sale of bonds issued by the district or out of maintenance taxes or other revenues of the district.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1354 (H.B. 846), § 12, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 9, effective June 17, 2001.

Sec. 49.156. Depository.

(a) The board, by order or resolution, shall designate one or more banks or savings associations within the state to serve as the depository for the funds of the district. The board shall not be required to advertise or solicit bids in selecting its depositories.

(b) To the extent that funds in the depository banks or savings associations are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds by Chapter 2257, Government Code (Public Funds Collateral Act).

(c) The board may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.157. Investments.

(a) All district deposits and investments shall be governed by Subchapter A, Chapter 2256, Government Code (Public Funds Investment Act).

(b) The board may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for the investments on such terms as the board considers advisable.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.1571. Investment Officer.

(a) Notwithstanding Section 2256.005(f), Government Code, the board may contract with a person to act as investment officer of the district.

(b) The investment officer of a district shall:

(1) not later than the first anniversary of the date the officer takes office or assumes the officer's duties, attend a training session of at least six hours of instruction relating to investment responsibilities under Chapter 2256, Government Code; and

(2) attend at least four hours of additional investment training within each two-year period after the first year.

(c) Training under this section must be from an independent source approved by:

(1) the board; or

(2) a designated investment committee advising the investment officer.

(d) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with Chapter 2256, Government Code.

(e) During January of each year, each individual, association, business, organization, governmental entity, or other person that provides training under this section shall report to the comptroller a list of the districts for which the person provided required training under this section during the previous calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 69 (H.B. 675), § 3, effective May 14, 2001.

Sec. 49.158. Fiscal Year.

Within 30 days after a district becomes financially active, the board shall adopt a fiscal year by a formal board resolution. The district shall notify the executive director of the adopted fiscal year within 30 days after adoption. The district may change its fiscal year at any time; provided, however, it may not be changed more than once in any 24-month period. After any change in the district's fiscal year, the district shall notify the executive director of the changed fiscal year within 30 days after adoption.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Secs. 49.159 to 49.180. [Reserved for expansion].

Subchapter F

Issuance of Bonds

Sec. 49.181. Authority of Commission over Issuance of District Bonds.

(a) A district may not issue bonds to finance a project for which the commission has adopted rules requiring review and approval unless the commission determines that the project is feasible and issues an order approving the issuance of the bonds. This section does not apply to:

(1) refunding bonds if the commission issued an order approving the issuance of the bonds or notes that originally financed the project;

(2) refunding bonds that are issued by a district under an agreement between the district and a municipality allowing the issuance of the district's bonds to refund bonds issued by the municipality to pay the cost of financing facilities;

(3) bonds issued to and approved by:

(A) the Farmers Home Administration;

(B) the United States Department of Agriculture;

(C) the North American Development Bank;

(D) the Texas Water Development Board; or

(E) a federally chartered instrumentality of the United States authorized under 12 U.S.C. Section 2128(f) to finance such a project, provided that the district that issues the bonds is located wholly in a county that:

(i) does not contain a municipality that has a population of more than 750,000; and

(ii) is not adjacent to a county described by Subparagraph (i);

(4) refunding bonds issued to refund bonds described by Subdivision (3); or

(5) bonds issued by a public utility agency created under Chapter 572, Local Government Code, any of the public entities participating in which are districts if at least one of those districts is a district described by Subsection (h)(1)(E).

(b) A district may submit to the commission a written application for investigation of feasibility. An engineer's report describing the project, including the data, profiles, maps, plans, and specifications prepared in connection with the report, must be submitted with the application.

(c) The executive director shall examine the application and the report and shall inspect the project area. The district shall, on request, supply the executive director with additional data and information necessary for an investigation of the application, the engineer's report, and the project.

(d) The executive director shall prepare a written report on the project and include suggestions, if any, for changes or improvements in the project. The executive director shall retain a copy of the report and send a copy of the report to both the commission and the district.

(e) The commission shall consider the application, the engineer's report, the executive director's report, and any other evidence allowed by commission rule to be considered in determining the feasibility of the project.

(f) The commission shall determine whether the project to be financed by the bonds is feasible and issue an order either approving or disapproving, as appropriate, the issuance of the bonds. If the commission determines that an application for the approval of bonds complies with the requirements for financial feasibility and the district submitting the application is not required to comply with rules regarding project completion, the commission may not disapprove the issuance of bonds for all or a portion of a project or require that the funding for all or a portion of a project be escrowed solely on the basis that the construction of the project is not complete at the time of the commission's determination. The commission shall retain a copy of the order and send a copy of the order to the district.

(g) Notwithstanding any provision of this code to the contrary, the commission may approve the issuance of bonds of a district without the submission of plans and specifications of the improvements to be financed with the bonds. The commission may condition the approval on any terms or conditions considered appropriate by the commission.

(h) This section does not apply to:

(1) a district if:

(A) the district's boundaries include one entire county;

(B) the district was created by a special Act of the legislature and:

(i) the district is located entirely within one county;

(ii) the district is located entirely within one or more home-rule municipalities;

(iii) the total taxable value of the real property and improvements to the real property zoned by one or more home-rule municipalities for residential purposes and located within the district does not exceed 25 percent of the total taxable value of all taxable property in the district, as shown by the most recent certified appraisal tax roll prepared by the appraisal district for the county; and

(iv) the district was not required by law to obtain commission approval of its bonds before the effective date of this section;

(C) the district is a special water authority;

(D) the district is governed by a board of directors appointed in whole or in part by the governor, a state agency, or the governing body or chief elected official of a municipality or county and does not provide, or propose to provide,

water, sewer, drainage, reclamation, or flood control services to residential retail or commercial customers as its principal function;

(E) the district on September 1, 2003:

(i) is a municipal utility district that includes territory in only two counties;

(ii) has outstanding long-term indebtedness that is rated BBB or better by a nationally recognized rating agency for municipal securities; and

(iii) has at least 5,000 active water connections; or

(F) the district:

(i) is a conservation and reclamation district created under Section 59, Article XVI, Texas Constitution, that includes territory in at least three counties; and

(ii) has the rights, powers, privileges, and functions applicable to a river authority under Chapter 30; or

(2) a public utility agency created under Chapter 572, Local Government Code, any of the public entities participating in which are districts if at least one of those districts is a district described by Subdivision (1)(E).

(i) An application for the approval of bonds under this section may include financing for payment of creation and organization expenses. Expenses are creation and organization expenses if the expenses were incurred through the date of the canvassing of the confirmation election. A commission rule regarding continuous construction periods or the length of time for the payment of expenses during construction periods does not apply to expenses described by this section.

(j) The commission shall approve an application to issue bonds to finance the costs of spreading and compacting fill to remove property from the 100-year floodplain made by a levee improvement district if the application otherwise meets all applicable requirements for bond applications.

(k) The commission shall approve an application to issue bonds to finance the costs of spreading and compacting fill to provide drainage that is made by a municipal utility district or a district with the powers of a municipal utility district if the costs are less than the cost of constructing or improving drainage facilities.

(*l*) If a district is approved for the issuance of bonds by the commission to use a certain return flow of wastewater, the approval applies to subsequent bond authorizations unless the district seeks approval to use a different return flow of wastewater.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 8, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 248 (H.B. 1541), § 12, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 608 (H.B. 1875), § 8, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 904 (S.B. 898), § 1, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 249 (H.B. 828), § 1, effective May 30, 2005; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 22.003, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 36 (S.B. 914), § 1, effective May 9, 2011; am. Acts 2011, 82nd Leg., ch. 156 (H.B. 1901), § 1, effective May 28, 2011; am. Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 14, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 21.004, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 207 (H.B. 4), § 2.20, effective September 1, 2013; am. Acts 2017, 85th Leg., ch. 965 (S.B. 2014), § 1, effective September 1, 2017.

Sec. 49.182. Commission Supervision of Projects and Improvements.

(a) During construction of projects and improvements approved by the commission under this subchapter, no substantial alterations may be made in the plans and specifications without the approval of the commission in accordance with commission rules.

(b) The executive director may inspect the improvements at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by the commission.

(c) If the executive director finds that the project is not being constructed in accordance with the approved plans and specifications, the executive director shall give written notice immediately by certified mail to the district's manager and to each board member.

(d) If within 10 days after the notice is mailed the board does not take steps to ensure that the project is being constructed in accordance with the approved plans and specifications, the executive director shall give written notice of this fact to the attorney general.

(e) After receiving this notice, the attorney general may bring an action for injunctive relief or quo warranto proceedings against the directors. Venue for either suit is exclusively in a district court in Travis County.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.183. Bond Sales.

(a) Except for refunding bonds, or bonds sold to a state or federal agency or to the North American Development Bank, bonds issued by a district shall be sold after advertising for and receiving competitive sealed bids and shall be awarded to the bidder whose bid produces the lowest net effective interest rate to the district.

(b) Except for refunding bonds, or bonds sold to a state or federal agency or to the North American Development Bank, before any bonds are sold by a district, the board shall publish an appropriate notice of the sale:

(1) at least one time not less than 10 days before the date of sale in a newspaper of general circulation in the county or counties in which the district is located; and

(2) at least one time in one or more recognized financial publications of general circulation in the state as approved by the state attorney general.

