

CHAPTER 107

H.B. No. 947

AN ACT

relating to nonsubstantive additions to and corrections in enacted codes, including the nonsubstantive codification of various laws omitted from enacted codes, and to conforming codifications enacted by the 72nd Legislature to other Acts of that legislature.

Be it enacted by the Legislature of the State of Texas:

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. This Act is enacted as part of the state's continuing statutory revision program under Chapter 323, Government Code. This Act is a revision for purposes of Article III, Section 43, of the Texas Constitution and has the purposes of:

- (1) codifying without substantive change various statutes that were omitted from enacted codes;
- (2) conforming codifications enacted by the 72nd Legislature to other Acts of that legislature that amended the laws codified or added new law to subject matter codified;
- (3) making necessary corrections to enacted codifications; and
- (4) renumbering titles, chapters, and sections of codes that duplicate title, chapter, or section numbers.

SECTION 1.02. (a) The repeal of a statute by this Act does not affect an amendment, revision, or reenactment of the statute by the 73rd Legislature, Regular Session, 1993. The amendment, revision, or reenactment is preserved and given effect as part of the code provision that revised the statute so amended, revised, or reenacted.

(b) If any provision of this Act conflicts with a statute enacted by the 73rd Legislature, Regular Session, 1993, the statute controls.

SECTION 1.03. (a) A transition or savings provision of a law codified by this Act applies to the codified law to the same extent as it applied to the original law.

(b) The repeal of a transition or savings provision by this Act does not affect the application of the provision to the codified law.

(c) In this section, "transition provision" includes any temporary provision providing for a special situation in the transition period between the existing law and the establishment or implementation of the new law.

ARTICLE 2. CHANGES RELATING TO EDUCATION CODE

SECTION 2.01. Section 67.26, Education Code, is amended to read as follows:

Sec. 67.26. *UNIVERSITY INTERSCHOLASTIC LEAGUE; VENUE FOR SUITS.* Venue for suits brought against the University Interscholastic League or for suits involving the interpretation or enforcement of the rules or regulations of the University Interscholastic League shall be in Travis County, Texas. When the litigation involves a school district located within Travis County, it shall be heard by a visiting judge.

SECTION 2.02. Section 70.06, Education Code, is repealed because:

- (1) Subsection (a) of Section 70.06 conflicts with Section 70.08, Education Code, a later enactment;
- (2) Subsection (b) of Section 70.06 is expired; and
- (3) Subsection (c) of Section 70.06 is duplicative of authority granted in Section 70.03, Education Code, to grant graduate degrees.

ARTICLE 3. CHANGES RELATING TO TEXAS ETHICS COMMISSION—
ELECTION CODE AND GOVERNMENT CODE

SECTION 3.01. Section 251.006(b), Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(b) A candidate for an elective office of the federal government shall file with the *commission* [~~secretary of state~~] a copy of each document relating to his candidacy that is required to be filed under federal law. The document shall be filed within the same period in which it is required to be filed under the federal law.

SECTION 3.02. The heading to Subchapter B, Chapter 251, Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

SUBCHAPTER B. DUTIES OF *THE COMMISSION* [~~SECRETARY OF STATE~~]

SECTION 3.03. Section 251.032, Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

Sec. 251.032. FORMS. In addition to furnishing samples of the appropriate forms to the authorities having administrative duties under this title, the *commission* [~~secretary of state~~] shall furnish the forms to each political party's state executive committee and county chairman of each county executive committee.

SECTION 3.04. Section 251.033, Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

Sec. 251.033. NOTIFICATION OF DEADLINE FOR FILING REPORTS. (a) The *commission* [~~secretary of state~~] shall notify each person responsible for filing a report with the *commission* [~~secretary~~] under Subchapters C through F, Chapter 254, of the deadline for filing a report, except that notice of the deadline is not required for a political committee involved in an election other than a primary election or the general election for state and county officers.

(b) If the *commission* [~~secretary of state~~] is unable to notify a person of a deadline after two attempts, the *commission* [~~secretary~~] is not required to make any further attempts to notify the person of that deadline or any future deadlines until the person has notified the *commission* [~~secretary of state~~] of the person's current address.

SECTION 3.05. Section 252.002(b), Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(b) A political committee that files its campaign treasurer appointment with the *commission* [~~secretary of state~~] must notify the *commission* [~~secretary~~] in writing of any change in the campaign treasurer's address not later than the 10th day after the date on which the change occurs.

SECTION 3.06. Sections 252.003(b) and (c), Election Code, are amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(b) If any of the information required to be included in a general-purpose committee's appointment changes, excluding changes reported under Section 252.002(b), the committee shall file an amended appointment with the *commission* [~~secretary of state~~] not later than the 30th day after the date the change occurs:

(c) The name of a general-purpose committee may not be the same as or deceptively similar to the name of any other general-purpose committee whose campaign treasurer appointment is filed with the *commission* [~~secretary of state~~]. The *commission* [~~secretary~~] shall determine whether the name of a general-purpose political committee is in violation of this prohibition and shall immediately notify the campaign treasurer of the offending political committee of that determination. The campaign treasurer of the political committee must file

a name change with the *commission* [~~secretary~~] not later than the 14th day after the date of notification. A campaign treasurer who fails to file a name change as provided by this subsection or a political committee that continues to use a prohibited name after its campaign treasurer has been notified by the *commission* [~~secretary~~] commits an offense. An offense under this subsection is a Class B misdemeanor.

SECTION 3.07. Section 252.005, Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

Sec. 252.005. **AUTHORITY WITH WHOM APPOINTMENT FILED: CANDIDATE.** An individual must file a campaign treasurer appointment for the individual's own candidacy with:

(1) the *commission* [~~secretary of state~~], if the appointment is made for candidacy for:

- (A) a statewide office;
- (B) a district office filled by voters of more than one county;
- (C) state senator;
- (D) state representative; or
- (E) the State Board of Education;

(2) the county clerk, if the appointment is made for candidacy for a county office, a precinct office, or a district office other than one included in Subdivision (1);

(3) the clerk or secretary of the governing body of the political subdivision or, if the political subdivision has no clerk or secretary, with the governing body's presiding officer, if the appointment is made for candidacy for an office of a political subdivision other than a county;

(4) the county clerk if:

(A) the appointment is made for candidacy for an office of a political subdivision other than a county;

(B) the governing body for the political subdivision has not been formed; and

(C) no boundary of the political subdivision crosses a boundary of the county; or

(5) the *commission* [~~secretary of state~~] if:

(A) the appointment is made for candidacy for an office of a political subdivision other than a county;

(B) the governing body for the political subdivision has not been formed; and

(C) the political subdivision is situated in more than one county.

