

GOVERNMENT CODE

CHAPTER 419. TEXAS COMMISSION ON FIRE PROTECTION
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 419.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission on Fire Protection.

(2) "Volunteer fire fighter" and "volunteer fire chief" do not include a person who is also employed full-time in the fire service.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991.

Sec. 419.002. COMMISSION. The Texas Commission on Fire Protection is an agency of the state.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991.

Sec. 419.003. SUNSET PROVISION. The Texas Commission on Fire Protection is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2009. Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 3.10, eff. Nov. 12, 1991; Acts 1997, 75th Leg., ch. 1172, Sec. 1.01, eff. Sept. 1, 1997.

Sec. 419.004. COMPOSITION OF COMMISSION. (a) The commission is composed of the following 13 members:

(1) two members to be selected from a list of five names submitted by the Texas Fire Chiefs Association who are chief officers with a minimum rank that is equivalent to the position immediately below that of the fire chief and who are employed in fire departments as defined by Section 419.021 that are under the jurisdiction of the commission, at least one of whom must be the head of a fire department and one of whom must be employed by a political subdivision with a population of less than 50,000;

(2) two members to be selected from a list of five names submitted by the Texas State Association of Fire Fighters who are fire protection personnel as defined by Section 419.021 with the rank of battalion chief or below and who are employed in fire departments or other appropriate local authorities under the jurisdiction of the commission, one of whom must be employed by a political subdivision with a population of less than 50,000;

(3) two members to be selected from a list of five names submitted by the State Firemen's and Fire Marshals' Association of Texas who are volunteer fire chiefs or volunteer fire fighters;

(4) one certified fire protection engineer;

(5) one certified arson investigator or certified fire protection inspector;

(6) one fire protection instructor from an institution of higher education as defined by Section 61.003, Education Code; and

(7) four public members.

(b) The members of the commission are appointed by the governor with the advice and consent of the senate for staggered terms of six years with four or five members' terms expiring February 1 of each odd-numbered year.

(c) The duties of a public officer or employee on the commission constitute additional duties of the member's office or employment.

(d) Appointments to the commission shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

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

(1) is registered, certified, or licensed by the commission;

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

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

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

(5) is a member of a paid or volunteer fire department.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1172, Sec. 1.02, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1170, Sec. 14.01, eff. Sept. 1, 2003.

Sec. 419.005. REMOVAL OF COMMISSION MEMBERS. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Section 419.004;

(2) does not maintain during service on the commission the qualifications required by Section 419.004;

(3) violates a prohibition established by Section 419.006;

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

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

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

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.03, eff. Sept. 1, 1997.

Sec. 419.006. CONFLICT OF INTEREST. (a) An officer, employee, or paid consultant of a Texas trade association in the field of fire protection may not be a member of the commission or an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of fire protection may not be a commission member and may not be a commission employee who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined 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.

(d) A person may not serve as a member of the commission or act as the general counsel to the commission 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 commission.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991.

Sec. 419.007. OFFICERS; COMPENSATION; MEETINGS. (a) The fire protection instructor appointed under Section 419.004(a)(6) serves as the presiding officer of the commission unless the governor designates another member as presiding officer. The commission shall elect from among its members an assistant presiding officer and a secretary.

(b) The commission shall meet at least quarterly.

(c) A member of the commission may not receive compensation for service on the commission. A member is entitled to receive reimbursement, subject to any applicable limitation on reimbursement provided by the General Appropriations Act, for actual and necessary expenses incurred in performing services as a member of the commission.

(d) The commission shall develop and implement policies

that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 2, eff. Sept. 1, 1993.

Sec. 419.0071. COMMISSION MEMBER TRAINING. (a) To be eligible to take office as a member of the commission, a person appointed to the commission must complete at least one course of a training program that complies with this section.

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

(1) the enabling legislation that created the commission;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

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

(5) the current budget for the commission;

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

(7) the requirements of the:

(A) open meetings law, Chapter 551;

(B) open records law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

(8) the requirements of the conflict of interests laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the agency or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the commission.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 1.04, eff. Sept. 1, 1997.

Sec. 419.008. GENERAL POWERS AND DUTIES. (a) The commission may adopt rules for its internal management and control and for the administration of its powers and duties.

(b) The commission shall perform the duties assigned to the commission under this chapter or other law.

(c) The commission shall perform duties assigned by law to the Commission on Fire Protection Personnel Standards and Education or to the Fire Department Emergency Board.

(d) The commission may accept gifts, grants, and contributions from private individuals or foundations and from the federal government.

(e) The commission shall report to the governor annually and to the legislature at each regular session on the commission's activities. The commission may make recommendations in those reports on matters under its jurisdiction. The commission may make other reports in its discretion.

(f) The commission may appoint advisory committees to assist it in the performance of its duties. A member of an advisory committee appointed by the commission or otherwise appointed under this chapter may not receive compensation for service on the advisory committee. A member appointed under this chapter is entitled to receive reimbursement, subject to any applicable limitation on reimbursement provided by the General Appropriations Act, for actual and necessary expenses incurred in performing services as a member of the advisory committee.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 3, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1172, Sec. 1.05, eff. Sept. 1, 1997.

Sec. 419.0082. RULEMAKING. (a) In adopting or amending a rule under Section 419.008(a) or any other law, the commission shall seek the input of the fire fighter advisory committee and, when appropriate, the funds allocation advisory committee. The commission shall permit the appropriate advisory committee to review and comment on any proposed rule, including a proposed amendment to a rule, before the rule is adopted.

(b) The commission may not adopt a rule, including an amendment to a rule, before the commission meeting held after the commission meeting at which the rule is first proposed.

(c) This section does not apply to an emergency rule adopted

under Section 2001.034.

(d) Notwithstanding other provisions of this section, the commission may, without review by an advisory committee, make nonsubstantive clerical changes to a rule.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 1.06, eff. Sept. 1, 1997. Amended by Acts 2005, 79th Leg., ch. 112, Sec. 1, eff. May 20, 2005.

Sec. 419.009. PERSONNEL. (a) The commission shall employ an executive director who shall employ other personnel necessary for the performance of commission functions.

(b) The commission shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(c) The commission shall develop and implement policies that clearly define the respective responsibilities of the commission and the staff of the commission.

(d) The executive director or the executive director's designee shall develop an intraagency career ladder program that addresses opportunities for mobility and advancement for employees within the commission. The program shall require intraagency postings of all positions concurrently with any public posting.

(e) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for commission employees must be based on the system established under this subsection.

(f) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with the requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission work force that meets federal and state laws, rules, regulations, and instructions directly adopted under those laws, rules, or regulations;

(3) procedures by which a determination can be made about the extent of underuse in the commission work force of all persons for whom federal or state laws, rules, regulations, and instructions directly adopted under those laws, rules, or regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(g) A policy statement prepared under Subsection (f) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (f)(1), and be filed with the governor's office.

(h) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (g). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991. Added by Acts 1997, 75th Leg., ch. 1172, Sec. 1.07, eff. Sept. 1, 1997.

Sec. 419.0091. GENERAL COUNSEL. The commission may employ not more than one attorney. The attorney shall serve as general counsel of the commission.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 1.08, eff. Sept. 1, 1997.

Sec. 419.010. FISCAL REPORT. The commission shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.09, eff. Sept. 1, 1997.

Sec. 419.011. PUBLIC INTEREST INFORMATION AND

COMPLAINTS. (a) The commission shall prepare information of public interest describing the functions of the commission and the commission's procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies.

(b) The commission shall keep a file about each written complaint filed with the commission that the commission has authority to resolve. The commission shall provide to the person filing the complaint and the persons or entities complained about the commission's policies and procedures pertaining to complaint investigation and resolution. The commission, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) The commission shall keep information about each complaint filed with the commission. The information shall include:

- (1) the date the complaint is received;
- (2) the name of the complainant;
- (3) the subject matter of the complaint;
- (4) a record of all persons contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) for complaints for which the agency took no action, an explanation of the reason the complaint was closed without action.