(c) If the district is issuing bonds and refunding bonds as one issue and if the initial principal amount of refunding bonds is 50 percent or more of the total initial principal amount of bonds being issued, for the purposes of this section, the issue shall be considered to be refunding bonds and competitive bids shall not be required.

(d) A district's bonds are negotiable instruments within the meaning and purposes of the Business & Commerce Code. A district's bonds may be issued and bear interest in accordance with Chapters 1201, 1204, and 1371, Government Code, and Subchapters A-C, Chapter 1207, Government Code. Except for this subsection, this section does not apply to special water authorities or districts described in Section 49.181(h)(1)(D).

(e) Subsections (a) and (b) do not apply to district bonds issued pursuant to Chapter 1371, Government Code.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.421, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 10, effective June 17, 2001; am. Acts 2003, 78th Leg., ch. 248 (H.B. 1541), § 13, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 608 (H.B. 1875), § 9, effective June 20, 2003; am. Acts 2011, 82nd Leg., ch. 156 (H.B. 1901), § 3, effective May 28, 2011.

Sec. 49.184. Approval of Bonds by Attorney General; Registration of Bonds.

(a) Before bonds issued by a district are delivered to the purchasers, a certified copy of all proceedings relating to organization of the district for first bond issues and issuance of the bonds and other relevant information shall be sent to the attorney general.

(b) The attorney general shall carefully examine the bonds, with regard to the record and the constitution and laws of this state governing the issuance of bonds, and the attorney general shall officially approve and certify the bonds if he or she finds that they conform to the record and the constitution and laws of this state and are valid and binding obligations of the district.

(c) After the attorney general approves and certifies the bonds, the comptroller shall register them in a book kept for that purpose and shall record the certificate of the attorney general.

(d) After the approval and registration of the bonds by the comptroller, they shall be incontestable in any court or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

(e) A contract or lease in which the proceeds of the contract or lease are pledged to the payment of a bond may be submitted to the attorney general along with the bond records, and, if submitted, the approval by the attorney general of the bonds shall constitute an approval of the contract or lease and the contract or lease shall be incontestable. A contract or lease, other than a contract or lease in which the proceeds of the contract or lease are pledged to the payment of a bond, may be submitted to the attorney general along with the bond records, and, if reviewed and approved by the attorney general, the approval of the bonds shall constitute an approval of the contract or lease and the contract or lease shall be incontestable.

(f) In any proceeding concerning the validity of the creation of a district or the annexation of property by a district, a certificate of ownership as certified by the central appraisal district of the county or counties in which the property is located creates a presumption of ownership, and additional proof of ownership is not required unless there is substantial evidence in the official deed records of the county in which the property is located to rebut the presumption. On request by a district, the central appraisal district of the county or counties in which the district is located shall furnish certificates of ownership and may charge reasonable fees to recover the actual costs incurred in preparing the certificates.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 11, effective June 17, 2001; am. Acts 2017, 85th Leg., ch. 352 (H.B. 1946), § 1, effective September 1, 2017.

Sec. 49.185. Exemptions.

This subchapter shall not apply to districts engaged in the distribution and sale of electric energy to the public.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.186. Authorized Investments; Security for Funds.

(a) All bonds, notes, and other obligations issued by a district shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, and trustees, and for all interest and sinking funds and other public funds of the state, and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic.

(b) A district's bonds, notes, and other obligations are eligible and lawful security for all deposits of public funds of the state, and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, notes, and other obligations when accompanied by any unmatured interest coupons attached to them.

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 9, effective September 1, 1997.

Secs. 49.187 to 49.190. [Reserved for expansion].

Subchapter G

Audit of Districts

Sec. 49.191. Duty to Audit.

(a) The board shall have the district's fiscal accounts and records audited annually at the expense of the district.

(b) In all areas of conflict, the provisions of this subchapter shall take precedence over all prior statutory enactments.

(c) The person who performs the audit shall be a certified public accountant or public accountant holding a permit from the Texas State Board of Public Accountancy.

(d) The audit required by this section shall be completed within 120 days after the close of the district's fiscal year.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.192. Form of Audit.

The executive director shall adopt accounting and auditing manuals and, except as otherwise provided by the manuals, the district audit shall be performed according to the generally accepted auditing standards adopted by the American Institute of Certified Public Accountants. Financial statements shall be prepared in accordance with generally accepted accounting principles as adopted by the American Institute of Certified Public Accountants.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.193. Financial Reports.

The district's depository, the district's treasurer, and the district's bookkeeper, if any, who receives or has control over any district funds shall keep a full and itemized account of district funds in its, his, or her possession. Such itemized accounts and records shall be available for audit.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.194. Filing of Audits, Affidavits, and Financial Reports.

(a) Except as provided by Subsection (h), after the board has approved the audit report, it shall submit a copy of the report to the executive director for filing within 135 days after the close of the district's fiscal year.

(b) Except as provided by Subsection (h), if the board refuses to approve the annual audit report, the board shall submit a copy of the report to the executive director for filing within 135 days after the close of the district's fiscal year, accompanied by a statement from the board explaining the reasons for its failure to approve the report.

(c) Copies of the audit report, the annual financial dormancy affidavit, or annual financial report described in Sections 49.197 and 49.198 shall be filed annually in the office of the district.

(d) Each district shall file with the executive director an annual filing affidavit in a format prescribed by the executive director, executed by a duly authorized representative of the board, stating that all copies of the annual audit report, annual financial dormancy affidavit, or annual financial report have been filed under this section.

(e) The annual filing affidavit shall be submitted with the applicable annual document when it is submitted to the executive director for filing as prescribed by this subchapter.

(f) The executive director shall file with the attorney general the names of any districts that do not comply with the provisions of this subchapter.

(g) A submission to the executive director required by this section may be made electronically.

(h) A special water authority shall submit a copy of the audit report to the executive director for filing not later than the 160th day after the date the special water authority's fiscal year ends.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 248 (H.B. 1541), § 14, effective June 18, 2003; am. Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 15, effective September 1, 2013.

Sec. 49.195. Review by Executive Director.

(a) The executive director may review the audit report of each district. After reviewing the audit report, the executive director may request additional information from the district. The district shall provide the additional information not later than the 60th day after the date the request was received, unless the executive director extends the time allowed for the district to provide additional information for good cause.

(b) Subject to Subsection (f), the commission may request that the state auditor assist in the establishment of standards and procedures for review of district audits by the executive director.

(c) If the executive director has any objections or determines any violations of generally accepted auditing standards or accounting principles, statutes, or board rules, or if the executive director has any recommendations, he or she shall notify the board and the district's auditor.

(d) Before the audit report may be accepted by the executive director as being in compliance with the provisions of this subchapter, the board and the auditor shall remedy objections and correct violations of which they have been notified by the executive director.

(e) If the audit report indicates that any penal law has been violated, the executive director shall notify the appropriate county or district attorney and the attorney general.

(f) Participation by the state auditor under Subsection (b) is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c), Government Code.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 54, effective September 1, 2003; am. Acts 2019, 86th Leg., ch. 608 (S.B. 911), § 3, effective September 1, 2019.

Sec. 49.196. Access to and Maintenance of District Records.

(a) The executive director may review and investigate a district's financial records and may conduct an on-site audit of a district's financial information. The executive director shall have access to all vouchers, receipts, district fiscal and financial records, and other district records the executive director considers necessary.

(b) All district fiscal records shall be prepared on a timely basis and maintained in an orderly manner in accordance with generally accepted accounting principles. The fiscal records shall be available for public inspection during regular business hours. A district's fiscal records may be removed from the district's office for the purposes of recording its fiscal affairs and preparing an audit, during which time the fiscal records are under the control of the district's auditor.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 2019, 86th Leg., ch. 608 (S.B. 911), § 4, effective September 1, 2019.

Sec. 49.197. Financially Dormant Districts.

(a) A financially dormant district is a district that had:

(1) $500 or less of receipts from operations, tax assessments, loans, contributions, or any other sources during the calendar year;

(2) $500 or less of disbursements of funds during the calendar year;

(3) no bonds or other long-term (more than one year) liabilities outstanding during the calendar year; and

(4) no cash or investments that exceeded $5,000 at any time during the calendar year.

(b) A financially dormant district may elect to submit to the executive director a financial dormancy affidavit instead of complying with the audit requirements of Section 49.191.

(c) The annual financial dormancy affidavit shall be prepared in a format prescribed by the executive director and shall be submitted for filing by a duly authorized representative of the district.

(d) The affidavit must be filed annually on or before January 31 with the executive director until such time as the district becomes financially active and the board adopts a fiscal year; thereafter, the district shall file annual audit reports as prescribed by this subchapter.

(e) A district that becomes financially dormant after having been financially active shall be required to file annual financial dormancy affidavits on or before January 31, until the district is either dissolved or again becomes financially active.

(f) Districts governed by this section are subject to periodic audits by the executive director.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.198. Audit Report Exemption.

(a) A district may elect to file annual financial reports with the executive director in lieu of the district's compliance with Section 49.191 provided:

(1) the district had no bonds or other long-term (more than one year) liabilities outstanding during the fiscal period;

(2) the district did not have gross receipts from operations, loans, taxes, or contributions in excess of $250,000 during the fiscal period; and

(3) the district's cash and temporary investments were not in excess of $250,000 during the fiscal period.