SECTION 3.08. Section 252.007, Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

Sec. 252.007. **AUTHORITY WITH WHOM APPOINTMENT FILED: SPECIFIC-PURPOSE COMMITTEE FOR SUPPORTING OR OPPOSING MEASURE.** A specific-purpose committee for supporting or opposing a measure must file its campaign treasurer appointment with:

(1) the *commission* [~~secretary of state~~], if the measure is to be submitted to voters of the entire state;

(2) the county clerk, if the measure is to be submitted to voters of a single county in an election ordered by a county authority;

(3) the secretary of the governing body of the political subdivision or, if the political subdivision has no secretary, with the governing body's presiding officer, if the measure is to be submitted at an election ordered by an authority of a political subdivision other than a county;

(4) the county clerk if:

(A) the measure concerns a political subdivision other than a county;

(B) the governing body for the political subdivision has not been formed; and

(C) no boundary of the political subdivision crosses a boundary of a county; or
 (5) the *commission* [~~secretary of state~~] if:

- (A) the measure concerns a political subdivision other than a county;
- (B) the governing body for the political subdivision has not been formed; and
- (C) the political subdivision is situated in more than one county.

SECTION 3.09. Section 252.008, Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

Sec. 252.008. MULTIPLE FILINGS BY SPECIFIC-PURPOSE COMMITTEE NOT REQUIRED. If under this chapter a specific-purpose committee is required to file its campaign treasurer appointment with more than one authority, the appointment need only be filed with the *commission* [~~secretary of state~~] and, if so filed, need not be filed with the other authorities.

SECTION 3.10. Section 252.009, Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

Sec. 252.009. AUTHORITY WITH WHOM APPOINTMENT FILED: GENERAL-PURPOSE COMMITTEE. A general-purpose committee must file its campaign treasurer appointment with the *commission* [~~secretary of state~~].

SECTION 3.11. Section 252.012(c), Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(c) If the campaign treasurer of a specific-purpose political committee required to file its campaign treasurer appointment with the *commission* [~~secretary of state~~] or of a general-purpose political committee is removed by the committee, the departing campaign treasurer shall immediately file written notification of the termination of appointment with the *commission* [~~secretary of state~~].

SECTION 3.12. Section 252.013(c), Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(c) If the campaign treasurer of a specific-purpose political committee required to file its campaign treasurer appointment with the *commission* [~~secretary of state~~] or of a general-purpose political committee resigns or otherwise vacates the position, the campaign treasurer shall immediately file written notification of the vacancy with the *commission* [~~secretary of state~~].

SECTION 3.13. Section 252.015(a), Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(a) Each specific-purpose committee for supporting or opposing a candidate for an office specified by Section 252.005(1) or a statewide or district measure and each general-purpose committee may appoint an assistant campaign treasurer by written appointment filed with the *commission* [~~secretary of state~~].

SECTION 3.14. Section 254.038(c), Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(c) A report under this section shall be filed by telegram or telephonic facsimile machine or by hand with the *commission* [~~secretary of state~~] not later than 48 hours after the contribution is accepted.

SECTION 3.15. Section 254.039(a), Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(a) In addition to other reports required by this chapter, a general-purpose committee that makes direct campaign expenditures supporting or opposing either a single candidate that in the aggregate exceed \$1,000 or a group of candidates that in the aggregate exceed \$15,000

during the period beginning the ninth day before election day and ending at 12 noon on the second day before election day shall file a report by telegram or telephonic facsimile machine or by hand with the *commission* [~~secretary of state~~] not later than 48 hours after the expenditure is made.

SECTION 3.16. Section 254.042(a), Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(a) The *commission* [~~secretary of state~~] shall determine from any available evidence whether a report, other than a telegram report under Section 254.038 or 254.039, required to be filed with the *commission* [~~secretary~~] under this chapter is late. On making that determination, the *commission* [~~secretary~~] shall immediately mail a notice of the determination to the person required to file the report.

SECTION 3.17. Section 254.095, Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

Sec. 254.095. REPORT NOT REQUIRED. If at the end of any reporting period prescribed by this subchapter an officeholder who is required to file a report with an authority other than the *commission* [~~secretary of state~~] has not accepted political contributions that in the aggregate exceed \$500 or made political expenditures that in the aggregate exceed \$500, the officeholder is not required to file a report covering that period.

SECTION 3.18. Section 254.155(b), Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(b) To be entitled to file monthly reports, the committee must deliver written notice of the committee's intent to file monthly to the *commission* [~~secretary of state~~] not earlier than January 1 or later than January 15 of the year in which the committee intends to file monthly. The notice for a committee formed after January 15 must be delivered at the time the committee's campaign treasurer appointment is filed.

SECTION 3.19. Section 254.162, Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

Sec. 254.162. NOTICE OF CHANGE IN COMMITTEE STATUS. If a general-purpose committee changes its operation and becomes a specific-purpose committee, notice of the change in status shall be given to the *commission* [~~secretary of state~~] as provided by Section 254.129 for a specific-purpose committee.

SECTION 3.20. Section 254.163, Election Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

Sec. 254.163. AUTHORITY WITH WHOM REPORTS FILED. Reports filed under this subchapter shall be filed with the *commission* [~~secretary of state~~].

SECTION 3.21. Sections 302.013(a) and (d), Government Code, are amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(a) Each speaker candidate shall file a sworn statement with the *Texas Ethics Commission* [~~secretary of state~~] listing the information required by Section 302.014.

(d) Each speaker candidate shall file the statement on an official form designed by the *Texas Ethics Commission* [~~secretary of state~~].

SECTION 3.22. Section 302.015, Government Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

Sec. 302.015. REQUISITES OF FILING. (a) Except as provided by Subsection (b), a statement is considered to be filed in compliance with this subchapter if the postmark shows that it was sent to the *Texas Ethics Commission* [~~secretary of state~~] at its [his] official post

office address by registered or certified mail from any point in this state before the filing deadline.

(b) A statement required to be filed on the day before a regular or called session convenes must actually be delivered and in the possession of the *Texas Ethics Commission* [secretary of state] not later than 4 p.m. of that day.

SECTION 3.23. Section 305.008(a), Government Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(a) A person who ceases to engage in activities requiring registration under this chapter shall file a written, verified statement with the *commission* [secretary] acknowledging the termination of activities. The notice is effective immediately.

SECTION 3.24. Section 305.009(b), Government Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(b) The *commission* [secretary] shall:

(1) design and provide appropriate forms, covering only the items required to be disclosed under this chapter, to be used for the registration and reporting of required information;

(2) maintain registrations and reports in a separate, alphabetical file;

(3) remove registrations and reports from the files after five years from the date of filing; and

(4) maintain a deputy available to receive registrations and reports and make the registrations and reports available to the public for inspection.

SECTION 3.25. Section 305.011(c), Government Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(c) The commission shall send the lists prepared under this section to each member of the legislature. During a regular legislative session, the *commission* [secretary] shall send a monthly update of the lists to each member of the legislature and to any person required to file under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), who requests one.

SECTION 3.26. Section 305.026(a), Government Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(a) Public funds available to a political subdivision may not be used to compensate or reimburse the expenses over \$50 of any person for the purpose of communicating directly with a member of the legislative branch to influence legislation, unless the person being compensated or reimbursed resides in the district of the member with whom the person communicates or files a written statement with the *commission* [secretary of state] that includes the person's name, the amount of compensation or reimbursement, and the name of the affected political subdivision.