(d) The commission shall comply with federal and state laws related to program and facility accessibility. The executive director shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.09, eff. Sept. 1, 1997.

SUBCHAPTER B. REGULATING AND ASSISTING FIRE FIGHTERS AND FIRE DEPARTMENTS

Sec. 419.021. DEFINITIONS. In this subchapter:

(1) "Aircraft rescue and fire protection personnel" means permanent, full-time local governmental employees who, as a permanent duty assignment, fight aircraft fires at airports, stand by for potential crash landings, and perform aircraft crash rescue.

(2) "Fire department" means a department of a local government that is staffed by permanent, full-time employees of the local government and that is organized to prevent or suppress fires.

(3) "Fire protection personnel" means:

(A) permanent, full-time law enforcement officers designated as fire and arson investigators by an appropriate local authority;

(B) aircraft rescue and fire protection personnel; or

(C) permanent, full-time fire department employees who are not secretaries, stenographers, clerks, budget analysts, or similar support staff persons or other administrative employees and who are assigned duties in one or more of the following categories:

- (i) fire suppression;
- (ii) fire inspection;
- (iii) fire and arson investigation;
- (iv) marine fire fighting;
- (v) aircraft rescue and fire fighting;
- (vi) fire training;
- (vii) fire education;
- (viii) fire administration; and
- (ix) any other position necessarily or customarily related to fire prevention or suppression.

(4) "Local government" means a municipality, a county, a special-purpose district or authority, or any other political subdivision of the state.

(5) "Marine fire protection personnel" means permanent, full-time local governmental employees who work aboard a fireboat and fight fires that occur on or adjacent to a waterway, waterfront, channel, or turning basin.

(6) "Protective clothing" means garments, including turnout coats, bunker coats, bunker pants, boots, gloves, trousers, helmets, and protective hoods, worn by fire protection personnel in the course of performing fire-fighting operations, including wildland fire suppression.

(7) "Structure fire protection personnel" means permanent, full-time local government employees who engage in fire-fighting activities involving structures and may perform other emergency activities typically associated with fire-fighting duties such as rescue, emergency medical response, confined space rescue, hazardous materials response, and wildland fire-fighting. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.40(a), eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.001 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 4, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1172, Sec. 2.01, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1241, Sec. 1, eff. Sept. 1, 2001.

Sec. 419.022. GENERAL POWERS RELATING TO THIS SUBCHAPTER. (a) The commission may:

(1) require the submission of reports and information by a local governmental agency in this state that employs fire protection personnel;

(2) assist fire departments and fire protection personnel with problems related to fire-fighting techniques, clothing, and equipment;

(3) assist fire departments and local governments with the development and updating of local fire codes;

(4) on request, assist in performing staffing studies of fire departments; and

(5) establish minimum educational, training, physical, and mental standards for admission to employment as fire protection personnel in a permanent, temporary, or probationary status and for advanced or specialized fire protection personnel positions.

(b) The commission may not change a minimum standard under Subsection (a)(5) to a standard that is less stringent than the applicable standard set by the Commission on Fire Protection Personnel Standards and Education in rules that were in effect on August 31, 1991.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.41(a), eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.007 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 5, eff. Sept. 1, 1993.

Sec. 419.0225. CERTAIN RULES PROHIBITED. (a) The commission may not adopt rules restricting competitive bidding or advertising by a certificate holder except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the commission may not include a rule that:

(1) restricts the use of any medium for advertising;

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

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

(4) restricts the certificate holder's advertisement under a trade name.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 2.02, eff. Sept. 1, 1997.

Sec. 419.023. FIRE FIGHTER ADVISORY COMMITTEE. (a) The commission shall establish a fire fighter advisory committee to assist the commission in matters relating to fire protection personnel, volunteer fire fighters, fire departments, and volunteer fire departments. The committee shall be composed of nine members appointed by the commission.

(b) Six members of the committee must be fire protection personnel or retired fire protection personnel who collectively represent various areas in the field of fire protection. Three members of the committee must be certified instructors of fire protection personnel. At least one member of the committee must be a volunteer fire fighter or volunteer fire chief.

(c) A committee member serves at the will of the commission.

(d) The committee shall elect a member of the committee as

the presiding officer of the committee. The committee shall meet at least twice each calendar year at the call of the presiding officer or at the call of the commission.

(e) The committee periodically shall review commission rules relating to fire protection personnel, fire departments, and other fire fighters and fire fighting organizations that are subject to regulation under this subchapter and recommend changes in the rules to the commission.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(64), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1172, Sec. 2.03, eff. Sept. 1, 1997.

Sec. 419.024. LOCAL GOVERNMENT POWERS. Except as expressly provided by this chapter, this subchapter does not limit the powers, rights, duties, or responsibilities of a local government and does not affect Chapter 143, Local Government Code.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.42(a), eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.008 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.025. MANUAL. The commission shall set and collect a fee for a manual that states rules and minimum standards for fire protection personnel. The amount of the fee may not exceed the cost of preparing, printing, and distributing the manual.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.43(a), eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.009 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.026. FEES FOR CERTIFICATES. (a) The commission shall set and collect a fee of not more than \$35 for each certificate that the commission issues or renews under this subchapter, except that if a person holds more than one certificate the commission may collect only one fee each year for the renewal of those certificates. The employing agency or entity shall pay this fee as provided by commission rule. The certificate must be renewed annually.

(b) The commission shall set and collect a fee for each examination given to fire protection personnel for basic certification under this subchapter. The amount of the fee may not exceed the cost of preparing, printing, administering, and grading the examination.

(c) The commission may revoke, refuse to issue, or refuse to renew the certificate of fire protection personnel for failure to pay a fee required under Subsection (a).

(d) The commission shall send the fees authorized by Subsection (a) and Section 419.033(b) to the comptroller, who shall deposit 50 percent of the fees collected annually into the general revenue fund and 50 percent of the fees collected annually into a special account in the general revenue fund dedicated for use by the commission. Except as otherwise provided by this chapter, 50 percent of the special fund created under this subsection may be used only to defray the commission's costs in performing inspections under Section 419.027 and the other 50 percent may be used only to provide training assistance under Section 419.031.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.44(a), eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 798, Sec. 1, eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.010 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 8.13, eff. Sept. 1, 1997.

Sec. 419.027. BIENNIAL INSPECTIONS. At least biennially, the commission shall visit and inspect each institution or facility conducting courses for training fire protection personnel and recruits, each fire department, and each local governmental agency providing fire protection to determine if the department, agency, institution, or facility is complying with this chapter and commission rules.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.028. TRAINING PROGRAMS AND INSTRUCTORS. The commission may:

(1) authorize reimbursement for a local governmental agency for expenses in attending training programs as authorized by

the legislature;

(2) through issuance or revocation of a certificate, approve or revoke the approval of an institution or facility for a school operated by or for this state or a local government specifically for training fire protection personnel or recruits;

(3) certify persons as qualified fire protection personnel instructors under conditions that the commission prescribes;

(4) contract with persons or public or private agencies, as the commission considers necessary, for studies and reports that the commission requires to cooperate with local governmental agencies in training programs and to otherwise perform its functions;

(5) revoke the certification of fire protection personnel instructors; and

(6) provide staff or educational materials on request to training programs or fire departments.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.45(a), eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.021 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 6, eff. Sept. 1, 1993.

Sec. 419.029. TRAINING CURRICULUM. The commission may establish minimum curriculum requirements for preparatory, in-service, and advanced courses and programs for a school operated by or for this state or a local government specifically for training fire protection personnel or recruits.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.46(a), eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.022 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.030. COOPERATION WITH OTHER ENTITIES FOR TRAINING PURPOSES. The commission may consult and cooperate with a local governmental agency, other governmental agency, university, college, junior college, or another institution concerning the development of training schools and programs of courses of instruction for fire protection personnel, including the preparation or implementation of continuing education or training programs.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.47(a), eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.023 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.031. TRAINING ASSISTANCE. The commission shall adopt rules and procedures for the administration of a training assistance program under this subchapter. The training assistance provided to fire departments under this subchapter may be provided by any of the following methods:

(1) purchasing and providing training aids to fire departments on a temporary or permanent basis;

(2) financing training seminars for fire departments;

or

(3) paying instructor fees to teach specialized courses for fire departments that employ fully paid fire protection personnel.