(b) The annual financial report must be accompanied by an affidavit attesting to the accuracy and authenticity of the financial report signed by a duly authorized representative of the district.

(c) The annual financial report and affidavit in a format prescribed by the executive director must be on file with the executive director within 45 days after the close of the district's fiscal year.

(d) Districts governed by this section are subject to periodic audits by the executive director.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 10, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 444 (S.B. 1361), § 1, effective August 29, 2011; am. Acts 2011, 82nd Leg., ch. 1021 (H.B. 2694), § 4.23, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1037 (H.B. 3002), § 1, effective June 17, 2011.

Sec. 49.199. Policies and Audits of Districts.

(a) Subject to the law governing the district, the board shall adopt the following in writing:

(1) a code of ethics for district directors, officers, employees, and persons who are engaged in handling investments for the district;

(2) a policy relating to travel expenditures;

(3) a policy relating to district investments that ensures that:

(A) purchases and sales of investments are initiated by authorized individuals, conform to investment objectives and regulations, and are properly documented and approved; and

(B) periodic review is made of district investments to evaluate investment performance and security;

(4) policies and procedures for selection, monitoring, or review and evaluation of professional services;

(5) a uniform method of accounting and reporting for industrial development bonds and pollution control bonds that complies with requirements of the commission; and

(6) policies that ensure a better use of management information including:

(A) budgets for use in planning and controlling cost;

(B) an audit committee of the board; and

(C) uniform reporting requirements that use "Audits of State and Local Governmental Units" as a guide on audit working papers and that use "Governmental Accounting and Financial Reporting Standards."

(b) The state auditor may audit the financial transactions of any district if the state auditor determines that the audit is necessary.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.1991. Efficiency Review of River Authorities.

A district that is a river authority is subject to an efficiency review by the Legislative Budget Board.

HISTORY: Enacted by Acts 2013, 83rd Leg., ch. 1293 (H.B. 2362), § 1, effective September 1, 2013.

Sec. 49.200. Review and Comment on Budget of Certain Districts.

A district that provides wholesale potable water and wastewater services shall adopt a program that provides such wholesale customers an opportunity to review and comment on the district's annual budget that applies to their services before that budget is adopted by the board.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Secs. 49.201 to 49.210. [Reserved for expansion].

Subchapter H

Powers and Duties

Sec. 49.211. Powers.

(a) A district shall have the functions, powers, authority, rights, and duties that will permit accomplishment of the purposes for which it was created or the purposes authorized by the constitution, this code, or any other law.

(b) A district is authorized to purchase, construct, acquire, own, operate, maintain, repair, improve, or extend inside and outside its boundaries any and all land, works, improvements, facilities, plants, equipment, and appliances necessary to accomplish the purposes of its creation or the purposes authorized by this code or any other law.

(c) A district that is authorized by law to engage in drainage or flood control activities may adopt:

(1) a master drainage plan, including rules relating to the plan and design criteria for drainage channels, facilities, and flood control improvements;

(2) rules for construction activity to be conducted within the district that:

(A) reasonably relate to providing adequate drainage or flood control; and

(B) use generally accepted engineering criteria; and

(3) reasonable procedures to enforce rules adopted by the district under this subsection.

(d) If a district adopts a master drainage plan under Subsection (c)(1), the district may adopt rules relating to review and approval of proposed drainage plans submitted by property developers. The district, by rule, may require that a property developer who proposes to subdivide land located in the district, and who is otherwise required to obtain approval of the plat of the proposed subdivision from a municipality or county, submit for district approval a drainage report for the subdivision. The drainage report must include a map containing a description of the land to be subdivided. The map must show an accurate representation of:

(1) any existing drainage features, including drainage channels, streams, flood control improvements, and other facilities;

(2) any additional drainage facilities or connections to existing drainage facilities proposed by the property developer's plan for the subdivision; and

(3) any other parts of the property developer's plan for the subdivision that may affect drainage.

(e) The district shall review each drainage report submitted to the district under this section and shall approve a report if it shows compliance with:

(1) the requirements of this section;

(2) the district's master drainage plan adopted under Subsection (c)(1); and

(3) the rules adopted by the district under Subsections (c)(2) and (d).

(f) On or before the 30th day after the date a drainage report is received, the district shall send notice of the district's approval or disapproval of the drainage report to:

(1) the property developer; and

(2) each municipal or county authority with responsibility for approving the plat of the proposed subdivision.

(g) If the district disapproves a drainage report, the district shall include in the notice of disapproval a written statement:

(1) explaining the reasons for the rejection; and

(2) recommending changes, if possible, that would make a revised version of the drainage report acceptable for approval.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 11, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 486 (H.B. 919), § 1, effective June 20, 2003.

Sec. 49.212. Fees and Charges.

(a) A district may adopt and enforce all necessary charges, mandatory fees, or rentals, in addition to taxes, for providing or making available any district facility or service, including fire-fighting activities provided under Section 49.351.

(b) A district may require a deposit for any services or facilities furnished and the district may or may not provide that the deposit will bear interest.

(c) Subject to observance of the procedure appropriate to the circumstances, a district may discontinue any or all facilities or services to prevent an abuse or to enforce payment of an unpaid charge, fee, or rental due the district, including taxes that have been delinquent for not less than six months.

(d) Notwithstanding any provision of law to the contrary, a district that charges a fee that is an impact fee as described in Section 395.001(4), Local Government Code, must comply with Chapter 395, Local Government Code. A charge or fee is not an impact fee under that chapter if:

(1) the charge or fee is imposed by a district for construction, installation, or inspection of a tap or connection to district water, sanitary sewer, or drainage facilities, including all necessary service lines and meters, for capacity in storm water detention or retention facilities and related storm water conveyances, or for wholesale facilities that serve such water, sanitary sewer, drainage, or storm water detention or retention facilities; and

(2) the charge or fee:

(A) does not exceed three times the actual costs to the district for such tap or connection;

(B) if made to a nontaxable entity for retail or wholesale service, does not exceed the actual costs to the district for such work and for all facilities that are necessary to provide district services to such entity and that are financed or are to be financed in whole or in part by tax-supported or revenue bonds of the district; or

(C) is made by a district for retail or wholesale service on land that at the time of platting was not being provided with water, wastewater, drainage, or storm water detention or retention service by the district.

(d-1) Actual costs under Subsections (d)(1) and (d)(2), as determined by the board in its reasonable discretion, may include nonconstruction expenses attributable to the design, permitting, financing, and construction of those facilities, and reasonable interest on those costs calculated at a rate not to exceed the net effective interest rate on any district bonds issued to finance the facilities.

(d-2) A district may pledge the revenues of the district's utility system to pay the principal of or interest on bonds issued to construct the capital improvements for which a charge or fee is imposed under Subsection (d), and money received from the fees shall be considered revenues of the district's utility system for purposes of the district's bond covenants.

(e) Chapter 2007, Government Code, does not apply to a tax levied, a standby fee imposed, or a charge, fee, or rental adopted or enforced by a district under this chapter, another chapter of this code, or Chapter 395, Local Government Code.

(f) Except as provided by Subsections (g) and (h), a district may not impose an impact fee, standby fee, or assessment on the property, including the equipment, rights-of-way, easements, facilities, or improvements, of:

(1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code, or a person who owns pipelines used for the transportation or sale of oil or gas or a product or constituent of oil or gas;

(3) a person who owns pipelines used for the transportation or sale of carbon dioxide;

(4) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(5) a cable service provider or video service provider as defined by Section 66.002, Utilities Code.

(g) A district may impose an impact fee, standby fee, or assessment on property described by Subsection (f) that is used as office space.

(h) A district may impose an impact fee on property described by Subsection (f) on the same terms as the district imposes an impact fee on other property if the owner of the property requests water or sewer services for that property from the district.

(i) Subsection (f) does not affect a district's authority to impose an ad valorem tax on property in the boundaries of the district under this chapter or other law.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 12, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 12, effective June 17, 2001; am. Acts 2009, 81st Leg., ch. 955 (H.B. 3435), § 1, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 16, effective September 1, 2013.

Sec. 49.2121. Acceptance of Credit Cards.

(a) In this section, "credit card" means a card, plate, or similar device authorizing a designated person or bearer to obtain goods, services, money, or any other thing of value on credit.

(b) A district may:

(1) accept a credit card for the payment of any fees and charges imposed by the district;

(2) collect a fee that is reasonably related to the expense incurred by the district in processing the payment by credit card; and

(3) collect a service charge for the expense incurred by the district in collecting the original fee or charge if the payment by credit card is not honored by the credit card company on which the funds are drawn.

(c) The service charge under Subsection (b)(3) may not exceed the amount charged for the collection of a check drawn on an account with insufficient funds.

(d) The district may not collect the service charge under Subsection (b)(3) if:

(1) the district is notified at the time of payment that the payment is not honored; and

(2) the customer immediately submits to the district an alternative form of payment.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 260 (H.B. 1935), § 1, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 17, effective September 1, 2013.

Sec. 49.2122. Establishment of Customer Classes.