SECTION 3.27. Section 305.033(c), Government Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

(c) If a registration or report is more than 30 days late, the *commission* [secretary] shall issue a warning of liability by registered mail to the person responsible for the filing. If the penalty is not paid before the 10th day after the date on which the warning is received, the person is liable for a penalty in an amount determined by commission rule, but not to exceed \$10,000.

SECTION 3.28. Section 305.034, Government Code, is amended to conform to Section 1.39(b), Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991, to correct a reference to read as follows:

Sec. 305.034. FAILURE TO FILE ALL REQUIRED FORMS. (a) The *commission* [secretary] shall determine whether all persons registered under this chapter have filed all required forms, statements, and reports.

(b) Whenever the *commission* [secretary] determines that a person has failed to file any required form, statement, or report as required by this chapter, the *commission* [secretary] shall send a written statement of this finding to the person involved. Notice to the person involved must be sent by certified mail.

(c) If the person fails to file the form, statement, or report as required by this chapter before the 21st day after the date on which the notice was sent, the *commission* [secretary] shall file a sworn complaint of the violation with the appropriate prosecuting attorney.

ARTICLE 3A. CHANGES RELATING TO VOTER REGISTRATION ELECTION CODE

SECTION 3A.01. (a) Sections 6(d)–(i), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), are transferred to Chapter 13, Election Code, redesignated as Subchapter B-1, and amended to read as follows:

SUBCHAPTER B-1. VOTER REGISTRATION ASSISTANCE BY CERTAIN STATE AGENCIES

Sec. 13.051. DEPARTMENT OF PUBLIC SAFETY. (a) The Department of Public Safety [(d) The Department] shall provide to each person who applies in person at the department's [Department's] offices for an original or renewal of a driver's license, a personal identification card, or a duplicate or corrected license or card an opportunity to complete a voter registration application form.

(b) [(e)] The department [Department] shall prescribe and use a form that combines the department's [Department's] application form for a license or card with an officially prescribed voter registration application form.

(c) [(f)] An appropriate department [Department] employee shall routinely inform each applicant for a license or card of the opportunity to complete a voter registration application form and on request shall provide nonpartisan voter registration assistance to an applicant or other interested person on the premises.

(d) [(g)] On receipt of a completed voter registration application, the department [Department] employee shall note the date of submission on the application and issue a receipt to the applicant containing the applicant's name, the employee's name, the location of the office, and the date of submission.

(e) [(h)] At the end of each day a department [Department] office is regularly open for business, the manager of the office shall deliver by mail all completed voter registration applications to the voter registrar of the county in which the office is located.

(f) [(i)] The date of submission of a completed voter registration application to a department [Department] employee is considered to be the date of submission to the voter registrar for the purpose of determining the effective date of registration only.

(b) Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to conform to Subsection (a) of this section by adding Section 14C to read as follows:

Sec. 14C. VOTER REGISTRATION. The department shall provide nonpartisan voter registration assistance as provided by Subchapter B-1, Chapter 13, Election Code.

SECTION 3A.02. Section 323.013, Government Code, is transferred to Chapter 276, Election Code, and redesignated as Section 276.008 to read as follows:

Sec. 276.008 [323.013]. [ELECTION] INFORMATION PROVIDED TO TEXAS LEGISLATIVE COUNCIL. (a) On the written request of the Texas Legislative Council [council], the secretary of state [Secretary of State], a county clerk or county elections administrator, a city secretary, or a voter registrar shall provide without charge to the council information or data maintained by the appropriate officer relating to voter registration, election returns for

statewide, district, county, precinct, or city offices, or county election precincts, including precinct maps.

(b) The appropriate officer shall provide the requested information or data to the council as soon as practicable but not later than the 30th day after the date ~~[on which]~~ the request is received by that officer.

(c) The information or data shall be provided in a form approved by the council.

SECTION 3A.03. Sections 141.031 and 252.0032, Election Code, are amended to conform to Sections 1 and 2, Chapter 561, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 141.031. GENERAL REQUIREMENTS FOR APPLICATION. A candidate's application for a place on the ballot that is required by this code must:

(1) be in writing;

(2) be signed and sworn to by the candidate and indicate the date that the candidate swears to the application;

(3) be timely filed with the appropriate authority; and

(4) include:

(A) the candidate's name;

(B) the candidate's occupation;

(C) the office sought, including any place number or other distinguishing number;

(D) an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers;

(E) a statement that the candidate is a United States citizen;

(F) a statement that the candidate has not been determined mentally incompetent by a final judgment of a court;

(G) a statement that the candidate has not been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities;

(H) the candidate's date of birth;

(I) the candidate's residence address or, if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the candidate's residence;

(J) the candidate's length of continuous residence in the state and in the territory from which the office sought is elected as of the date the candidate swears to the application;

(K) the statement: "I, _____, of _____ County, Texas, being a candidate for the office of _____, swear that I will support and defend the constitution and laws of the United States and of the State of Texas"; and

(L) a statement that the candidate is aware of the nepotism law, Articles 5996a *et seq.*, ~~[through 5996g of the]~~ Revised Statutes.

Sec. 252.0032. CONTENTS OF APPOINTMENT BY CANDIDATE. (a) In addition to the information required by Section 252.002, a campaign treasurer appointment by a candidate must include a statement, signed by the candidate, that the candidate is aware of the nepotism law, Articles 5996a *et seq.*, ~~[through 5996g of the]~~ Revised Statutes.

(b) A campaign treasurer appointment that is filed in a manner other than by use of an officially prescribed form is not invalid because it fails to comply with Subsection (a).

ARTICLE 4. CHANGES RELATING TO GOVERNMENT CODE

SECTION 4.01. Section 26.052, Government Code, is amended to correct a reference to read as follows:

Sec. 26.052. PROBATE AND MENTAL HEALTH CODE CASES. (a) In a county in which the county court and any county court created by statute have jurisdiction in both

probate matters and proceedings under *Subtitle C, Title 7, Health and Safety Code* [~~the Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes)~~], during each year for which a statement has been filed as provided by Subsection (b), those cases and proceedings must be filed in a county court created by statute with jurisdiction of those cases and proceedings.

(b) A county judge may file, not later than January 15 of each year, a statement with the county clerk electing not to hear probate matters and proceedings under *Subtitle C, Title 7, Health and Safety Code* [~~the Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes)~~].

SECTION 4.02. Section 443.009(b), Government Code, is amended to correct a reference to read as follows:

(b) The board and the employees of the board have no control over the furniture, furnishings, and decorative objects in the offices of the members of the legislature except as provided by Section ~~443.017~~ [443.016] or as necessary to inventory or conserve items of historical significance owned by the state.