Added by Acts 1989, 71st Leg., ch. 798, Sec. 2, eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.024 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.032. APPOINTMENT OF FIRE PROTECTION PERSONNEL. (a) A fire department may not appoint a person to the fire department, except on a temporary or probationary basis, unless the person:

(1) has satisfactorily completed a preparatory program of training in fire protection at a school approved by the commission; and

(2) meets the qualifications established by the commission under Subsection (b).

(b) The commission by rule may establish qualifications relating to minimum age, education, physical and mental condition, citizenship, basic certification tests, continuing education or training programs, and other matters that relate to the competence and reliability of persons to assume and discharge the

responsibilities of fire protection personnel. The commission shall prescribe the means of presenting evidence of fulfillment of these qualifications. This chapter does not preclude an employing agency from establishing qualifications and standards for hiring fire protection personnel that exceed the minimum qualifications set by the commission.

(c) Fire protection personnel who receive temporary or probationary appointment and who fail to satisfactorily complete a basic course in fire protection, as prescribed by the commission, before one year after the date of the original appointment forfeit, and shall be removed from, the position. A temporary or probationary appointment may not be extended beyond one year by renewal of appointment or otherwise, except that on petition of a fire department one year or more after the date of the forfeiture and removal, the commission may reinstate the person's temporary or probationary employment. Fire protection personnel must complete a commission-approved training course in fire suppression before being assigned full-time to fire suppression duties. The commission may, on application by a fire department and after receiving the comments and advice of the fire fighter advisory committee, extend from one year to a period not to exceed two years the time allowed for fire protection personnel receiving a temporary or probationary appointment to successfully complete a basic course in fire protection.

(d) The commission may certify persons who are qualified under this subchapter to be fire protection personnel. The commission shall adopt rules relating to presentation of evidence of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the commission for approved fire protection education and training programs in this state and shall issue to a person meeting the rules a certificate evidencing satisfaction of Subsections (a) and (b). The commission may waive any certification requirement for an applicant with a valid license from another state having certification requirements substantially equivalent to those of this state.

(e) Fire protection personnel serving under permanent appointment before September 1, 1972, are not required to meet a requirement of Subsection (a) or (b) as a condition of tenure or continued employment or for eligibility for a promotional examination for which they are otherwise eligible. The fire protection personnel are eligible to attend training courses subject to commission rules.

(f) A local government may appoint a person to the position of head of the fire department, though the person is not certified by the commission as fire protection personnel, if the person either has at least 10 years' experience as a volunteer fire fighter or may be eligible to become certified under the provisions of Subsection (d) relating to other states or jurisdictions. The appointment is on a temporary basis pending certification of the person as fire protection personnel by the commission under this subsection. The temporary appointment may not be extended beyond one year by renewal of appointment or otherwise. In addition to rules adopted under Subsection (d) relating to other states or jurisdictions, the commission shall adopt rules for purposes of this subsection relating to presentation of evidence that a person has been a volunteer fire fighter for the required period. The rules may not include more stringent requirements on the nature of the volunteer fire departments with which a person may accumulate the required period of volunteer service than the requirements contained in the definition of an organized volunteer fire department under Chapter 615. The commission shall certify as fire protection personnel a person who is serving as a temporarily appointed department head under this subsection and who:

(1) presents satisfactory evidence that the person has been a volunteer fire fighter for at least 10 years and passes the commission's basic certification examination administered under this subchapter on the first or second attempt;

(2) presents satisfactory evidence that the person is eligible to be certified as fire protection personnel under Subsection (d) and passes the commission's basic certification examination administered under this subchapter on the first or second attempt; or

(3) satisfies the requirements of Subsections (a) and (b).

(g) This chapter does not prevent a fire department from assigning volunteer fire fighters, or other auxiliary fire fighters who are not fire protection personnel, to fire suppression, fire education, or fire station duties.

(h) This chapter does not prevent an employee of a local government from being a volunteer fire fighter.
Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.48(a), eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 798, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 416.031 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 7, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(31), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1241, Sec. 2, eff. Sept. 1, 2001.

Sec. 419.0321. PART-TIME FIRE PROTECTION EMPLOYEES. (a) A fire department may employ part-time fire protection employees under this section. The commission shall create a separate certification class for part-time fire protection employees.

(b) To become certified as a part-time fire protection employee, a person must:

(1) satisfy the requirements of Sections 419.032(a) and (b) or Section 419.032(d) for certification as fire protection personnel; and

(2) be employed by a fire department as a temporary or probationary part-time fire protection employee.

(c) A fire department may not employ a person as a part-time fire protection employee, except on a temporary or probationary basis, unless the person has been certified by the commission as a part-time fire protection employee. A temporary or probationary employment may not extend beyond one year or be renewed, except that on petition of a fire department one year or more after the date that a temporary or probationary part-time employment expires, the commission may reinstate the person's temporary or probationary part-time employment.

(d) A person who is certified as a part-time fire protection employee and a fire department or local government that employs a part-time fire protection employee are subject to this subchapter and applicable commission rules to the same extent that this subchapter and applicable commission rules apply to certified fire protection personnel and to a fire department or local government in the employment of fire protection personnel.

(e) A part-time fire protection employee may not:

(1) work more than 24 hours a week or average more than approximately 24 hours a week during a work cycle, as appropriate, for an employing fire department; or

(2) work more than 500 hours a year for an employing fire department in duties related to fire suppression.

(f) A part-time fire protection employee may work, on a temporary basis only, in place of a person who is fire protection personnel who is absent from work because of vacation, illness, injury, or administrative leave. Work may not be assigned under this subsection in a manner that will cause a reduction in the number of authorized full-time positions in a fire department. Hours worked under this subsection are not counted when computing hours under Subsection (e)(1).

Added by Acts 1993, 73rd Leg., ch. 912, Sec. 8, eff. Sept. 1, 1993.

Sec. 419.0322. CATEGORIES AND DESIGNATION OF PERSONS PERFORMING FIRE PROTECTION DUTIES. (a) Each person who is assigned by a fire department to perform one or more duties listed under Section 419.021(3)(C) must be:

(1) fire protection personnel;

(2) a part-time fire protection employee; or

(3) a volunteer or other auxiliary fire fighter.

(b) Each fire department shall designate each person who is assigned by the department to perform one or more duties listed under Section 419.021(3)(C) as fire protection personnel, a part-time fire protection employee, or a volunteer or auxiliary fire fighter, but a department may not designate the same person under more than one category under this section. The designation shall be made on the records of the department and the designation shall be made available for inspection by the commission or sent to the commission on request.

(c) A fire department may not compensate, reimburse, or provide benefits to a person the department has designated as a volunteer or other auxiliary fire fighter to the extent that the

person would be considered fully paid fire protection personnel.

(d) A person designated as a part-time fire protection employee under this section is subject to Section 419.0321.

Added by Acts 1993, 73rd Leg., ch. 912, Sec. 9, eff. Sept. 1, 1993. Amended by Acts 2005, 79th Leg., ch. 112, Sec. 2, eff. May 20, 2005.

Sec. 419.033. CERTIFICATE EXPIRATION. (a) The commission by rule may adopt a system under which certificates expire on various dates during the year. For the year in which the certificate expiration date is changed, certificate fees payable on the date set by commission rule shall be prorated on a monthly basis so that each fire department or other employing entity shall pay only that portion of the certificate fee that is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

(b) The commission shall issue to a person who has held a commission certificate but is no longer employed by an entity that is regulated by the commission a one-time certificate that states the level of certification held by the person on the date the person left the regulated entity's employment. The commission shall prescribe the procedure under which a person applies for a certificate under this subsection. The commission shall set and collect from the person a fee of not more than \$35 for the certificate.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.034. CERTIFICATE RENEWAL. (a) A fire department or other employing entity may renew an unexpired certification by paying to the commission before the expiration date of the certificate the required renewal fee.