(a) Notwithstanding any other law, a district may establish different charges, fees, rentals, or deposits among classes of customers that are based on any factor the district considers appropriate, including:

(1) the similarity of the type of customer to other customers in the class, including:

(A) residential;

(B) commercial;

(C) industrial;

(D) apartment;

(E) rental housing;

(F) irrigation;

(G) homeowner associations;

(H) builder;

(I) out-of-district;

(J) nonprofit organization; and

(K) any other type of customer as determined by the district;

(2) the type of services provided to the customer class;

(3) the cost of facilities, operations, and administrative services to provide service to a particular class of customer, including additional costs to the district for security, recreational facilities, or fire protection paid from other revenues; and

(4) the total revenues, including ad valorem tax revenues and connection fees, received by the district from a class of customers relative to the cost of service to the class of customers.

(a-1) Notwithstanding Subsection (a), a district that provides nonsubmetered master metered utility service, as defined by Section 13.087(a)(1), to a recreational vehicle park, as defined by Section 13.087(a)(3):

(1) shall determine the rates for that service on the same basis the district uses to determine the rates for other commercial businesses that serve transient customers and receive nonsubmetered master metered utility service from the district; and

(2) may not charge a person who owns or operates a recreational vehicle park that receives nonsubmetered master metered utility service from the district an administrative fee for the services provided.

(b) A district is presumed to have weighed and considered appropriate factors and to have properly established charges, fees, rentals, and deposits absent a showing that the district acted arbitrarily and capriciously.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 1430 (S.B. 3), § 7.01, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 6 (S.B. 569), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 613 (S.B. 1268), § 7, effective September 1, 2013.

Sec. 49.2125. Fees and Other Charges of Certain Regional Water Authorities After Annexation.

(a) This section applies to a regional water authority that:

(1) was established after January 1, 1999;

(2) is located entirely within a county with a population greater than 3.4 million according to the 2000 federal decennial census; and

(3) has a population greater than 375,000 according to the 2000 federal decennial census.

(b) Notwithstanding any other law, except to the extent an authority to which this section applies agrees in writing, a municipality's annexation of territory within the authority has no effect on the authority's ability to assess and collect inside the territory annexed by the municipality the types of fees, rates, charges, or special assessments that the authority was assessing and collecting at the time the municipality initiated the annexation; provided, however, that the authority's ability to assess and collect such fees, rates, charges, or special assessments shall terminate on the later to occur of (i) the date of final payment or defeasance of any bonds or other indebtedness, including any refunding bonds, that are secured by such fees, rates, charges, or special assessments or (ii) the date that the authority no longer provides services inside the annexed territory. An authority to which this section applies shall continue to provide services to the annexed territory in accordance with contracts in effect at the time of the annexation unless a written agreement between the governing body of the authority and the governing body of the municipality provides otherwise.

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 248 (H.B. 1541), § 15, effective June 18, 2003.

Sec. 49.213. Authority to Issue Contracts.

(a) A district may contract with a person or any public or private entity for the joint construction, financing, ownership, and operation of any works, improvements, facilities, plants, equipment, and appliances necessary to accomplish any purpose or function permitted by a district, or a district may purchase an interest in any project used for any purpose or function permitted by a district.

(b) A district may enter into contracts with any person or any public or private entity in the performance of any purpose or function permitted by a district.

(c) A district may enter into contracts, which may be of unlimited duration, with persons or any public or private entities on the terms and conditions the board may consider desirable, fair, and advantageous for:

(1) the purchase or sale of water;

(2) the collection, transportation, treatment, and disposal of its domestic, industrial, and communal wastes or the collection, transportation, treatment, and disposal of domestic, industrial, and communal wastes of other persons;

(3) the gathering, diverting, and control of local storm water, or other local harmful excesses of water;

(4) the continuing and orderly development of the land and property within the district through the purchase, construction, or installation of works, improvements, facilities, plants, equipment, and appliances that the district may otherwise be empowered and authorized to do or perform so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, all of the land and property may be placed in a position to ultimately receive the services of the works, improvements, plants, facilities, equipment, and appliances;

(5) the maintenance and operation of any works, improvements, facilities, plants, equipment, and appliances of the district or of another person or public or private entity;

(6) the collection, treatment, and disposal of municipal solid wastes; and

(7) the exercise of any other rights, powers, and duties granted to a district.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.214. Conflicts of Interest in Contracts.

The provisions of Chapter 171, Local Government Code, shall apply to the award of district contracts.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.2145. Use of Money Received Under Certain Contracts.

(a) This section applies only to a district located in:

(1) a county included in the Harris-Galveston Subsidence District; or

(2) a county included in the Fort Bend Subsidence District.

(b) A district that receives money from a municipality under the terms of a contract with the municipality, including a strategic partnership agreement authorized by Section 43.0751, Local Government Code, may use the money for any purpose of the district or the municipality, unless the contract requires the district to use the money for a specified purpose. For purposes of this chapter, a district purpose includes a municipal purpose for which money is used under this section.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 581 (H.B. 1599), § 1, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 21.005, effective September 1, 2013.

Sec. 49.215. Service to Areas Outside the District.

(a) A district may purchase, construct, acquire, own, operate, repair, improve, or extend all works, improvements, facilities, plants, equipment, and appliances necessary to provide any services or facilities authorized to be provided by

the district to areas contiguous to or in the vicinity of the district provided the district does not duplicate a service or facility of another public entity. A district providing potable water and sewer utility services to household users shall not provide services or facilities to serve areas outside the district that are also within the corporate limits of a city without securing a resolution or ordinance of the city granting consent for the district to serve the area within the city.

(b) To secure money for this purpose, a district is authorized to issue and sell negotiable bonds and notes payable from the levy and collection of ad valorem taxes on all taxable property within the district or from all or any designated part of the revenues received from the operation of the district's works, improvements, facilities, plants, equipment, and appliances or from a combination of taxes and revenues.

(c) Any bonds and notes may be issued upon the terms and conditions set forth in this code.

(d) A district shall not be required to hold a certificate of convenience and necessity as a precondition for providing retail water or sewer service to any customer or service area, notwithstanding the fact that such customer or service area may be located either within or outside the boundaries of the district or has previously received water or sewer service from an entity required by law to hold a certificate of convenience and necessity as a precondition for such service. This subsection does not authorize a district to provide services within an area for which a retail public utility holds a certificate of convenience and necessity or within the boundaries of another district without that district's consent, unless the district has a valid certificate of convenience and necessity to provide services to that area.

(e) A district is authorized to establish, maintain, revise, charge, and collect the rates, fees, rentals, tolls, or other charges for the use, services, and facilities that provide service to areas outside the district that are considered necessary and may be higher than those charged for comparable service to users within the district.

(f) The rates, fees, rentals, tolls, or other charges shall be at least sufficient to meet the expense of operating and maintaining the services and facilities for a water and sanitary sewer system serving areas outside the district and to pay the principal of and interest and redemption price on bonds issued to purchase, construct, acquire, own, operate, repair, improve, or extend the services or facilities.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.216. Enforcement by Peace Officers.

(a) A district may contract for or employ its own peace officers with power to make arrests when necessary to prevent or abate the commission of:

(1) any offense against the rules of the district when the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district;

(2) any offense involving injury or detriment to any property owned or controlled by the district; and

(3) any offense against the laws of the state.

(b) A district may appoint reserve peace officers who may be called to serve as peace officers by the district during the actual discharge of their official duties.

(c) A reserve peace officer serves at the discretion of the district and may be called into service if the district considers it necessary to have additional officers to preserve the peace in or enforce the law of the district.

(d) A reserve peace officer on active duty and actively engaged in assigned duties has the same rights, privileges, and duties as any other peace officer of the district.

(e) Any peace officer who is directly employed by a district, before beginning to perform any duties and at the time of appointment, must take an oath and execute a bond conditioned on faithful performance of such officer's duties in the amount of $1,000 payable to the district. The oath and the bond shall be filed in the district office.

(f) A peace officer contracted for by the district, individually or through a county, sheriff, constable, or municipality, is an independent contractor, and the district is responsible for the acts or omissions of the peace officer only to the extent provided by law for other independent contractors.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 2013, 83rd Leg., ch. 105 (S.B. 902), § 18, effective September 1, 2013.

Sec. 49.217. Operation of Certain Motor Vehicles on or Near Public Facilities.

(a) In this section, "motor vehicle" means a self-propelled device in, upon, or by which a person or property is or may be transported or drawn on a road or highway.

(b) Except as provided in Subsections (c) and (d), a person may not operate a motor vehicle on a levee, in a drainage ditch, or on land adjacent to a levee, canal, ditch, exposed conduit, pipeline, pumping plant, storm water facility, or other facility for the transmission, storage, treatment, or distribution of water, sewage, or storm water owned or controlled by a district.

(c) A district may authorize the use of motor vehicles on land that it owns or controls by posting signs on the property.

(d) This section does not prohibit a person from:

(1) driving on a public road or highway; or

(2) operating a motor vehicle used for repair or maintenance of public water, sewer, or storm water facilities.

(e) A person who operates a motor vehicle in violation of Subsection (b) commits an offense. An offense under this section is a Class C misdemeanor, except that if a person has been convicted of an offense under this section, a subsequent offense is a Class B misdemeanor.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.218. Acquisition of Property.