SECTION 4.03. (a) The heading to Subtitle E, Title 4, Government Code, is amended to read as follows:

SUBTITLE E. OTHER EXECUTIVE AGENCIES AND PROGRAMS

(b) Subtitle E, Title 4, Government Code, is amended to codify Section 2, Chapter 6, Acts of the 72nd Legislature, 1st Called Session, 1991 (Article 179g, Vernon's Texas Civil Statutes), by adding Chapter 466 to read as follows:

CHAPTER 466. STATE LOTTERY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 466.001. SHORT TITLE. This chapter may be cited as the State Lottery Act.

Sec. 466.002. DEFINITIONS. In this chapter:

(1) "Director" means the director of the division.

(2) "Division" means the lottery division established in the office of the comptroller under this chapter.

(3) "Lottery" means the procedures operated by the state under this chapter through which prizes are awarded or distributed by chance among persons who have paid, or unconditionally agreed to pay, for a chance or other opportunity to receive a prize.

(4) "Lottery game" includes a lottery activity.

(5) "Lottery operator" means a person selected under Section 466.014(b) to operate a lottery.

(6) "Player" means a person who contributes any part of the consideration for a ticket.

(7) "Sales agent" or "sales agency" means a person licensed under this chapter to sell tickets.

(8) "Ticket" means any tangible evidence issued to provide participation in a lottery game authorized by this chapter.

Sec. 466.003. APPLICATION OF SUNSET ACT. (a) The lottery division is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the division is abolished and this chapter expires September 1, 2003.

(b) A contract between the division and a lottery operator under Section 466.014(b) must terminate on or before September 1, 2004.

Sec. 466.004. EXEMPTION FROM TAXATION. (a) A political subdivision of this state may not impose:

(1) a tax on the sale of a ticket;

(2) a tax on the payment of a prize under this chapter; or

(3) *an ad valorem tax on tickets.*

(b) *The receipts from the sale, use, or other consumption of a ticket are exempt from taxation under Chapter 151, Tax Code.*

[Sections 466.005–466.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION

Sec. 466.011. LOTTERY DIVISION; DIRECTOR. (a) *A division to administer a state lottery is created in the office of the comptroller. The division is administered by the director.*

(b) *The comptroller shall appoint a person to serve as director and chief executive officer of the division subject to the comptroller's direction. The director holds office at the will of the comptroller and is specifically exempted from the Position Classification Act of 1961 (Article 6252–11, Vernon's Texas Civil Statutes). The director is entitled to receive an annual salary in an amount set by the comptroller. The director also is entitled to reimbursement for expenses actually and necessarily incurred in the performance of the director's duties.*

(c) *The director may create, abolish, transfer, and consolidate bureaus and other units in the division that are not expressly established by law as the director determines to be necessary for the efficient operation of the division.*

(d) *The legislature intends that the division be a self-supporting, revenue-raising agency of state government. Except as provided by Section 466.355, no appropriation, loan, or other transfer of state funds may be made to the division.*

(e) *Notwithstanding Subsection (d), the comptroller may transfer to the division amounts appropriated to the comptroller for purposes other than the administration of this chapter. If the comptroller proposes to transfer amounts under this subsection, the comptroller shall notify the Legislative Budget Board in writing of the amount of the proposed transfer. The comptroller may not make the proposed transfer unless the board approves it. If the board does not approve or disapprove the proposed transfer before the 10th day after the date that the comptroller notifies the board of the proposed transfer, the board is considered to have approved the transfer. If the board disapproves the proposed transfer, the comptroller may request the governor to make a proposal for the transfer of an appropriation as provided by Chapter 317.*

(f) *The comptroller shall reimburse any amount of an appropriation transferred under Subsection (e) to the account or fund from which it was transferred. The reimbursement must:*

(1) *be made from funds received by the comptroller for license fees and ticket sales under this chapter; and*

(2) *be made not later than the first anniversary of the date of the transfer.*

(g) *The comptroller's authority to transfer funds to the division under Subsection (e) expires September 1, 1993. This subsection and Subsections (e) and (f) expire January 1, 1995.*

Sec. 466.012. DIVISION EMPLOYEES. (a) *Except as otherwise provided by law, the director may appoint deputies, assistants, other officers and employees, committees, and consultants and may prescribe their powers and their expenses. Division employees serve at the will of the director.*

(b) *The director may not employ any person who would be denied a license as a sales agent under Section 466.155.*

(c) *Division employees are specifically exempted from the Position Classification Act of 1961 (Article 6252–11, Vernon's Texas Civil Statutes). The director shall set the salaries of these employees.*

Sec. 466.013. MARKETING REPRESENTATIVES. *The director may employ or contract with marketing representatives to promote the sale of tickets, to encourage persons to apply to become sales agents, or to investigate the qualifications of sales agent applicants. The marketing representatives are exempted from the Position Classification Act of 1961*

(Article 6252-11, Vernon's Texas Civil Statutes) and may be compensated based on a sales incentive system to be established by the director.

Sec. 466.014. POWERS AND DUTIES OF COMPTROLLER, DIRECTOR, AND DIVISION. (a) *The comptroller and director have broad authority and shall exercise strict control and close supervision over all lottery games conducted in this state to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery.*

(b) *The director may contract with or employ a person to perform a function, activity, or service in connection with the operation of the lottery as prescribed by the director. A person with whom the director contracts to operate a lottery must be eligible for a sales agent license under Section 466.155.*

(c) *The director may award a contract for lottery supplies or services, including a contract under Subsection (b), pending the completion of any investigation authorized by this chapter. A contract awarded under this subsection must include a provision permitting the director to terminate the contract without penalty if the investigation reveals that the person to whom the contract is awarded would not be eligible for a sales agent license under Section 466.155. The director's authority to award a contract under this subsection expires September 1, 1993. This subsection expires January 1, 1995.*

Sec. 466.015. RULES. (a) *The comptroller shall adopt all rules necessary to administer this chapter. The director may propose rules to be adopted by the comptroller, but the director's proposed rules have no effect until adopted by the comptroller.*

(b) *The comptroller shall adopt rules to the extent they are not inconsistent with the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), governing the:*

(1) *security for the lottery and the division, including the development of an internal security plan;*

(2) *apportionment of the total revenues from the sale of tickets and from all other sources in the amounts provided by this chapter;*

(3) *enforcement of prohibitions on the sale of tickets to or by an individual younger than 18 years of age; and*

(4) *enforcement of prohibitions on a person playing a lottery game by telephone.*

(c) *The comptroller may adopt rules governing the establishment and operation of the lottery, including rules governing:*

(1) *the type of lottery games to be conducted;*

(2) *the price of each ticket;*

(3) *the number of winning tickets and amount of the prize paid on each winning ticket;*

(4) *the frequency of the drawing or selection of a winning ticket;*

(5) *the number and types of locations at which a ticket may be sold;*

(6) *the method to be used in selling a ticket;*

(7) *the use of vending machines or electronic or mechanical devices of any kind, other than machines or devices that dispense currency or coins as prizes;*

(8) *the manner of paying a prize to the holder of a winning ticket;*

(9) *the investigation of possible violations of this chapter or any rule adopted under this chapter;*

(10) *the means of advertising to be used for the lottery;*

(11) *the qualifications of vendors of lottery services or equipment;*

(12) *the confidentiality of information relating to the operation of the lottery, including:*

(A) *trade secrets;*

(B) *security measures, systems, or procedures;*

(C) security reports;

(D) bids or other information regarding the division's contracts, if disclosure of the information would impair the division's ability to contract for facilities, goods, or services on terms favorable to the division;

(E) personnel information unrelated to compensation, duties, qualifications, or responsibilities; and

(F) information obtained by division security officers or investigators;

(13) the development and availability of a model agreement governing the division of a prize among multiple purchasers of a winning ticket purchased through a group purchase or pooling arrangement;

(14) the criteria to be used in evaluating bids for contracts for lottery facilities, goods, and services; or

(15) any other matter necessary or desirable as determined by the comptroller, to promote and ensure:

(A) the integrity, security, honesty, and fairness of the operation and administration of the lottery; and

(B) the convenience of players and holders of winning tickets.