(b) If a person's certificate has been expired for 30 days or less, the fire department or other employing entity may renew the certificate by paying to the commission the required renewal fee and a fee that is one-half of the certification fee for the certificate.

(c) If a person's certificate has been expired for longer than 30 days but less than one year, the fire department or other employing entity may renew the certificate by paying to the commission all unpaid renewal fees and a fee that is equal to the certification fee.

(d) If a person's certificate has been expired for one year or longer, the person may not renew the certificate. The person may obtain a new certificate by submitting to the proficiency examination or repeating the requirements and procedures for obtaining an original certificate. The commission shall charge a fee to recover the cost of administering the proficiency examination. The fire department or other employing entity shall pay the certification fee.

(e) Notwithstanding any other law, the commission by rule may establish a procedure to waive the late fees or examination required by this section if:

(1) the person's certificate expired because of the employing entity's good faith clerical error, including the failure of the employing entity to submit fees in a timely manner; or

(2) the person's certificate expired as a result of termination of the person's employment and the person has been restored to employment as a result of a disciplinary procedure or a court action.

(f) At least 30 days before the expiration of a person's certificate, the commission shall send written notice of the impending certificate expiration to the last known fire department or other employing entity employing the regulated person according to the records of the commission.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 10, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1172, Sec. 2.04, eff. Sept. 1, 1997.

Sec. 419.0341. INDIVIDUAL CERTIFICATE HOLDER; CERTIFICATE RENEWAL. (a) Notwithstanding any other provision of this subchapter, a person may be certified as fire protection personnel and continue to hold and renew the certificate without regard to whether the person is employed or continues to be employed by a local authority or fire department.

(b) A person who is certified as fire protection personnel who is not employed by a local authority or fire department may renew an unexpired certificate before the expiration of the

certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee.

(c) If the person's certificate has been expired for 30 days or less, the person may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee and a fee that is one-half of the certification fee for the certificate.

(d) If the person's certificate has been expired for longer than 30 days but less than one year, the person may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission all unpaid renewal fees and a fee that is equal to the certification fee for the certificate.

(e) If the person's certificate has been expired for one year or longer, the person may not renew the certificate. The person may obtain a new certificate by submitting to the proficiency examination or repeating the requirements and procedures for obtaining an original certificate. The commission shall charge a fee to cover the cost of administering the proficiency examination.

(f) At least 30 days before the expiration of the certificate of a person who is not employed by a local authority or fire department, the commission shall send written notice of the impending certificate expiration to the last known address of the person according to the records of the commission.

(g) The commission shall establish by rule the procedures and requirements for evidence of compliance with this section.

(h) Notwithstanding any other law, the commission by rule may establish a procedure to waive the late fees or examination required by this section for a person whose certificate expired because of the person's good faith clerical error, including the person's failure to submit fees in a timely manner.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 2.05, eff. Sept. 1, 1997.

Sec. 419.035. CERTIFICATION EXAMINATIONS. (a) Not later than the 30th day after the date on which a certification examination is administered under this subchapter, the commission shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the commission shall notify examinees of the results of the examination not later than the 14th day after the date on which the commission receives the results from the testing service. If the notice of examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the commission shall notify the examinee of the reason for the delay before the 90th day.

(b) If requested in writing by a person who fails an examination administered under this subchapter, the commission shall furnish the person with an analysis of the person's performance on the examination.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.036. DISCIPLINARY ACTIONS. (a) The commission may revoke or suspend a certificate, place on probation a person whose certificate has been suspended, or reprimand a regulated person for a violation of this subchapter or a rule of the commission. If a regulated person's suspension is probated, the commission may require the practitioner:

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

(2) to limit practice to the areas prescribed by the commission; or

(3) to continue or renew professional education until the practitioner attains a degree of skill satisfactory to the commission in those areas that are the basis of the probation.

(b) If the commission proposes to suspend or revoke a person's certificate, the person is entitled to a hearing before

the commission or a hearings officer appointed by the commission. The commission shall prescribe procedures by which all decisions to suspend or revoke are made by or are appealable to the commission. Added by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.0365. DISCIPLINARY HEARING. If the commission proposes to suspend, revoke, or refuse to renew a person's certificate, the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001. Rules of practice adopted by the commission under Section 2001.004 applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings. Added by Acts 1997, 75th Leg., ch. 1172, Sec. 2.06, eff. Sept. 1, 1997.

Sec. 419.037. APPOINTMENT AS MARINE FIRE PROTECTION PERSONNEL. (a) The commission shall adopt requirements for certification of marine fire protection personnel. A person may not be appointed to a marine fire protection personnel position, except on a probationary basis, unless the person has completed the training prescribed by the commission.

(b) Marine fire protection personnel appointed on a probationary basis must complete the prescribed training before two years after the date of appointment.

(c) Marine fire protection personnel serving under permanent appointment with five or more years' service before September 1, 1978, have satisfied the training requirements by experience.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.49(a), eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.032 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.038. APPOINTMENT TO AIRCRAFT FIRE FIGHTING AND RESCUE FIRE PROTECTION PERSONNEL POSITION. (a) The commission shall adopt requirements for certification of aircraft fire fighting and rescue fire protection personnel. A person may not be appointed to an aircraft fire fighting and rescue fire protection personnel position, except on a probationary basis, unless the person has completed the training prescribed by the commission.

(b) Aircraft fire fighting and rescue fire protection personnel appointed on a probationary basis must complete the prescribed training before two years after the date of appointment.

(c) Aircraft fire fighting and rescue fire protection personnel serving under permanent appointment with two or more years' service before September 1, 1984, have satisfied the training requirements.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.50(a), eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.033 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 11, eff. Sept. 1, 1993.

Sec. 419.039. CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) accepts an appointment in violation of Section 419.032 or 419.037;

(2) knowingly accepts an appointment in violation of Section 419.038;

(3) appoints or retains a person in violation of Section 419.032; or

(4) appoints a person in violation of Section 419.037 or 419.038.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$1,000.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.51, eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.034 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991.

Sec. 419.040. PROTECTIVE CLOTHING. (a) A fire department shall purchase, provide, and maintain a complete ensemble of appropriate protective clothing for each of its fire protection personnel who would be exposed to hazardous conditions from fire or other emergencies or where the potential for such exposure exists.

(b) The protective clothing shall be suitable for the task that the individual is expected to perform and must comply with the minimum standards of the National Fire Protection Association or its successor.

(c) The fire department shall develop and maintain a standard operating procedure covering the proper use, selection, care, and maintenance of all of its protective clothing. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.54(a), eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.041 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1241, Sec. 3, eff. Sept. 1, 2001.

Sec. 419.041. SELF-CONTAINED BREATHING APPARATUS. (a) A fire department shall furnish with self-contained breathing apparatus all of its fire protection personnel who engage in operations where the personnel might encounter atmospheres that are immediately dangerous to life or health, where the potential for such exposure exists, or where the atmosphere is unknown.

(b) All self-contained breathing apparatus shall comply with the minimum standards of the National Fire Protection Association or its successor.

(c) A fire department shall develop and maintain a standard operating procedure covering the proper use, selection, care, and maintenance of all of its breathing apparatus.

(d) A fire department shall require each self-contained breathing apparatus used by the department to be inspected at least monthly. The inspection shall comply with the minimum standards of the National Fire Protection Association or its successor.

(e) A fire department shall require each self-contained breathing apparatus used by the department to be tested annually for overall condition and proper functioning. The tests shall comply with the minimum standards of the National Fire Protection Association or its successor.

(f) A fire department that uses self-contained breathing apparatus shall have samples of the breathing air used to refill the cylinders of the self-contained breathing apparatus tested at least every six months by a competent testing laboratory that has equipment designed to test compressed breathing air. The quality of the compressed breathing air and the laboratory conducting the tests of the compressed breathing air quality must conform with the quality and testing procedures established by the National Fire Protection Association or its successor.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.55(a), eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.042 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1241, Sec. 4, eff. Sept. 1, 2001.