(a) A district or water supply corporation may acquire an interest in land, materials, waste grounds, easements, rights-of-way, equipment, contract or permit rights or interests, including a certificate of convenience and necessity, contractual rights to use capacity in facilities and to acquire facilities and other property, real or personal, considered necessary for the purpose of accomplishing any one or more of the district's or water supply corporation's purposes provided in this code or in any other law. A district may utilize proceeds from the sale and issuance of its bonds, notes, or other obligations to acquire the items authorized by this section.

(b) A district or water supply corporation shall have the right to acquire property by gift, grant, or purchase, and the right to acquire property shall include property considered necessary for the construction, improvement, extension, enlargement, operation, or maintenance of the plants, works, improvements, facilities, equipment, or appliances of a district or a water supply corporation.

(c) A district or water supply corporation may acquire either the fee simple title to or an easement on all land, both public and private, either inside or outside its boundaries and may acquire the title to or an easement on property other than land held in fee.

(d) A district or water supply corporation may require, as a condition for service, that an applicant for service grant to the district or water supply corporation a permanent recorded easement that:

(1) is dedicated to the district or water supply corporation; and

(2) will provide a reasonable right of access and use to allow the district or water supply corporation to construct, install, maintain, replace, upgrade, inspect, or test any facility necessary to serve that applicant as well as the district's or water supply corporation's purposes in providing system-wide service.

(e) A district or water supply corporation may not, under Subsection (d), require an applicant to provide an easement for a service line for the sole benefit of another applicant.

(f) As a condition of service to a new subdivision, a district or water supply corporation may require a developer to provide permanent recorded easements to and throughout the subdivision sufficient to construct, install, maintain, replace, upgrade, inspect, or test any facility necessary to serve the subdivision's anticipated service demands when the subdivision is fully occupied.

(g) A district or water supply corporation may also lease property from others for its use on such terms and conditions as the board of the district or the board of directors of the water supply corporation may determine to be advantageous.

(h) Property acquired under this section, or any other law allowing the acquisition of property by a district or water supply corporation, and owned by a district or water supply corporation is not subject to assessments, charges, fees, or dues imposed by a nonprofit corporation under Chapter 204, Property Code.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 13, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 71 (H.B. 924), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 13, effective June 17, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 18.009, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 962 (H.B. 1644), § 7, effective June 18, 2005.

Sec. 49.219. Acquisition of Existing Facilities.

Any district may acquire by agreement all or any part of existing water, sanitary sewer, or drainage systems of any water supply corporation, including works, improvements, facilities, plants, equipment, appliances, contract rights, and other assets and rights that are completed, partially completed, or under construction, and in connection therewith a district may assume all or any part of the contracts, indebtedness, or obligations of the corporation related to said systems, including any contracts, indebtedness, or obligations related to or payable from the revenues of said systems, and may perform all or any part of the obligations of said corporation in the same manner and to the same extent that any other purchaser or assignee could be bound on any such contracts, indebtedness, or obligations. Before assuming any indebtedness or obligations of such corporation related to any such system, a district other than a special water authority shall obtain the approval of the commission of such assumption.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.220. Right to Use Existing Rights-of-Way.

All districts or water supply corporations are given rights-of-way within, along, under, and across all public, state, county, city, town, or village roads, highways, and rights-of-way and other public rights-of-way without the requirement for surety bond or security; provided, however, that the entity having jurisdiction over such roads, highways, and rights-of-way may require indemnification. A district or water supply corporation shall not proceed with any action to change, alter, or damage a portion of the state highway system without having first obtained the written consent of the Texas Department of Transportation, and the placement of any facility of a district or water supply corporation within state highway right-of-way shall be subject to department regulation.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.2205. Use of Right-of-Way Easements for Certain Energy-Related Purposes [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 59 (S.B. 1253), § 1, effective September 1, 2009.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 1430 (S.B. 3), § 2.23, effective September 1, 2007.

Sec. 49.221. Right to Enter Land.

(a) The directors, engineers, attorneys, agents, operators, and employees of a district or water supply corporation may go on any land to inspect, make surveys, or perform tests to determine the condition, value, and usability of the property, with reference to the proposed location of works, improvements, plants, facilities, equipment, or appliances. The cost of restoration shall be borne by the district or the water supply corporation.

(b) District employees and agents are entitled to enter any public or private property within the boundaries of the district or adjacent to any reservoir or other property owned by the district at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the district. District employees or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit proper credentials.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.222. Eminent Domain.

(a) A district or water supply corporation may acquire by condemnation any land, easements, or other property inside or outside the district boundaries, or the boundaries of the certificated service area for a water supply corporation, necessary for water, sanitary sewer, storm drainage, or flood drainage or control purposes or for any other of its projects or purposes, and may elect to condemn either the fee simple title or a lesser property interest.

(b) The right of eminent domain shall be exercised in the manner provided in Chapter 21, Property Code, except that a district or a water supply corporation shall not be required to give bond for appeal or bond for costs in any condemnation suit or other suit to which it is a party and shall not be required to deposit more than the amount of any award in any suit.

(c) The power of eminent domain may not be used for the condemnation of land for the purpose of acquiring rights to underground water or of water or water rights.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.223. Costs of Relocation of Property.

(a) In the event that the district or the water supply corporation, in the exercise of the power of eminent domain or power of relocation or any other power, makes necessary the relocation, raising, lowering, rerouting, or change in grade of or alteration in construction of any road, bridge, highway, railroad, electric transmission line, telegraph, or telephone properties, facilities, or pipelines, all necessary relocations, raising, lowering, rerouting, or change in grade or alteration of construction shall be done at the sole expense of the district or the water supply corporation unless otherwise agreed to in writing. Such relocation shall be accomplished in a timely manner so that the project of the district or the water supply corporation is not delayed.

(b) "Sole expense" means the actual cost of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction and providing comparable replacement without enhancing the facilities after deducting from it the net salvage value derived from the old facility.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.224. Power to Condemn Cemeteries.

(a) The use of land for the construction of district dams and creation of lakes and reservoirs for the purpose of conservation and development of the natural resources of this state is hereby declared to be superior to all other uses, and for these purposes only a district has the power of eminent domain to acquire land, improvements, and other property owned and held for cemeteries or burial places necessary for the construction of a dam or that lies inside the area to be covered by the lake or reservoir or within 300 feet of the high water line of the lake or reservoir.

(b) Except as otherwise provided by this subchapter, the procedure in condemnation proceedings is governed by Chapter 21, Property Code.

(c) Notice shall be served on the title owner of the land on which the cemetery is situated as provided in Chapter 21, Property Code. General notice to persons having relatives interred in the cemetery shall be given by publication for two consecutive weeks in a newspaper circulated in the county in which the cemetery is situated.

(d) The measure of damages in these eminent domain proceedings shall be assessed as in other condemnation cases. An additional amount of damages shall be assessed to cover the cost of removing and reinterring the bodies interred in the cemetery or burial place and the cost of removing and resetting the monuments or markers erected at the graves.

(e) The additional assessment shall be deposited in the registry of the county court and disbursed only for the purpose of removing and reinterring the bodies in other cemeteries in Texas agreed on between the district and the relatives of the deceased persons.

(f) If in any case the district and the relatives of a deceased person cannot agree within 30 days on a cemetery for reinterment, or no relatives appear within that time, then the county judge shall designate the cemetery for reinterment.

(g) Instead of depositing the additional assessment in the registry of the court, the district may execute a bond sufficient to cover costs of removing and reinterring the bodies. The bond shall be payable to and approved by the county judge and conditioned that the bodies will be removed and reinterred as provided by this section.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.225. Leases.

A district may lease any of its property, real or personal, to any person. The lease may contain the terms and provisions that the board determines to be advantageous to the district.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.226. Sale or Exchange of Real or Personal Property.

(a) Any personal property valued at more than $300 or any land or interest in land owned by the district which is found by the board to be surplus and is not needed by the district may be sold under order of the board either by public or private sale, or the land, interest in land, or personal property may be exchanged for other land, interest in land, or personal property needed by the district. Except as provided in Subsection (b), land, interest in land, or personal property must be exchanged for like fair market value, which value may be determined by the district. In connection with the sale of surplus land, the board, at its discretion, may impose restrictions on the development and use of the land.

(b) Any property dedicated to or acquired by the district without expending district funds may be abandoned or released to the original grantor, the grantor's heirs, assigns, executors, or successors upon terms and conditions deemed necessary or advantageous to the district and without receiving compensation for such abandonment or release. District property may also be abandoned, released, exchanged, or transferred to another district, municipality, county, countywide agency, or authority upon terms and conditions deemed necessary or advantageous to the district. Narrow strips of property resulting from boundary or surveying conflicts or similar causes, or from insubstantial encroachments by abutting property owners, or property of larger configuration that has been subject to encroachments by abutting property owners for more than 25 years may be abandoned, released, exchanged, or transferred to such abutting owners upon terms and conditions deemed necessary or advantageous to the district. Chapter 272, Local Government Code, does not apply to this section.

(c) Before a public sale of real property, the district shall give notice of the intent to sell by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in the district.

(d) If the district has outstanding bonds secured by a pledge of tax revenues, the proceeds of the sale of property originally acquired with bond proceeds shall be:

(1) applied to retire outstanding bonds of the district; or

(2) held and treated as surplus bond proceeds and spent only as provided by the rules of the commission relating to surplus bond proceeds.