Sec. 466.016. **ANNUAL REPORT.** The comptroller shall make an annual report to the governor and the legislature that provides a summary of lottery revenues, prize disbursements, and other expenses for the fiscal year preceding the report. The report must be in the form and reported in the time provided by the General Appropriations Act.

Sec. 466.017. **AUDITS.** (a) The director shall provide for a certified public accountant to conduct an independent audit for each fiscal year of all accounts and transactions of the lottery. The certified public accountant may not have, as determined by the director, a significant financial interest in a sales agent, lottery vendor, or lottery operator. The certified public accountant shall present an audit report to the director, the comptroller, the governor, and the legislature not later than April 1 of the year following the fiscal year for which the audit was performed. The report must contain recommendations to enhance the earnings capability of the lottery and improve the efficiency of lottery operations. The state auditor may review the results of and working papers related to the audit.

(b) Each lottery operator's and sales agent's records are subject to audit by the division, the comptroller, and the state auditor. For the purpose of carrying out this chapter, the director, comptroller, or state auditor may examine all books, records, papers, or other objects that the director, comptroller, or state auditor determines are necessary for conducting a complete examination under this chapter and may also examine under oath any officer, director, or employee of a lottery operator or sales agent. The director, comptroller, or state auditor may conduct an examination at the principal office or any other office of the lottery operator or sales agent or may require the lottery operator or sales agent to produce the records at the office of the division, comptroller, or state auditor. If a sales agent refuses to permit an examination or to answer any question authorized by this subsection, the comptroller may summarily suspend the license of the sales agent under Section 466.160 until the examination is completed as required. Section 321.013(h) does not apply to an audit of a lottery operator or sales agent.

Sec. 466.018. **INVESTIGATIONS.** The attorney general, the district attorney for Travis County, or the district attorney, criminal district attorney, or county attorney performing the duties of district attorney for the county in which the violation or alleged violation occurred may investigate a violation or alleged violation of this chapter and of the penal laws of this state by the division or its employees, a sales agent, a lottery vendor, or a lottery operator.

Sec. 466.019. **ENFORCEMENT.** (a) The comptroller or designated personnel of the division may investigate violations of this chapter and violations of the rules adopted under this chapter. After conducting investigations, the comptroller, a person designated by the comptroller, or any law enforcement agency may file a complaint with the district attorney of Travis County or with the district attorney of the county in which a violation is alleged to have occurred.

(b) *The comptroller has the administrative, enforcement, and collection powers provided by Subtitle B, Title 2, Tax Code, in regard to the lottery. For purposes of the application of Title 2 of the Tax Code, the state's share of proceeds from the sale of lottery tickets is treated as if it were a tax.*

Sec. 466.020. SECURITY. (a) *The director shall maintain a department of security in the division. The director shall appoint a deputy to administer the department. The deputy must be qualified by training and experience in law enforcement or security to supervise, direct, and administer the activities of the department.*

(b) *The director may employ security officers or investigators as the director considers necessary and may commission security officers or investigators as peace officers. The deputy and all investigators employed by the department of security as peace officers must meet the requirements under Chapter 415 for employment and commission as peace officers.*

(c) *A security officer or investigator employed by the department of security or a peace officer who is working in conjunction with the comptroller or the Department of Public Safety in the enforcement of this chapter, without a search warrant, may search and seize a lottery vending machine, lottery computer terminal, or other lottery equipment that is located on premises for which a person holds a sales agent license issued under this chapter.*

(d) *The Department of Public Safety, at the comptroller's request, shall perform a full criminal background investigation of a prospective deputy or investigator of the department of security. The comptroller shall reimburse the Department of Public Safety for the actual costs of an investigation.*

(e) *At least once every two years, the director shall employ an independent firm that is experienced in security, including computer security and systems security, to conduct a comprehensive study of all aspects of lottery security, including:*

- (1) *lottery personnel security;*
- (2) *sales agent security;*
- (3) *lottery operator and vendor security;*
- (4) *security against ticket counterfeiting and alteration and other means of fraudulent winning;*
- (5) *security of lottery drawings;*
- (6) *lottery computer, data communications, database, and systems security;*
- (7) *lottery premises and warehouse security;*
- (8) *security of distribution of tickets;*
- (9) *security of validation and payment procedures;*
- (10) *security involving unclaimed prizes;*
- (11) *security aspects of each lottery game;*
- (12) *security against the deliberate placement of winning tickets in lottery games that involve preprinted winning tickets by persons involved in the production, storage, transportation, or distribution of tickets; and*
- (13) *other security aspects of lottery operations.*

(f) *The director shall provide the comptroller with a complete report of the security study conducted under Subsection (e). The comptroller shall provide the governor and the legislature, before the convening of each regular legislative session, with a summary of the security study that shows the overall evaluation of the lottery's security.*

(g) *The first security study conducted under Subsection (e) must be conducted not later than the first anniversary of the first sale of a ticket to a player under this chapter. The first report to the governor and legislature under Subsection (f) must be made before the convening of the regular session of the 74th Legislature. This subsection expires June 1, 1995.*

Sec. 466.021. DEMOGRAPHIC STUDIES. (a) *The director shall, every two years, employ an independent firm experienced in demographic analysis to conduct a demographic study of lottery players. The study must include the income, age, sex, education, and frequency of participation of players.*

(b) *The director shall report the results of the demographic study conducted under Subsection (a) to the comptroller, the governor, and the legislature before the convening of each regular legislative session.*

Sec. 466.022. CONFIDENTIAL INFORMATION. *The following information is confidential and is exempt from disclosure under the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes):*

(1) *security plans and procedures of the division or the office of the comptroller designed to ensure the integrity and security of the operation of the lottery;*

(2) *information of a nature that is designed to ensure the integrity and security of the selection of winning tickets or numbers in the lottery, other than information describing the general procedures for selecting winning tickets or numbers; and*

(3) *the street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information.*

Sec. 466.023. DEPARTMENT OF PUBLIC SAFETY RECORDS. (a) *Except as otherwise provided by this chapter, all files, records, information, compilations, documents, photographs, reports, summaries, and reviews of information and related matters collected, retained, or compiled by the Department of Public Safety in the discharge of its duties under this chapter are confidential and are not subject to public disclosure. Each of those items is subject to discovery by a person that is the subject of the item.*