Sec. 419.042. PERSONAL ALERT SAFETY SYSTEMS. (a) A fire department shall purchase, provide, and maintain a personal alert safety system for each of its fire protection personnel who would be exposed to hazardous conditions from fire or other emergencies or where the potential for such exposure exists.

(b) The personal alert safety system must comply with minimum standards of the National Fire Protection Association or its successor.

(c) The fire department shall develop and maintain a standard operating procedure covering the proper use, selection, care, and maintenance of all of its personal alert safety systems. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.56(a), eff. Sept. 1, 1989. Redesignated from V.T.C.A., Government Code Sec. 416.043 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1241, Sec. 5, eff. Sept. 1, 2001.

Sec. 419.043. APPLICABLE NATIONAL FIRE PROTECTION ASSOCIATION STANDARD. The National Fire Protection Association standard applicable to protective clothing, self-contained breathing apparatus, or personal alert safety systems is the standard in effect when a fire-fighting agency contracts to purchase the item. The agency may continue to use an item that was in use or contracted for before a change in a standard unless the commission determines that the continued use constitutes an undue risk to the wearer, in which case the commission shall order the use

be discontinued and shall set an appropriate date for compliance with the revised standard.

Added by Acts 2001, 77th Leg., ch. 1241, Sec. 6, eff. Sept. 1, 2001.

Sec. 419.044. INCIDENT MANAGEMENT SYSTEM. (a) A fire department shall develop and maintain an incident management system. The system shall include a written standard operating procedure for the management of emergency incidents. The system shall require operations to be conducted in a manner that recognizes hazards and prevents accidents and injuries.

(b) A fire department shall require all fire protection personnel to be trained in and to use the incident management system. The system shall also be applied to all drills, exercises, and other situations that involve hazards similar to those encountered at actual emergency incidents.

(c) The incident management system shall comply with the minimum standards established by the National Fire Protection Association or its successor.

Added by Acts 2001, 77th Leg., ch. 1241, Sec. 7, eff. Sept. 1, 2001.

Sec. 419.045. PERSONNEL ACCOUNTABILITY SYSTEM. (a) A fire department shall develop and maintain a standard operating procedure for personnel accountability. The system shall provide a rapid accounting of all personnel at an emergency incident.

(b) A fire department shall require all personnel to be trained in and to use the personnel accountability system.

(c) The personnel accountability system shall comply with the minimum standards established by the National Fire Protection Association or its successor. If the National Fire Protection Association standard applicable to personnel accountability systems is revised, the fire department shall comply with the new standard within one year from the effective date of the new standard.

Added by Acts 2001, 77th Leg., ch. 1241, Sec. 8, eff. Sept. 1, 2001.

Sec. 419.046. FIRE PROTECTION PERSONNEL OPERATING AT EMERGENCY INCIDENTS. (a) A fire department shall develop, maintain, and use a standard operating procedure covering fire protection personnel operating at emergency incidents. The procedure shall specify an adequate number of personnel to safely conduct emergency scene operations. The procedure shall limit operations to those that can be safely performed by the personnel available at the scene.

(b) A fire department shall require all personnel to be trained in and to use the standard operating procedure pertaining to fire protection personnel operating at emergency incidents.

(c) The minimum standards established by the National Fire Protection Association or its successor for operating procedures for fire protection personnel operating at an emergency incident may be used as a guideline for fire departments when developing standard operating procedures.

(d) The standard operating procedures for structure fires shall comply with the Occupational Safety and Health Administration's Final Rule, 29 C.F.R. Section 1910.134(g)(4), procedures for interior structural fire fighting of July 1, 1998.

Added by Acts 2001, 77th Leg., ch. 1241, Sec. 9, eff. Sept. 1, 2001.

Sec. 419.047. COMMISSION ENFORCEMENT. The commission shall enforce Sections 419.040, 419.041, 419.042, 419.043, 419.044, 419.045, and 419.046. The commission may adopt minimum standards consistent with those sections for protective clothing, self-contained breathing apparatus, personal alert safety systems, incident management systems, personnel accountability systems, fire protection personnel operating at emergency incidents, and applicable National Fire Protection Association standards for fire protection personnel.

Added by Acts 2001, 77th Leg., ch. 1241, Sec. 10, eff. Sept. 1, 2001.

SUBCHAPTER C. FIRE DEPARTMENT EMERGENCY PROGRAM

Sec. 419.051. DEFINITIONS. In this subchapter:

(1) "Program" means the fire department emergency program.

(2) "Eligible local fire departments and public fire-fighting organizations" means municipal fire departments, volunteer fire departments, and publicly supported organizations that provide equipment or training to fire departments.

(3) "Equipment" includes protective clothing as defined by Section 419.021 and self-contained breathing apparatus. Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990.

Redesignated from V.T.C.A., Government Code Sec. 417.021 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991.

Sec. 419.052. PURPOSE. The purpose of this subchapter is to promote efficient fire protection for the residents of this state by providing to eligible local fire departments and public fire-fighting organizations:

(1) long-term or low interest loans or other financial assistance as the commission considers necessary to purchase necessary fire-fighting equipment and facilities; and

(2) scholarships and grants to better educate and train their members.

Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 417.022 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991.

Sec. 419.053. GENERAL POWERS AND DUTIES OF COMMISSION UNDER THIS SUBCHAPTER. (a) The commission shall:

(1) administer the fire department emergency program as provided by this subchapter and commission rules;

(2) contract with professional experts as necessary to assist the commission in carrying out its powers and duties under this subchapter;

(3) adopt rules for the administration of this subchapter;

(4) adopt and use a seal;

(5) administer oaths and take testimony on matters within the commission's jurisdiction under this subchapter;

(6) keep an accurate record of its meetings, receipts, and disbursements;

(7) submit to the presiding officers of each house of the legislature an annual report of the commission's activities under this subchapter; and

(8) consider and approve or disapprove applications for scholarships, grants, loans, and other financial assistance as provided by this subchapter.

(b) The rules adopted under Subsection (a)(3) must include rules establishing criteria to be used in the evaluation of applications for grants and loans with the assistance of staff.

Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 417.029 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.10, eff. Sept. 1, 1997.

Sec. 419.054. FUNDS ALLOCATION ADVISORY COMMITTEE. (a) The funds allocation advisory committee is composed of six members. Three members are appointed by the State Firemen's and Fire Marshals' Association of Texas. Three members are appointed by the Texas State Association of Fire Fighters. A committee member is subject to removal by the commission. A vacancy on the committee caused by removal of a member by the commission shall be filled by the authority that appointed the member who was removed.

(b) The committee shall elect a member of the committee as presiding officer of the committee. The committee shall meet at least twice each calendar year at the call of the presiding officer or at the call of the commission.

(c) The committee shall assist the commission in matters relating to the administration of this subchapter. The committee periodically shall review commission rules relating to the program and recommend changes in the rules to the commission.

(d) The committee shall review and evaluate all applications for financial assistance under this subchapter according to the rules and procedures adopted by the commission. The committee shall recommend to the commission which applications should be approved and which applications should be disapproved. A complete listing of applicants shall be provided to the commission with full disclosure of the reasons for approval or disapproval. If the commission does not concur with the committee's recommendation, the commission shall indicate to the committee the reasons that the commission did not concur with the recommendation and return the applications regarding which the commission did not concur to the committee for further review and evaluation.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(64), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1172, Sec. 1.11, eff. Sept. 1,

1997.

Sec. 419.055. CREATION OF PROGRAM. The fire department emergency program is created to provide scholarships, grants, loans, and other financial assistance to eligible local fire departments and other public fire-fighting organizations. Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 417.031 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991.

Sec. 419.056. LOANS OR OTHER FINANCIAL ASSISTANCE FOR EQUIPMENT AND FACILITIES. (a) The commission may make loans available or provide other financial assistance to an eligible local fire department or other public fire-fighting organization to:

(1) purchase fire-fighting equipment that is necessary for the local fire department or other public fire-fighting organization to meet its fire-fighting responsibilities; or

(2) finance equipment and facilities necessary to comply with federal and state law.