(e) If the district does not have any outstanding bonds, the proceeds derived from the sale of real or personal property may be used for any lawful purpose.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 14, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 14, effective June 17, 2001; am. Acts 2003, 78th Leg., ch. 248 (H.B. 1541), § 16, effective June 18, 2003.

Sec. 49.2261. Purchase, Sale, or Other Exchange of Water or Water Rights.

Notwithstanding any other law, the district may:

(1) purchase, acquire, sell, transfer, lease, or otherwise exchange water or water rights under an agreement between the district and a person or entity that contains terms that are considered advantageous to the district; and

(2) employ agents, consultants, brokers, professionals, or other persons that the board determines are necessary or appropriate to conduct a transaction described by Subdivision (1).

HISTORY: Enacted by Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 15, effective September 1, 1997.

Sec. 49.227. Authority to Act Jointly.

A district or water supply corporation may act jointly with any other person or entity, private or public, whether within the State of Texas or the United States, in the performance of any of the powers and duties permitted by this code or any other laws.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.228. Damage to Property.

A person who wilfully destroys, defaces, damages, or interferes with district or water supply corporation property is guilty of a Class B misdemeanor.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.229. Grants and Gifts.

A district may accept grants, gratuities, advances, and loans in any form from any source approved by the board, including any governmental entity, any private or public corporation, and any other person and may make and enter into contracts, agreements, and covenants the board considers appropriate in connection with acceptance of grants, gratuities, advances, and loans.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.2291. Donations for Economic Development.

(a) In this section, "economic development program" has the meaning assigned by Section 152.151.

(b) This section applies only to a district located in the unincorporated area of a county with a population of four million or more.

(c) A district may accept a donation in any form from any source approved by the board to provide funds to a nonprofit organization providing economic development programs that the board determines will preserve property values in the district.

(d) A contract with a nonprofit organization providing economic development programs described by Subsection (c) may include the specific uses of donations collected by the district on behalf of the nonprofit organization under this section.

(e) A contract entered into under Subsection (d) must require the nonprofit organization administering the program to:

(1) maintain accounting records and funds independent of all other funds unrelated to the program;

(2) make the records maintained under Subdivision (1) available for public inspection at reasonable times;

(3) have an annual independent audit made of the accounting records and funds;

(4) use the funds only for programs in a county described by Subsection (b); and

(5) reimburse the district for costs of collection incurred by the district, except to the extent that the district agrees to bear those costs.

(f) All records of the administrator of an economic development program, unless protected from disclosure under Chapter 552, Government Code, shall be public information, as defined by Section 552.002, Government Code.

(g) A district providing potable water or sewer service may, as part of its billing process, collect from customers voluntary donations on behalf of a nonprofit organization providing economic development programs described by Subsection (c). A district that collects voluntary donations under this subsection must give reasonable notice to customers that the donations are voluntary. If a donation is included in the total amount of a district's bill to a customer, the bill must identify the exact amount of the donation and include a telephone number the customer can call to have the donation deleted from the bill and any future bills issued to that customer. Water and sewer service may not be terminated as a result of failing to pay a voluntary donation.

HISTORY: Enacted by Acts 2015, 84th Leg., ch. 780 (H.B. 2528), § 1, effective June 17, 2015.

Sec. 49.230. Area-Wide Wastewater Treatment.

The powers and duties conferred on the district are granted subject to the policy of the state to encourage the development and use of integrated area-wide wastewater collection, treatment, and disposal systems to serve the wastewater disposal needs of the citizens of the state whenever economically feasible and competitive to do so, it being an objective of the policy to avoid the economic burden to the people and the impact on the quality of the water in the state that result from the construction and operation of numerous small wastewater collection, treatment, and disposal facilities to serve an area when an integrated area-wide wastewater collection, treatment, and disposal system for the area can be reasonably provided.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995.

Sec. 49.231. Standby Fees.

(a) In this section:

(1) "Standby fee" means a charge, other than a tax, imposed on undeveloped property for the availability of potable water, sanitary sewer, or drainage facilities and services.

(2) "Undeveloped property" means a tract, lot, or reserve in the district to which no potable water, sanitary sewer, or drainage connections have been made for which:

(A) water, sanitary sewer, or drainage facilities and services are available;

(B) water supply, wastewater treatment plant capacity, or drainage capacity sufficient to serve the property is available; or

(C) major water supply lines, wastewater collection lines, or drainage facilities with capacity sufficient to serve the property are available.

(b) A district that proposes to provide or actually provides retail potable water or sewer utility services, or drainage services as the principal function of the district, may, with the approval of the commission, adopt and impose on the owners of undeveloped property in the district a standby fee in addition to taxes levied by the district. A district may not impose a standby fee for debt service purposes on undeveloped property unless the facilities and services available to the property have been financed by the district; however, a district may impose a standby fee for operating and maintaining facilities that it has not financed. The district may impose standby fees in different amounts to fairly reflect the level and type of services and facilities available to serve different property. The intent of the standby fee is to distribute a fair portion of the cost burden for operating and maintaining the facilities and for financing capital costs of the facilities to owners of property who have not constructed improvements but have potable water, sewer, or drainage capacity available. Any revenues collected from the standby fees shall be used to pay operation and maintenance expenses, to pay debt service on the bonds, or both.

(c) If a district described in Subsection (b) desires to adopt and impose a standby fee, the district shall submit to the commission an application for authority to adopt and impose the standby fee. The application must describe the tracts of undeveloped property in the district and state the amount of the proposed fee.

(d) The executive director shall examine an application submitted under Subsection (c) and shall investigate the financial condition of the district, including the district's assets, liabilities, sources of revenue, level of utility service rates, and level of debt service and maintenance tax rates. On the request of the executive director, the district shall submit any information the executive director considers relevant to the examination and investigation. The executive director shall prepare a written report on the application and the district's financial condition, retain a copy of the report, and send a copy of the report to the commission and the district.

(e) Notice of an application submitted under Subsection (c) shall be published by the district in a form provided by the commission. The district shall publish notice in a newspaper of general circulation in the county or counties in which the district is located once a week for two consecutive weeks. The district shall also send notice of the application by certified mail, return receipt requested, to each owner of undeveloped property in the district. On the date the application is filed, the district's tax assessor and collector shall certify to the district the names of the persons owning undeveloped land in the district as reflected by the most recent certified tax roll of the district. Notice of the application must be sent by certified mail, return receipt requested, to each mortgagee of record that has submitted a written request to be informed of any application for standby fees. The written request for notice must include the name and address of the mortgagee, the name of the property owner in the district, and a brief property description. The commission may act on an application without conducting a hearing if a public hearing is not requested by the commission, the executive director, or an affected person in the manner prescribed by commission rule during the 30 days following publication of the notice or receipt of mail containing the notice under this subsection.

(f) The commission shall consider the application, the report of the executive director, and any other evidence allowed by commission rule. The commission may approve the application only if the commission finds that the fee is necessary to maintain the financial integrity and stability of the district and fairly allocates the costs of district facilities and services among property owners of the district.

(g) The commission shall issue an order approving or disapproving the application. The commission shall retain a copy of the order and send a copy of the order to the district.

(h) The commission may approve the adoption and imposition of the standby fee for a period of not more than three years. The imposition of a standby fee may be renewed for additional periods of not more than three years each in the same manner provided in this section for initial approval of the standby fee.

(i) If approved by the commission, the board by resolution or order may impose an annual standby fee on undeveloped land in the district.

(j) The board may:

(1) charge interest, at the rate of one percent a month, on a standby fee not paid in a timely manner in accordance with the resolution or order imposing the standby fee;

(2) impose a penalty in connection with a standby fee that is not paid in a timely manner in accordance with the resolution or order imposing the standby fee; and

(3) refuse to provide potable water, sanitary sewer, or drainage service to the property for which the fee was assessed until all delinquent standby fees on the property, interest on those fees, and all penalties imposed in connection with the delinquent standby fees are fully paid.

(k) A standby fee imposed under this section is a personal obligation of the person owning the undeveloped property on January 1 of the year for which the fee is assessed. A person is not relieved of the obligation on transfer of title to the property. On January 1 of each year, a lien attaches to undeveloped property to secure payment of any standby fee, interest on the fee, and any penalty imposed under this section. The lien has the same priority as a lien for taxes of the district.

(*l*) If a standby fee imposed under this section is not paid in a timely manner, a district may file suit to foreclose the lien securing payment of the fee, interest on the fee, and any penalty imposed in connection with the fee or to enforce the personal obligation for the fee, interest on the fee, and any penalty imposed in connection with the fee. In addition to the fee, interest on the fee, and any penalty imposed, the district may recover reasonable costs, including attorney's fees, incurred by the district in enforcing the lien or obligation not to exceed 20 percent of the delinquent fee, interest on the fee, and any penalty. A suit authorized by this subsection must be filed not later than the fourth anniversary of the date the fee became due. A fee delinquent for more than four years, interest on the fee, and any penalty imposed are considered paid unless a suit is filed before the expiration of the four-year period.

(m) Chapter 395, Local Government Code, does not apply to a standby fee imposed under this section.

(n) For purposes of title insurance policies issued under the authority of Title 11, Insurance Code, standby fees are considered taxes.