(b) *An investigation report or other document submitted by the Department of Public Safety to the division becomes part of the investigative files of the division and is subject to discovery by a person that is the subject of the investigation report or other document.*

(c) *Information that is in the form available to the public is not privileged or confidential under this section and is subject to public disclosure.*

Sec. 466.024. PROHIBITED GAMES. (a) *The director or a lottery operator may not establish or operate a lottery game in which the winner is chosen on the basis of the outcome of a sports event.*

(b) *The comptroller shall adopt rules prohibiting the operation of any game using a video lottery machine or machine.*

(c) *In this section:*

(1) *"Sports event" means a football, basketball, baseball, or similar game, or a horse or dog race on which pari-mutuel wagering is allowed.*

(2) *"Video lottery machine" or "machine" means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including video poker, keno, and blackjack, using a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash, coins, or tokens, or that directly dispenses cash, coins, or tokens.*

Sec. 466.025. REPORTS OF TICKETS SOLD AND PRIZES AWARDED. *For each lottery game, after the last date on which a prize may be claimed under Section 466.408(d), the director shall prepare a report that shows the total number of tickets sold and the number and amounts of prizes awarded in the game. The report must be available for public inspection.*

[Sections 466.026-466.100 reserved for expansion]

SUBCHAPTER C. PROCUREMENT; ADVERTISING

Sec. 466.101. PROCUREMENT PROCEDURES. (a) *The director may establish procedures for the purchase or lease of facilities, goods, and services and make any purchases, leases, or contracts that are necessary for carrying out the purposes of this chapter. The procedures must, as determined feasible and appropriate by the director, promote competition to the maximum extent possible.*

(b) *In all procurement decisions, the director shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure integrity, security,*

honesty, and fairness in the operation and administration of the lottery and the objective of producing revenues for the state treasury.

(c) The procurement procedures adopted by the director must, as determined feasible and appropriate by the director, afford any party who is aggrieved by the terms of a solicitation or the award of a contract an opportunity to protest the director's action to the comptroller. The protest procedures must provide for an expedient resolution of the protest in order to avoid substantially delaying a solicitation or contract award that is necessary for the timely implementation of a lottery game. A protest must be in writing and be filed with the comptroller not later than 72 hours after receipt of notice of the director's action.

(d) A party who is aggrieved by the comptroller's resolution of a protest under Subsection (c) may file an action in the district court of Travis County. The court shall give preference to hearings and trials of actions under this section. If the party filing the action seeks to enjoin the implementation of a solicitation or contract, the party shall post a bond that is payable to the state if the party does not prevail in the appeal, and is in an amount sufficient to compensate the state for the revenue that would be lost due to the delay in lottery operations.

(e) The comptroller shall require any person seeking to contract for goods or services relating to the implementation and administration of this chapter to submit to competitive bidding procedures in accordance with rules adopted by the comptroller. The procedures must be for the purpose of ensuring fairness and integrity.

Sec. 466.102. **LIQUIDATED DAMAGES; PERFORMANCE BOND.** A contract for the acquisition or provision of facilities, supplies, equipment, materials, or services related to the operation of the lottery must provide for liquidated damages and a performance bond in an amount equal to the director's best available estimate of the revenue that would be lost if the contractor fails to meet deadlines specified in the contract.

Sec. 466.103. **PROHIBITED CONTRACTS.** The director may not award a contract for the purchase or lease of facilities, goods, or services related to lottery operations to a person who would be denied a license as a sales agent under Section 466.155.

Sec. 466.104. **ASSISTANCE OF GENERAL SERVICES COMMISSION.** On request of the director, the General Services Commission shall assist the director in:

- (1) acquiring facilities, supplies, materials, equipment, and services under the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes); or
- (2) establishing procedures for the director's accelerated acquisition of facilities, supplies, materials, equipment, and services for the operation of the lottery.

Sec. 466.105. **APPLICABILITY OF OTHER LAW.** (a) A contract for the acquisition or provision of facilities, supplies, equipment, materials, or services related to the operation of the lottery is not subject to the Information Resources Management Act (Article 4413(32j), Revised Statutes).

(b) Notwithstanding the provisions of the Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), the comptroller may negotiate rates and execute contracts with telecommunications service providers for the interexchange services necessary for the operation of the lottery. The comptroller may acquire transmission facilities by lease, purchase, or lease-purchase. The acquisition of transmission facilities must be done on a competitive bid basis if possible.

Sec. 466.106. **PREFERENCE FOR TEXAS BUSINESSES.** (a) In all contracts for lottery equipment, supplies, services, and advertising, the division and each lottery operator shall give preference to equipment or supplies produced in this state or services or advertising offered by bidders from this state, the cost to the state and quality being equal.

(b) If equipment or supplies produced in this state or services or advertising offered by a bidder from this state are not equal in cost and quality, then equipment or supplies produced in another state or services or advertising offered by a bidder from another state shall be given preference over foreign equipment, supplies, services, or advertising.

Sec. 466.107. **MINORITY BUSINESSES.** (a) The director, the division, and each lottery operator shall take positive steps to:

- (1) inform minority businesses of opportunities to:

(A) provide lottery equipment and supplies to the division;

(B) provide services, including advertising, to the division for the operation of the lottery; or

(C) obtain a license to sell lottery tickets;

(2) waive or modify bond requirements, if feasible;

(3) award contracts for lottery equipment or supplies to minority businesses when possible;

(4) award contracts for lottery services, including advertising, to minority businesses when possible;

(5) license minority businesses as sales agents;

(6) monitor the effectiveness of the efforts to increase the ability of minority businesses to do business with the division; and

(7) require all bidders or contractors, when appropriate, to include specific plans or arrangements to use subcontracts with minority businesses.

(b) In this section:

(1) "Minority business" means a business entity at least 51 percent of which is owned by minority group members or, in the case of a corporation, at least 51 percent of the shares of which are owned by minority group members, and that:

(A) is managed and, in daily operations, is controlled by minority group members; and

(B) is a domestic business entity with a home or branch office located in this state and is not a branch or subsidiary of a foreign corporation, firm, or other business entity.

(2) "Minority group members" includes:

(A) African Americans;

(B) American Indians;

(C) Asian Americans; and

(D) Mexican Americans and other Americans of Hispanic origin.

(c) The comptroller shall annually report to the legislature and the governor on the level of minority business participation as pertains to both the division's contracts and the licensing of sales agents. The report must include recommendations for the improvement of minority business opportunities in lottery-related business.

Sec. 466.108. **TELEVISION CONTRACTS.** If the drawing or selection of winning tickets is televised under a contract with the division, the contract must be awarded by competitive bid. The comptroller shall adopt rules governing the competitive bidding process. Money received under the contract shall be deposited in the state lottery account established under Section 466.355.