(b) The commission by rule shall establish guidelines for determining eligibility for a loan or other financial assistance under this subchapter and for determining the amounts of loans or other financial assistance that the commission may make available to eligible local fire departments and other public fire-fighting organizations. To be eligible for a loan or other financial assistance, a local fire department or other public fire-fighting organization must establish to the satisfaction of the commission that without a loan or other financial assistance the local fire department or other public fire-fighting organization would be unable to purchase necessary fire-fighting equipment.

(c) The commission by rule shall establish the types of equipment and facilities that a local fire department or other public fire-fighting organization may purchase with a loan or other financial assistance from the commission. The commission may consider national standards relating to fire-fighting equipment and facilities when adopting rules under this subsection.

(d) Out of money appropriated for the implementation of this subchapter, the commission may pay the certification fees of volunteer fire fighters who choose to be certified by the commission under Subchapter D.

(e) Except for money that is spent for administrative costs under this subchapter, the commission each fiscal year shall direct one-half of the money it spends that is appropriated for the implementation of this subchapter to municipal fire departments and one-half of that money to fire-fighting entities located in rural and unincorporated areas.

Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 417.032 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991.

Sec. 419.057. REVOLVING FUND. The comptroller shall establish in the state treasury the Fire Department Emergency Program revolving fund account. All money collected by the commission as loan payments and as payments on defaulted loans shall be deposited to the credit of the fund. Money deposited in the fund shall be used to make other loans under the program created by this subchapter.

Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 417.033 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991.

Sec. 419.058. SCHOLARSHIPS AND GRANTS FOR EDUCATION AND TRAINING. (a) The commission may award scholarships and grants to an eligible local fire department or other public fire-fighting organization. A local fire department or other public fire-fighting organization may use a scholarship or grant awarded under this subchapter only to educate and train its members to more effectively meet the members' fire-fighting responsibilities.

(b) The commission by rule shall establish guidelines for determining eligibility for a grant or scholarship under this subchapter and for determining the amount that the commission may award to an eligible local fire department or other public fire-fighting organization. To be eligible for a scholarship or grant, a local fire department or other public fire-fighting

organization must establish to the satisfaction of the commission that without a scholarship or grant the local fire department or other public fire-fighting organization would be unable to adequately train and educate its members.

(c) The commission by rule shall determine the types of educational and training programs for which the commission may award a scholarship or grant under this subchapter.

Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 417.034 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991.

Sec. 419.059. APPLICATION FOR SCHOLARSHIP, GRANT, LOAN, OR OTHER FINANCIAL ASSISTANCE. (a) A local fire department or other public fire-fighting organization may apply in writing to the commission for a scholarship, grant, loan, or other financial assistance.

(b) The application must include the following information:

(1) the official name and address of the applicant;

(2) the purposes for which the local fire department or other public fire-fighting organization would use the requested scholarship, grant, loan, or other financial assistance;

(3) the amount of the scholarship, grant, loan, or other financial assistance requested;

(4) if a loan, the proposed plan for repayment;

(5) financial information relating to the applicant as requested by the commission; and

(6) any other information the commission requires in order to make a decision on the application.

(c) The commission by rule shall prescribe the form of the application and the procedure for submitting and processing the application.

Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 417.035 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991.

Sec. 419.060. REVIEW OF APPLICATION. In addition to the criteria established by commission rules, the commission, in reviewing an application, shall consider:

(1) the purpose or purposes for which the applicant would use the scholarship, grant, loan, or other financial assistance;

(2) the needs of that applicant as compared to the needs of other eligible applicants;

(3) the financial need of the applicant for the money;

(4) the availability of other money to the applicant; and

(5) the ability of the applicant to finance its activities without a state scholarship, grant, loan, or other financial assistance.

Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 417.036 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991.

Sec. 419.061. APPROVAL OR REJECTION OF APPLICATION. The commission by rule shall establish procedures for accepting or rejecting applications.

Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 417.037 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991.

Sec. 419.062. CONTRACTS, AGREEMENTS, AND OTHER DOCUMENTS. (a) If the commission approves a loan application, the commission shall contract with the applicant to provide the funds under this subchapter. The commission shall provide the funds in accordance with the terms and conditions provided by this subchapter and commission rules.

(b) The commission may execute any other documents necessary to make a legally binding agreement as to the transfer and expenditure of the amount to be loaned or awarded and the repayment of any amount loaned.

Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 417.038 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991.

Sec. 419.063. LIMITATION ON SCHOLARSHIPS, GRANTS, LOANS, AND

OTHER FINANCIAL ASSISTANCE; USE OF APPROPRIATED FUNDS. (a) The commission may not make awards or loans under this subchapter to any one applicant in a total amount that is greater than an amount equal to five percent of the total amount of money appropriated to the program for the fiscal year during which the award or loan is made.

(b) The commission may not approve an application if the current appropriations for the program are insufficient to pay the total amount requested under the application.

(c) The commission may not use money appropriated for scholarships, grants, loans, and other financial assistance to be awarded under this subchapter for the administrative expenses of the funds allocation advisory committee.

(d) The commission may not approve an application if the applicant provides fire suppression services and the applicant does not routinely and consistently report incidents to the Texas Fire Incident Reporting System and participate in the National Incident Management System in accordance with the Federal Emergency Management Agency timeline. The applicant shall furnish sufficient proof of the required reporting to the commission at the time the application for a scholarship, grant, loan, or other financial assistance is submitted.

Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 417.039 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.12, eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 112, Sec. 3, eff. May 20, 2005.

Sec. 419.064. DEFAULT ON LOAN. (a) If a local fire department or other public fire-fighting organization cannot make payments on a loan made under this subchapter, the commission shall attempt to collect from the borrower as provided by this subchapter, the terms of the loan contract, and other agreements.

(b) The attorney general, at the request of the commission, shall take all necessary legal action to assist the commission in recovering amounts of a defaulted loan.

Acts 1989, 71st Leg., ch. 983, Sec. 3, eff. Jan. 1, 1990. Redesignated from V.T.C.A., Government Code Sec. 417.040 and amended by Acts 1991, 72nd Leg., ch. 628, Sec. 3, eff. Sept. 1, 1991.

SUBCHAPTER D. VOLUNTEER FIRE FIGHTERS AND FIRE DEPARTMENTS

Sec. 419.071. VOLUNTARY CERTIFICATION PROGRAM FOR VOLUNTEER FIRE FIGHTERS AND FIRE DEPARTMENTS. (a) The commission shall develop a voluntary certification program for volunteer fire fighters and volunteer fire departments. The program must include the same components and requirements as the certification program established under Subchapter B. The certification program for volunteer fire fighters and volunteer fire departments may take into account the different circumstances of volunteer fire fighters in establishing deadlines for completion of various components or requirements of the program.

(b) A certificate for a given type and level of certification that is issued under the certification program established under this section is equivalent to a certificate for the same type and level issued under Subchapter B. The certificate is subject to the same issuance and renewal requirements as a certificate issued under Subchapter B, and a certificate holder may be disciplined and regulated in the same manner as provided by Subchapter B.

(c) A volunteer fire fighter, volunteer fire department, or facility that provides training to volunteer fire fighters is not required to participate in any component of the commission's program under this chapter. A volunteer fire fighter, volunteer fire department, or facility that provides training to volunteer fire fighters may on request participate in one or more components of the program under this subchapter as appropriate. The volunteer fire department with which a volunteer fire fighter is affiliated may, but is not required to, pay the certificate fee for a volunteer fire fighter certified under this subchapter.

(d) At least 30 days before the expiration of a volunteer fire fighter's certificate, the commission shall send written notice of the impending certificate expiration to the last known address of the fire fighter according to the records of the commission.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 12, 13, eff. Sept. 1,

1993; Acts 1997, 75th Leg., ch. 1172, Sec. 2.07, eff. Sept. 1, 1997.