(o) The amount of the penalty authorized by Subsection (j) is six percent of the amount of the standby fee for the first calendar month the standby fee is delinquent, plus an additional one percent of the amount of the fee for each of the subsequent four months, or portion of each of those months, the fee is unpaid, except that if the fee remains unpaid on the first day of the sixth month after the month in which the fee became due, the amount of the penalty is 12 percent of the amount of the standby fee.

(p) This subsection applies only to the board of a district that has entered into a contract with an attorney for the collection of unpaid standby fees. In addition to the penalty authorized by Subsection (j) and in accordance with the resolution or order imposing a standby fee, the board may provide that a standby fee that is not paid in a timely manner is subject to a penalty to defray costs of collection of the unpaid standby fee. The amount of the additional penalty under this subsection may not exceed 15 percent of the amount of the standby fee, interest on the fee, and any penalty imposed in connection with the fee. A penalty under this subsection is incurred on the date set by the board. The penalty may be imposed only if the district or the attorney with whom the district has contracted notifies the property owner of the penalty and the amount of the penalty at least 30 but not more than 60 days before the date the penalty is incurred. A district that imposes the additional penalty under this subsection may not collect both the additional penalty and the attorney's fees provided by Subsection (*l*).

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 16, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1481 (H.B. 3549), § 35, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 11.164, effective September 1, 2005.

Sec. 49.232. Laboratory and Environmental Services.

A district may contract with any person, within or without the boundaries of the district, to provide or receive laboratory or environmental services related to environmental, health, or drinking water testing.

HISTORY: Enacted by Acts 1995, 74th Leg., ch. 715 (S.B. 626), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 17, effective September 1, 1997.

Sec. 49.233. Electric Generation, Transmission, and Distribution for Certain Districts.

(a) A district that owns or operates raw water pipelines that convey surface water, groundwater, or both surface water and groundwater, through more than 10 counties for municipal and industrial purposes may:

(1) develop, generate, transmit, or distribute water power and electric energy inside the district's boundaries for its own use;

(2) purchase electric energy from any available source for use at a facility the district owns, operates, and maintains inside the district's boundaries;

(3) enter into an agreement to acquire, install, construct, finance, operate, make an addition to, own, or operate an electric energy generating, transmission, or distribution facility jointly with another person; or

(4) sell or otherwise dispose of any of the district's interest in a jointly owned facility described by Subdivision (3).

(b) A district governed by this section:

(1) is subject to the transmission line certification provisions of Chapter 37, Utilities Code;

(2) may not generate electricity by means of hydroelectric generation.

HISTORY: Enacted by Acts 1999, 76th Leg., ch. 405 (S.B. 7), § 58, effective January 1, 2002.

Sec. 49.234. Prohibition of Certain Private On-Site Facilities.

(a) A district or water supply corporation that operates a wastewater collection system to serve land within its boundaries by rule may prohibit the installation of private on-site wastewater holding or treatment facilities on land within the district that is not served by the district's or corporation's wastewater collection system. A district or corporation that has not received funding under Subchapter K, Chapter 17, may not require a property owner who has installed an on-site wastewater holding or treatment facility before the adoption of the rule to connect to the district's or corporation's wastewater collection system.

(b) A district or water supply corporation that prohibits an installation described by Subsection (a) shall agree to pay the owner of a particular tract the costs of connecting the tract to the district's or corporation's wastewater collection

system if the distance along a public right-of-way or utility easement from the nearest point of the district's or corporation's wastewater collection system to the boundary line of the tract requiring wastewater collection services is 300 feet or more, subject to commission rules regarding reimbursement of those costs.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 15, effective June 17, 2001; am. Acts 2003, 78th Leg., ch. 248 (H.B. 1541), § 17, effective June 18, 2003.

Sec. 49.235. District Act or Proceeding Presumed Valid.

(a) A governmental act or proceeding of a district is conclusively presumed, as of the date it occurred, valid and to have occurred in accordance with all applicable statutes and rules if:

(1) the third anniversary of the effective date of the act or proceeding has expired; and

(2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before that third anniversary.

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred;

(3) a rule that, at the time it was passed, was preempted by a statute of this state or the United States, including Section 1.06 or 109.57, Alcoholic Beverage Code; or

(4) a matter that on the effective date of this section:

(A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(B) has been held invalid by a final judgment of a court.

HISTORY: Enacted by Acts 2001, 77th Leg., ch. 389 (H.B. 742), § 2, effective May 28, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(148), effective September 1, 2003 (renumbered from Sec. 49.234).

Sec. 49.236. [2 Versions: As added by Acts 2003, 78th Leg., ch. 335] Notice of Tax Hearing.

(a) **[Effective until January 1, 2020]** Before the board adopts an ad valorem tax rate for the district for debt service, operation and maintenance purposes, or contract purposes, the board shall give notice of each meeting of the board at which the adoption of a tax rate will be considered. The notice must:

(1) contain a statement in substantially the following form:

"NOTICE OF PUBLIC HEARING ON TAX RATE

"The (name of the district) will hold a public hearing on a proposed tax rate for the tax year (year of tax levy) on (date and time) at (meeting place). Your individual taxes may increase or decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.

"(Names of all board members and, if a vote was taken, an indication of how each voted on the proposed tax rate and an indication of any absences.)";

(2) contain the following information:

(A) the district's total adopted tax rate for the preceding year and the proposed tax rate, expressed as an amount per $100;

(B) the difference, expressed as an amount per $100 and as a percent increase or decrease, as applicable, in the proposed tax rate compared to the adopted tax rate for the preceding year;

(C) the average appraised value of a residence homestead in the district in the preceding year and in the current year; the district's total homestead exemption, other than an exemption available only to disabled persons or persons 65 years of age or older, applicable to that appraised value in each of those years; and the average taxable value of a residence homestead in the district in each of those years, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;

(D) the amount of tax that would have been imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;

(E) the amount of tax that would be imposed by the district in the current year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, if the proposed tax rate is adopted; and

(F) the difference between the amounts of tax calculated under Paragraphs (D) and (E), expressed in dollars and cents and described as the annual percentage increase or decrease, as applicable, in the tax to be imposed by the district on the average residence homestead in the district in the current year if the proposed tax rate is adopted; and

(3) contain a statement in substantially the following form:

"NOTICE OF TAXPAYERS' RIGHT TO ROLLBACK ELECTION

"If taxes on the average residence homestead increase by more than eight percent, the qualified voters of the district

by petition may require that an election be held to determine whether to reduce the operation and maintenance tax rate to the rollback tax rate under Section 49.236(d), Water Code."

(a) **[Effective January 1, 2020]** Before the board adopts an ad valorem tax rate for the district for debt service, operation and maintenance purposes, or contract purposes, the board shall give notice of each meeting of the board at which the adoption of a tax rate will be considered. The notice must:

(1) contain a statement in substantially the following form:

NOTICE OF PUBLIC HEARING ON TAX RATE

The (name of the district) will hold a public hearing on a proposed tax rate for the tax year (year of tax levy) on (date and time) at (meeting place). Your individual taxes may increase at a greater or lesser rate, or even decrease, depending on the tax rate that is adopted and on the change in the taxable value of your property in relation to the change in taxable value of all other property. The change in the taxable value of your property in relation to the change in the taxable value of all other property determines the distribution of the tax burden among all property owners.

"(Names of all board members and, if a vote was taken, an indication of how each voted on the proposed tax rate and an indication of any absences.)";

(2) contain the following information:

(A) the district's total adopted tax rate for the preceding year and the proposed tax rate, expressed as an amount per $100;

(B) the difference, expressed as an amount per $100 and as a percent increase or decrease, as applicable, in the proposed tax rate compared to the adopted tax rate for the preceding year;

(C) the average appraised value of a residence homestead in the district in the preceding year and in the current year; the district's total homestead exemption, other than an exemption available only to disabled persons or persons 65 years of age or older, applicable to that appraised value in each of those years; and the average taxable value of a residence homestead in the district in each of those years, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;

(D) the amount of tax that would have been imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;

(E) the amount of tax that would be imposed by the district in the current year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, if the proposed tax rate is adopted;

(F) the difference between the amounts of tax calculated under Paragraphs (D) and (E), expressed in dollars and cents and described as the annual percentage increase or decrease, as applicable, in the tax to be imposed by the district on the average residence homestead in the district in the current year if the proposed tax rate is adopted; and

(G) if the proposed combined debt service, operation and maintenance, and contract tax rate requires or authorizes an election to approve or reduce the tax rate, as applicable, a description of the purpose of the proposed tax increase;

(3) contain a statement in substantially the following form, as applicable:

(A) if the district is a district described by Section 49.23601:

NOTICE OF VOTE ON TAX RATE

"If the district adopts a combined debt service, operation and maintenance, and contract tax rate that would result in the taxes on the average residence homestead increasing by more than eight percent, an election must be held to determine whether to approve the operation and maintenance tax rate under Section 49.23601, Water Code.";

(B) if the district is a district described by Section 49.23602:

NOTICE OF VOTE ON TAX RATE

"If the district adopts a combined debt service, operation and maintenance, and contract tax rate that would result in the taxes on the average residence homestead increasing by more than 3.5 percent, an election must be held to determine whether to approve the operation and maintenance tax rate under Section 49.23602, Water Code."; or

(C) if the district is a district described by Section 49.23603:

NOTICE OF TAXPAYERS' RIGHT TO ELECTION TO REDUCE TAX RATE

"If the district adopts a combined debt service, operation and maintenance, and contract tax rate that would result in the taxes on the average residence homestead increasing by more than eight percent, the qualified voters of the district by petition may require that an election be held to determine whether to reduce the operation and maintenance tax rate to the voter-approval tax rate under Section 49.23603, Water Code."; and

(4) include the following statement: "The 86th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes in the state.".