Sec. 466.109. **PUBLICITY OF INDIVIDUALS PROHIBITED.** (a) A state officer or employee, including the comptroller, the director, or an officer or employee of the comptroller's office or the division, may not appear in an advertisement or promotion for the lottery that is sponsored by the comptroller's office or the division or in a televised lottery drawing. An advertisement or promotion for the lottery may not contain the likeness or name of a state officer or employee, including the comptroller, the director, or an officer or employee of the comptroller's office or the division.

(b) In connection with providing security for the lottery, this section does not prohibit a security officer or investigator employed by the division from appearing in a televised lottery drawing or other promotion for the lottery that is sponsored by the comptroller's office or the division.

(c) Notwithstanding this section, the director may designate an employee of the division to participate in a promotional event, the purpose of which is to award a prize.

Sec. 466.110. **PROHIBITED ADVERTISEMENTS.** The legislature intends that advertisements or promotions sponsored by the comptroller's office or the division for the lottery not be of a nature that unduly influences any person to purchase a lottery ticket or number.

[Sections 466.111–466.150 reserved for expansion]

SUBCHAPTER D. LICENSING OF SALES AGENTS

Sec. 466.151. LICENSE REQUIRED. (a) *If the director authorizes a person who is not an employee of the division to sell tickets, the person must be licensed as a sales agent by the division.*

(b) *The director may establish classes of licenses necessary to regulate and administer the quantity and type of lottery games provided at each licensed location.*

(c) *The director shall attempt to license minority businesses as sales agents in at least 20 percent of the licenses issued. Implementation of this subsection must be consistent with Sections 466.152–466.154 and the rest of this section.*

(d) *The director may license as a sales agent each person the director believes will best serve the public convenience. The director may not issue a license to a person to engage in business exclusively as a sales agent. A license may not be transferred or assigned to any other person or location.*

(e) *The director may issue a license to a person only if the director finds that the person's experience, character, and general fitness are such that the person's participation as a sales agent will not detract from the integrity, security, honesty, and fairness of the operation of the lottery.*

Sec. 466.152. LICENSE APPLICATION; FEE. (a) *An applicant for a license under this subchapter must apply to the division under rules adopted by the comptroller, provide information necessary to determine the applicant's eligibility for a license under Section 466.155, and provide other information considered necessary by the comptroller.*

(b) *The applicant must include an application fee with each application. The director shall set the application fee in an amount that is at least sufficient to cover the costs incurred by the division and by the Department of Public Safety to process the application. The director shall determine from information provided by the department the amount required for costs incurred by the department and shall allocate those amounts to the department at least monthly. If the director denies an application for a license based on a factor listed in Section 466.154, the director shall refund one-half of the application fee to the applicant. If the director denies an application based on another factor, the director may not refund any part of the application fee.*

(c) *Applications for licenses must be available for public inspection during regular office hours.*

(d) *A separate license is required for each location at which tickets are to be sold. A person who desires to operate more than one location to sell tickets must submit a separate application for each location.*

(e) *Fees collected under this section shall be deposited in the state treasury to the credit of the state lottery account.*

Sec. 466.153. CHANGE IN APPLICATION INFORMATION. (a) *Except as provided by Subsection (b), an applicant or sales agent shall notify the director of any change in the information in the applicant's or sales agent's most recent application for a license or renewal of a license. The applicant or sales agent shall notify the director of the change in the information not later than the 10th day after the date of the change.*

(b) *A corporate applicant or sales agent is not required to notify the director under Subsection (a) of a transfer of less than 10 percent of the corporate stock unless the transfer results in a shareholder who previously held 10 percent or less of the stock holding more than 10 percent of the stock.*

Sec. 466.154. RULES. *The comptroller shall adopt rules under which, before issuing a license to an applicant, the director shall consider:*

(1) *the financial responsibility and security of the applicant and the business or activity in which the applicant is engaged;*

(2) *the public accessibility of the applicant's place of business or activity;*

- (3) the sufficiency of existing sales agents to serve the public convenience;
- (4) whether individuals under 18 years of age constitute a majority of the applicant's customers or as customers provide a majority of the applicant's sales volume;
- (5) the volume of expected sales; and
- (6) any other factor that the director considers appropriate.

Sec. 466.155. **DENIAL OF APPLICATION OR SUSPENSION OR REVOCATION OF LICENSE.** (a) After a hearing, the director shall deny an application for a license or the comptroller shall suspend or revoke a license if the director or comptroller, as applicable, finds that the applicant or sales agent:

(1) is an individual who:

(A) has been convicted of a felony, criminal fraud, gambling or a gambling-related offense, or a misdemeanor involving moral turpitude, if less than 10 years has elapsed since the termination of the sentence, parole, mandatory supervision, or probation served for the offense;

(B) is or has been a professional gambler; or

(C) is married to or related in the first degree of consanguinity or affinity to an individual:

(i) described in Paragraph (A) or (B); or

(ii) who is currently delinquent in the payment of any state tax;

(2) is not an individual, and an individual described in Subdivision (1):

(A) is an officer or director of the applicant or sales agent;

(B) holds more than 10 percent of the stock in the applicant or sales agent;

(C) holds an equitable interest greater than 10 percent in the applicant or sales agent;

(D) is a creditor of the applicant or sales agent who holds more than 10 percent of the applicant's or sales agent's outstanding debt;

(E) is the owner or lessee of a business that the applicant or sales agent conducts or through which the applicant will conduct a ticket sales agency;

(F) shares or will share in the profits, other than stock dividends, of the applicant or sales agent;

(G) participates in managing the affairs of the applicant or sales agent; or

(H) is an employee of the applicant or sales agent who is or will be involved in:

(i) selling tickets; or

(ii) handling money from the sale of tickets;

(3) is currently delinquent in the payment of any state tax;

(4) is a person whose location for the sales agency is:

(A) a racetrack at which wagering is authorized under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes);

(B) a location licensed for games of bingo under the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes);

(C) on land that is owned by:

(i) this state; or

(ii) a political subdivision of this state, other than land used as a mass transportation facility that is used by commercial carriers; or

(D) a location for which a person holds a wine and beer retailer's permit, mixed beverage permit, mixed beverage late hours permit, private club registration permit, or private club late hours permit issued under Chapter 25, 28, 29, 32, or 33, Alcoholic Beverage Code; or

(5) has violated this chapter or a rule adopted under this chapter.

(b) If the director proposes to deny an application for a license or the comptroller proposes to suspend or revoke a license under this section, the applicant or sales agent is entitled to written notice of the time and place of the hearing. A notice may be served on an applicant

or sales agent personally or sent by certified or registered mail, return receipt requested, to the person's mailing address as it appears on the division's records. A notice must be served or mailed not later than the 20th day before the date of the hearing.

(c) At a hearing, an applicant or sales agent must show by a preponderance of the evidence why the application should not be denied or the license suspended or revoked.

(d) The director shall give an applicant or sales agent written notice of a denial of an application or a suspension or revocation of a license.