Sec. 419.072. OBTAINING PAID EMPLOYMENT AS FIRE FIGHTER. (a) Notwithstanding anything to the contrary in Subchapter B, a fire department may appoint as fire protection personnel a volunteer fire fighter or former volunteer fire fighter who is certified by the commission under this subchapter. On receiving the appointment from the employing fire department, the person is considered to be certified fire protection personnel.

(b) In this section, "fire department" has the meaning assigned by Section 419.021.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 16, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Government Code Sec. 419.075 and amended by Acts 1997, 75th Leg., ch. 1172, Sec. 2.07, eff. Sept. 1, 1997.

Sec. 419.073. INDIVIDUAL CERTIFICATE HOLDER; CERTIFICATE RENEWAL. (a) A volunteer fire fighter certified under this subchapter may continue to hold and renew the certificate without regard to whether the person continues to be affiliated with a volunteer fire department.

(b) A former volunteer fire fighter who is no longer affiliated with a volunteer fire department may renew an unexpired certificate before the expiration of the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee.

(c) If a person's certificate has been expired for 30 days or less, the person may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee and a fee that is one-half of the certification fee for the certificate.

(d) If a person's certificate has been expired for longer than 30 days but less than one year, the person may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission all unpaid renewal fees and a fee that is equal to the certification fee.

(e) If a person's certificate has been expired for one year or longer, the person may not renew the certificate.

(f) The commission shall establish by rule the requirements evidence must meet to be considered satisfactory for the purpose of complying with this section.

(g) Notwithstanding any other law, the commission may by rule establish a procedure to recertify a person if:

(1) the person's certification has lapsed because of the person's good faith clerical error, including the person's failure to submit fees in a timely manner; or

(2) the person's certification has lapsed as a result of termination of the person's employment and the person has been restored to employment as a result of a disciplinary procedure.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 2.07, eff. Sept. 1, 1997.

SUBCHAPTER E. PAID FIRE FIGHTERS AND FIRE DEPARTMENTS NOT CONNECTED WITH A LOCAL GOVERNMENT

Sec. 419.081. MANDATORY INSPECTION AND REGULATION OF CERTAIN STATE AGENCIES. (a) Each state agency providing fire protection shall furnish all of its employees who engage in fire fighting with self-contained breathing apparatus as provided by Section 419.041 for local fire departments.

(b) At least biennially, the commission shall visit and inspect each state agency providing fire protection to determine if the agency is complying with applicable portions of this chapter and commission rules.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.

Sec. 419.082. TRAINING FOR STATE AGENCY FIRE FIGHTERS. The commission may allow a state agency employee who provides fire protection to attend fire protection training programs conducted under Subchapter B, including an employee who is not regulated

under Section 419.083. The commission may authorize reimbursement for a state agency's costs under this section as authorized by the legislature, whether or not the agency is regulated under Section 419.083.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.

Sec. 419.083. VOLUNTARY REGULATION OF CERTAIN STATE OFFICIALS, STATE AGENCIES, AND STATE AGENCY EMPLOYEES. (a) Certain state officials, state agencies, and state agency employees may apply to the commission for regulation under one or more discrete components of the commission's regulatory authority under Subchapter B. The commission shall define the components by rule.

(b) A state agency employee who would be fire protection personnel under Section 419.021 if the person were employed by a local government, or who is employed full-time in the field of fire instruction or fire training evaluation and who meets the commission's training and experience requirements for fire protection personnel, may apply to the commission for regulation under this section. The fact that a state agency employee becomes regulated by the commission under this section does not make the employing agency subject to commission regulation under this section, except that the commission may require reports from the agency that relate to the employee. A state agency may pay an employee's fees under this subsection.

(c) A person who is elected to public office in state government and who holds a commission certificate at the time the person takes office may maintain the certificate by applying to the commission for regulation under this section and by paying the required renewal fee in accordance with Section 419.034. A person applying for regulation under this section must comply with continuing education requirements applicable to the discipline in which the certificate is held in order to maintain the certificate.

(d) A state agency may apply to the commission for regulation under this section if the agency is the employing authority for persons who, if employed by a local government, would be fire protection personnel under Section 419.021.

(e) The commission shall prescribe the procedures under which a state official, state agency, or agency employee may apply for regulation under this section and the means by which the state official, state agency, or agency employee may present evidence that the official, agency, or employee is eligible for regulation under this section.

(f) The commission shall determine whether a state official, state agency, or agency employee that has applied for regulation is eligible for regulation under this section. The commission shall approve a request for regulation if the official, agency, or employee meets the requirements of Subsection (b), (c), or (d), and the commission shall notify the applying official, agency, or employee of its decision.

(g) A state official, state agency, or agency employee regulated under this section is subject to the appropriate component or components of Subchapter B and applicable rules adopted under this chapter to the same extent as a local government, a fire department, or fire protection personnel employed by a local government.

(h) A state agency or agency employee that is subject to regulation under this section is entitled to a reasonable period in which to comply with applicable requirements. The commission by rule shall determine the time period in which a state agency or agency employee must come into compliance with each requirement.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 17, eff. Sept. 1, 1993.

Sec. 419.084. VOLUNTARY REGULATION OF CERTAIN FEDERAL AGENCIES AND FEDERAL FIRE FIGHTERS. (a) Certain federal agencies and federal fire fighters may apply to the commission for regulation under one or more discrete components of the commission's regulatory authority under Subchapter B. The commission shall define the components by rule.

(b) A federal fire fighter who would be fire protection personnel under Section 419.021 if the person were employed by a local government may apply to the commission for regulation under this section. The fact that a federal fire fighter becomes regulated by the commission under this section does not make the employing agency subject to commission regulation under this section.

(c) A federal agency may apply to the commission for regulation under this section if the agency is the employing authority for persons who, if employed by a local government, would be fire protection personnel under Section 419.021.

(d) The commission shall prescribe the procedures under which a federal agency or federal fire fighter may apply for regulation under this section and the means by which a federal agency or federal fire fighter may present evidence that the agency or fire fighter is eligible for regulation under this section.

(e) The commission shall determine whether a federal agency or federal fire fighter that has applied for regulation is eligible for regulation under this section. The commission shall approve a request for regulation if the agency or fire fighter meets the requirements of Subsection (b) or (c), and the commission shall notify the applying agency or fire fighter of its decision.

(f) A federal agency or federal fire fighter regulated under this section is subject, to the extent allowed by federal law, to the appropriate component or components of Subchapter B and applicable rules adopted under this chapter to the same extent as a local government, a fire department, or fire protection personnel employed by a local government.

(g) A federal agency or federal fire fighter that is subject to regulation under this section is entitled to a reasonable period in which to comply with applicable requirements. The commission by rule shall determine the time period in which a federal agency or federal fire fighter must come into compliance with each requirement.

(h) In this section, "federal fire fighter" means a person who is employed to provide fire protection to property of the federal government by:

- (1) an agency of the federal government; or
- (2) an entity that contracts with the federal

government.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 18, eff. Sept. 1, 1993.

Sec. 419.085. VOLUNTARY REGULATION OF CERTAIN NONGOVERNMENTAL DEPARTMENTS. (a) A nongovernmental entity may apply to the commission for regulation under Subchapter B if:

(1) the entity is the employing authority for persons who, if employed by a local government, would be fire protection personnel under Section 419.021; and

(2) at the time of application, those fire protection employees are employed to provide fire protection for an unincorporated area that:

(A) constitutes a rating territory established by the State Board of Insurance with a protected key rate assigned by the board; and

(B) has a population of more than 25,000.

(b) The commission shall prescribe the procedures under which a nongovernmental entity may apply for regulation under this section and the means by which it may present evidence that it is eligible for regulation under Subsection (a).

(c) The commission shall determine whether an entity that has applied for regulation under this section is eligible for regulation under Subsection (a). The commission shall approve a request for regulation if the entity meets the requirements of Subsection (a), and the commission shall notify the applying entity and the affected fire protection employees of its decision.