(b) Notice of the hearing shall be:

(1) published at least once in a newspaper having general circulation in the district at least seven days before the date of the hearing; or

(2) mailed to each owner of taxable property in the district, at the address for notice shown on the most recently certified tax roll of the district, at least 10 days before the date of the hearing.

(c) The notice provided under this section may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper of general circulation, and the headline on the notice must be in 18-point or larger type.

(d) **[Effective until January 1, 2020]** If the governing body of a district adopts a combined debt service, operation and maintenance, and contract tax rate that would impose more than 1.08 times the amount of tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, the qualified voters of the district by petition may require that an election be held to determine whether or not to reduce the tax rate adopted for the current year to the rollback tax rate in accordance with the procedures provided by Sections 26.07(b)—(g) and 26.081, Tax Code. For purposes of Sections 26.07(b)—(g) and this subsection, the rollback tax rate is the current year's debt service and contract tax rates plus the operation and maintenance tax rate that would impose 1.08 times the amount of the operation and maintenance tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older.

(d) **[Effective January 1, 2020]** [Repealed.]

HISTORY: Enacted by Acts 2003, 78th Leg., ch. 248 (H.B. 1541), § 18, effective June 18, 2003; enacted by Acts 2003, 78th Leg., ch. 335 (S.B. 392), § 1, effective September 1, 2003; am. Acts 2019, 86th Leg., ch. 944 (S.B. 2), §§ 88, 91(6), effective January 1, 2020; Repealed by Acts 2019, 86th Leg., ch. 944 (S.B. 2), § 91(5), effective January 1, 2020.

Sec. 49.23601. Automatic Election to Approve Tax Rate for Low Tax Rate Districts. [Effective January 1, 2020]

(a) In this section, "voter-approval tax rate" means the rate equal to the sum of the following tax rates for the district:

(1) the current year's debt service tax rate;

(2) the current year's contract tax rate; and

(3) the operation and maintenance tax rate that would impose 1.08 times the amount of the operation and maintenance tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older.

(b) This section applies only to a district the board of which has adopted an operation and maintenance tax rate for the current tax year that is 2.5 cents or less per $100 of taxable value.

(c) If the board of a district adopts a combined debt service, contract, and operation and maintenance tax rate that would impose more than 1.08 times the amount of tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, an election must be held in accordance with the procedures provided by Sections 26.07(c)-(g), Tax Code, to determine whether to approve the adopted tax rate. If the adopted tax rate is not approved at the election, the district's tax rate is the voter-approval tax rate.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 944 (S.B. 2), § 89, effective January 1, 2020.

Sec. 49.23602. Automatic Election to Approve Tax Rate for Certain Developed Districts. [Effective January 1, 2020]

(a) In this section:

(1) "Developed district" means a district that has financed, completed, and issued bonds to pay for all land, works, improvements, facilities, plants, equipment, and appliances necessary to serve at least 95 percent of the projected build-out of the district in accordance with the purposes for its creation or the purposes authorized by the constitution, this code, or any other law.

(2) "Mandatory tax election rate" means the rate equal to the sum of the following tax rates for the district:

(A) the rate that would impose 1.035 times the amount of tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older; and

(B) the unused increment rate.

(3) "Unused increment rate" has the meaning assigned by Section 26.013, Tax Code.

(4) "Voter-approval tax rate" means the rate equal to the sum of the following tax rates for the district:

(A) the current year's debt service tax rate;

(B) the current year's contract tax rate;

(C) the operation and maintenance tax rate that would impose 1.035 times the amount of the operation and maintenance tax imposed by the district in the preceding year on a residence homestead appraised at the average

appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older; and

(D) the unused increment rate.

(b) This section applies only to a developed district that is not a district described by Section 49.23601.

(c) If the board of a district adopts a combined debt service, contract, and operation and maintenance tax rate that exceeds the district's mandatory tax election rate, an election must be held in accordance with the procedures provided by Sections 26.07(c)-(g), Tax Code, to determine whether to approve the adopted tax rate. If the adopted tax rate is not approved at the election, the district's tax rate is the voter-approval tax rate.

(d) Notwithstanding any other provision of this section, the board of a district may give notice under Section 49.236(a)(3)(A), determine whether an election is required to approve the adopted tax rate of the district in the manner provided for a district under Section 49.23601(c), and calculate the voter-approval tax rate of the district in the manner provided for a district under Section 49.23601(a) if any part of the district is located in an area declared a disaster area during the current tax year by the governor or by the president of the United States. The board may continue doing so until the earlier of:

(1) the second tax year in which the total taxable value of property taxable by the district as shown on the appraisal roll for the district submitted by the assessor for the district to the board exceeds the total taxable value of property taxable by the district on January 1 of the tax year in which the disaster occurred; or

(2) the third tax year after the tax year in which the disaster occurred.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 944 (S.B. 2), § 89, effective January 1, 2020.

Sec. 49.23603. Petition Election to Reduce Tax Rate for Certain Districts. [Effective January 1, 2020]

(a) In this section, "voter-approval tax rate" means the rate equal to the sum of the following tax rates for the district:

(1) the current year's debt service tax rate;

(2) the current year's contract tax rate; and

(3) the operation and maintenance tax rate that would impose 1.08 times the amount of the operation and maintenance tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older.

(b) This section applies only to a district that is not described by Section 49.23601 or 49.23602.

(c) If the board of a district adopts a combined debt service, contract, and operation and maintenance tax rate that would impose more than 1.08 times the amount of tax imposed by the district in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in the district in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, the qualified voters of the district by petition may require that an election be held to determine whether to reduce the tax rate adopted for the current year to the voter-approval tax rate in accordance with the procedures provided by Sections 26.075 and 26.081, Tax Code.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 944 (S.B. 2), § 89, effective January 1, 2020.

Sec. 49.2361. Additional Notice for Certain Tax Increases. [Repealed effective January 1, 2020]

If a district proposes to adopt a combined tax rate that would authorize the qualified voters of the district by petition to require a rollback election to be held in the district, the notice required by Section 49.236 must include a description of the purpose of the proposed tax increase.

HISTORY: Enacted by Acts 2015, 84th Leg., ch. 481 (S.B. 1760), § 12, effective January 1, 2016; Repealed by Acts 2019, 86th Leg., ch. 944 (S.B. 2), § 91(7), effective January 1, 2020.

Sec. 49.237. District Consent Requirement.

(a) This section applies only to a district that:

(1) provides potable water or sewer service;

(2) contracts for or employs peace officers;

(3) maintains a fire department;

(4) has within its boundaries:

(A) a private airport with a runway exceeding 5,900 feet in length; and

(B) a hotel; and

(5) is located in two counties.

(b) The area within a district described by Subsection (a) may not be included without the consent of the district in the boundaries of a municipality that provides law enforcement or fire protection services.

HISTORY: Enacted by Acts 2005, 79th Leg., ch. 1356 (S.B. 1498), § 1, effective June 18, 2005.

Sec. 49.238. Irrigation Systems.

(a) A district may adopt and enforce rules that require an installer of an irrigation system:

(1) to hold a license issued under Section 1903.251, Occupations Code; and

(2) to obtain a permit before installing a system within the boundaries of the district.

(b) If a district adopts rules under Subsection (a), the rules shall include minimum standards and specifications for designing, installing, and operating irrigation systems in accordance with Section 1903.053, Occupations Code, and any rules adopted by the Texas Commission on Environmental Quality under that section.

(c) A district may employ or contract with a licensed plumbing inspector, a licensed irrigation inspector, the district's operator, or another governmental entity to enforce the rules.

(d) A district may charge an installer of an irrigation system a fee for obtaining or renewing a permit under Subsection (a)(2). The district shall set the fee in an amount sufficient to enable the district to recover the cost of administering this section.

(e) This section does not apply to:

(1) an on-site sewage disposal system, as defined by Section 366.002, Health and Safety Code; or

(2) an irrigation system:

(A) used on or by an agricultural operation as defined by Section 251.002, Agriculture Code; or

(B) connected to a groundwater well used by the property owner for domestic use.

HISTORY: Enacted by Acts 2007, 80th Leg., ch. 874 (H.B. 1656), § 2, effective June 15, 2007.

Sec. 49.239. [Proposed enactment by Acts 2019, 86th Leg., H.J.R. No. 4, Contingent on Voter Approval] Cooperative Flood Control.

A district, including a river authority, may participate in cooperative flood control planning for the purpose of obtaining financial assistance as an eligible political subdivision for a flood control project under Subchapter I, Chapter 15.

HISTORY: Enacted by Acts 2019, 86th Leg., ch. 947 (S.B. 7), § 2.02.

Secs. 49.240 to 49.270. [Reserved for expansion].