(d) A nongovernmental entity, department, and fire protection employee regulated under this section are subject to Subchapter B and applicable commission rules to the same extent that Subchapter B and applicable commission rules apply to a local government, a fire department, or fire protection personnel employed by a local government.

(e) A person, department, or other entity that is subject to regulation under this section is entitled to a reasonable period in which to comply with the requirements of Subchapter B and applicable commission rules. The commission by rule shall determine the time period in which a person, department, or other entity must come into compliance with each requirement.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.

Sec. 419.086. ELIGIBILITY FOR CERTAIN TRAINING ASSISTANCE. If an entity or the employees of an entity are regulated under this subchapter so that as a consequence of the

regulation a certification fee is paid to the commission on behalf of each employee of the entity who would be fire protection personnel under Section 419.021 if the employee were employed by a local government, the commission shall use the special account in the general revenue fund created under Section 419.026(d) to provide training assistance to the entity to the same extent that the commission provides training assistance to a fire department under Section 419.031.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.

Sec. 419.087. MANDATORY REGULATION OF CERTAIN NONGOVERNMENTAL ORGANIZATIONS AND PERSONNEL. (a) In this section, "fire department," "fire protection personnel," and "local government" have the meanings assigned by Section 419.021.

(b) An organization that is not a local government, a department of a local government, or a state or federal agency is subject to regulation by the commission under Subchapter B if the organization:

(1) provides fire protection for a local government for profit under a contract or other agreement with the local government; and

(2) would be a fire department if it were a department of a local government.

(c) A person who is not an employee of a local government or of a state or federal agency is subject to regulation by the commission under Subchapter B if the person:

(1) provides fire protection for a local government under a contract or other agreement between the local government and either the person or an organization subject to regulation under Subsection (b); and

(2) would be fire protection personnel if employed by a local government.

(d) A person or organization that is subject to regulation by the commission under this section is subject to Subchapter B and applicable commission rules to the same extent that Subchapter B and applicable commission rules apply to a fire department or to fire protection personnel.

(e) The commission may create a separate certification class for persons regulated under this section.

(f) A local government which provided fire protection for its citizens utilizing a fire department and fire protection personnel as of May 31, 1997, may not thereafter provide fire protection by utilizing an organization which is not a local government, a department of local government, or a state or federal agency and which provides fire protection for the local government for profit under a contract or other agreement with the local government without approval of a majority of the voters at an election called for that purpose.

Added by Acts 1993, 73rd Leg., ch. 912, Sec. 19, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.13, eff. Sept. 1, 1997.

SUBCHAPTER F. REVIEW OF FIRE DEPARTMENT TESTS

Sec. 419.101. APPLICABILITY. This subchapter applies to the initial tests administered by a fire department used to measure the ability of a person to perform the essential functions of a job. Added by Acts 2001, 77th Leg., ch. 1241, Sec. 11, eff. Sept. 1, 2001.

Sec. 419.102. REVIEW OF TESTS. (a) The commission shall authorize the Commission on Human Rights to review the administration of tests by fire departments to determine whether the tests are administered in a manner that complies with Chapter 21, Labor Code.

(b) The Commission on Human Rights shall by rule establish an objective system to determine how to select the departments the Commission on Human Rights will review and when the Commission on Human Rights will review a certain department.

Added by Acts 2001, 77th Leg., ch. 1241, Sec. 11, eff. Sept. 1, 2001.

Sec. 419.103. DISCRIMINATION PROHIBITED; DISPARATE IMPACT. (a) A test may not be administered in a manner that discriminates on the basis of race or color. A test may not be administered in a manner that discriminates on the basis of disability, religion, sex, national origin, or age unless the discrimination is a result of a bona fide occupational qualification.

(b) In determining whether the administration of a test

complies with Chapter 21, Labor Code, the Commission on Human Rights shall ascertain whether the test has had a disparate impact on any group defined by race, color, disability, religion, sex, national origin, or age. If the disparate impact on a group is the result of a bona fide occupational qualification, the fire department has complied with that chapter.
Added by Acts 2001, 77th Leg., ch. 1241, Sec. 11, eff. Sept. 1, 2001.

Sec. 419.104. VIOLATION; RECOMMENDATIONS OF COMMISSION ON HUMAN RIGHTS. (a) If the Commission on Human Rights determines that the administration of a test by a fire department does not comply with Chapter 21, Labor Code, the Commission on Human Rights shall recommend appropriate changes for the administration of the test.

(b) The department shall consider a recommendation made under Subsection (a) and shall revise the administration of its tests to comply with this chapter.
Added by Acts 2001, 77th Leg., ch. 1241, Sec. 11, eff. Sept. 1, 2001.

Sec. 419.105. AUTHORITY TO ADMINISTER TEST. This subchapter does not affect the authority of a fire department to administer, devise, or conduct a test or to require a certain level of performance on a test as a prerequisite to employment or continued employment.
Added by Acts 2001, 77th Leg., ch. 1241, Sec. 11, eff. Sept. 1, 2001.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 419.902. COORDINATION WITH FIREMEN'S TRAINING SCHOOL. The commission and the director of the Texas Engineering Extension Service of The Texas A&M University System shall enter into a memorandum of understanding to coordinate the responsibilities of the commission with the training provided by the firemen's training school operated under Section 86.16, Education Code.
Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.14, eff. Sept. 1, 1997.

Sec. 419.903. COORDINATION WITH TEXAS FOREST SERVICE. The commission and the director of the Texas Forest Service shall enter into a memorandum of understanding to coordinate the provision of training assistance and other assistance to fire-fighting entities.
Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 1172, Sec. 1.14, eff. Sept. 1, 1997.

Sec. 419.904. TECHNICAL ASSISTANCE TO EMERGENCY SERVICES DISTRICTS. The commission may on request provide technical assistance to emergency services districts, including advice on the efficient and effective provision of fire protection within a district.
Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.
Amended by Acts 2003, 78th Leg., ch. 1204, Sec. 2.003, eff. Sept. 1, 2003.

Sec. 419.905. APPEAL OF COMMISSION DECISIONS. (a) A person dissatisfied with an action of the commission may appeal the action in accordance with Chapter 2001.

(b) The attorney general, the district or county attorney, or an assistant of one of these persons shall represent the commission in an appeal under this section.
Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Sept. 1, 1995.

Sec. 419.906. ADMINISTRATIVE AND CIVIL PENALTIES; INJUNCTION. (a) In addition to other penalties imposed by law, a person who violates this chapter or a rule adopted under this chapter is subject to an administrative penalty in an amount set by the commission not to exceed \$1,000 for each violation. In addition to the administrative penalty, the person must pay costs incurred by the attorney general's office under this subsection. The administrative penalty shall be assessed in a proceeding conducted in accordance with Chapter 2001.

(b) The attorney general or the commission may institute a suit for an injunction to enforce this chapter. Venue for the suit is in a district court in Travis County. The court may also award the commission a civil penalty not to exceed \$1,000 for each

violation of this chapter or a rule adopted under this chapter, plus court costs, reasonable attorney fees, and costs incurred by the commission or the attorney general's office under this subsection.

(c) The commission may enter into a consent order or settlement agreement with any person under the commission's jurisdiction under this chapter or other law. The consent order or settlement agreement may include an agreement between the commission and the person under which the person will make restitution to a third party or pay a monetary penalty to the commission. The consent order or settlement agreement is valid and enforceable without regard to whether the commission is authorized to order restitution or impose the monetary penalty under other law in the absence of the affected person's agreement.

Added by Acts 1991, 72nd Leg., ch. 628, Sec. 4, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 912, Sec. 20, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Sept. 1, 1995.

Sec. 419.907. LOCATION OF OFFICES OF COMMISSION, STATE FIRE MARSHAL, AND TEXAS FOREST SERVICE. (a) To the extent feasible, the commission, the state fire marshal, and the Texas Forest Service shall collocate office space outside of Travis County used for related functions preformed by the three entities.

(b) The commission, the commissioner of insurance, and the Texas Forest Service may enter into a memorandum of understanding to implement this section.

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 1.15, eff. Sept. 1, 1997.