(e) The director may not issue a license to a person who has previously had a license under this chapter revoked unless the director is satisfied the person will comply with this chapter and the rules adopted under this chapter. The director may prescribe the terms under which a suspended license will be reissued.

(f) The director may not issue a license to an applicant who fails to certify to the director the applicant's compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

Sec. 466.156. **BOND; INSURANCE.** (a) Each sales agent shall post a cash bond, surety bond, letter of credit, certificate of deposit, or other security approved by the director. The amount of the security shall be determined by the director and must reflect the possible losses to the state from the operation of the sales agent.

(b) The director may also require a sales agent to maintain insurance if necessary to protect the interests of the state.

Sec. 466.157. **DISPLAY OF LICENSE.** As prescribed by division rules, each sales agent shall prominently display the license in each place of business or activity at which the sales agent sells tickets.

Sec. 466.158. **EXPIRATION OF LICENSE; RENEWAL.** (a) Unless suspended or revoked, a license expires on the date specified in the license, which may not be later than the second anniversary of its date of issuance.

(b) The comptroller shall adopt rules for the renewal of licenses. The director shall set the fee for a renewal of a license in an amount at least sufficient to cover the cost of processing the renewal.

(c) A sales agent must file a renewal application and pay the renewal fee before the sales agent's license expires.

Sec. 466.159. **DEATH, DISSOLUTION, OR BANKRUPTCY OF SALES AGENT.** (a) A license issued under this chapter expires on:

- (1) the death of a sales agent who is an individual;
- (2) the dissolution of a sales agent that is not an individual; or
- (3) the bankruptcy or receivership of a sales agent.

(b) If a license expires under Subsection (a) and the sales agent's successor in interest desires to operate the sales agency, the successor shall file an application for an extended license not later than the 30th day after the date the license expired. The application must state the basis for the applicant's claim to be the successor in interest to the sales agent and must contain a certification that the applicant would be eligible for a license under Section 466.155. The director shall permit a qualified applicant to operate under an extended license for not more than one year or until a new license is issued to the applicant, whichever occurs first.

Sec. 466.160. **SUMMARY SUSPENSION OF LICENSE.** (a) The comptroller may suspend a sales agent's license summarily without notice or hearing if the comptroller finds that the action is necessary to maintain the integrity, security, honesty, or fairness of the operation or administration of the lottery or to prevent financial loss to the state and:

- (1) the sales agent fails to deposit money received from ticket sales under Section 466.351;
- (2) an event occurs that would render the sales agent ineligible for a license under Section 466.155;

(3) the sales agent refuses to permit the director, the comptroller, or the state auditor to examine the agent's books, records, papers, or other objects under Section 466.017(b); or

(4) the director learns the sales agent has failed to disclose information that would, if disclosed, render the sales agent ineligible for a license under Section 466.155.

(b) The comptroller may summarily suspend a sales agent's license if proceedings for a preliminary hearing before the comptroller or the comptroller's representative are initiated simultaneously with the summary suspension. The preliminary hearing shall be set for a date not later than 10 days after the date of the summary suspension, unless the parties agree to a later date.

(c) At the preliminary hearing, the sales agent must show cause why the license should not remain suspended pending a final hearing on suspension or revocation. The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) does not apply to the comptroller in the administration and enforcement of the summary suspension of a license under this section. The rules governing a hearing on any other license suspension or revocation under this chapter govern a final administrative hearing under this subsection.

(d) To initiate a proceeding to summarily suspend a sales agent's license, the comptroller must serve notice to the sales agent informing the agent of the right to a preliminary hearing before the comptroller or the comptroller's representative and of the time and place of the preliminary hearing. The notice must be personally served on the sales agent or an officer, employee, or agent of the sales agent or sent by certified or registered mail, return receipt requested, to the sales agent's mailing address as it appears on the division's records. The notice must state the alleged violations that constitute grounds for summary suspension. The suspension is effective at the time the notice is served. If notice is served in person, the sales agent shall immediately surrender the license to the comptroller or to the comptroller's representative. If notice is served by mail, the sales agent shall immediately return the license to the comptroller. If the sales agent uses an on-line electronic terminal to sell tickets, the director or a lottery operator on the instructions of the director may terminate the connection of the terminal to the division's lottery computer at the time the proceeding to summarily suspend the license is initiated.

[Sections 466.161-466.200 reserved for expansion]

SUBCHAPTER E. CRIMINAL HISTORY INVESTIGATIONS

Sec. 466.201. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION. (a) The comptroller is entitled to conduct an investigation of and is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency to assist in the investigation of:

- (1) a sales agent or an applicant for a sales agent license;
- (2) a person required to be named in a license application;
- (3) a lottery operator or prospective lottery operator;
- (4) an employee of a lottery operator or prospective lottery operator, if the employee is or will be directly involved in lottery operations;
- (5) a person who manufactures or distributes lottery equipment or supplies, or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;
- (6) a person who has submitted a written bid or proposal to the division in connection with the procurement of goods or services by the division, if the amount of the bid or proposal exceeds \$500;
- (7) an employee or other person who works for or will work for a sales agent or an applicant for a sales agent license;
- (8) a person who proposes to enter into or who has a contract with the division to supply goods or services to the division; or
- (9) if a person described in Subdivisions (1) through (8) is not an individual, an individual who:

- (A) is an officer or director of the person;
- (B) holds more than 10 percent of the stock in the person;
- (C) holds an equitable interest greater than 10 percent in the person;
- (D) is a creditor of the person who holds more than 10 percent of the person's outstanding debt;
- (E) is the owner or lessee of a business that the person conducts or through which the person will conduct lottery-related activities;
- (F) shares or will share in the profits, other than stock dividends, of the person;
- (G) participates in managing the affairs of the person; or
- (H) is an employee of the person who is or will be involved in:
 - (i) selling tickets; or
 - (ii) handling money from the sale of tickets.

(b) The comptroller shall conduct an investigation of and obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency to assist in the investigation of:

- (1) the director or a prospective director of the division; or
- (2) an employee or prospective employee of the division.

(c) Not later than the first anniversary after the date of each renewal, the comptroller shall obtain criminal history record information maintained by the Department of Public Safety on a sales agent whose license is renewed under Section 466.158.

Sec. 466.202. **FINGERPRINTS.** (a) The director may discharge from employment an employee of the division who fails to provide a complete legible set of fingerprints on request. The director may refuse to consider a prospective employee of the division who fails to provide a complete legible set of fingerprints on request.

(b) The director may deny an application for a license or the comptroller may suspend or revoke a license if the applicant or sales agent fails on request to provide a complete legible set of fingerprints of:

- (1) a person required to be named in a license application; or
- (2) an employee or other person who works or will work for the applicant or sales agent, if the person:
 - (A) is or will be involved in the sale of tickets; or
 - (B) handles or will handle money from the sale of tickets.

(c) All fingerprints submitted to the Department of Public Safety must be on a form prescribed by the department.

Sec. 466.203. **DEPARTMENT OF PUBLIC SAFETY ASSISTANCE; COSTS OF INVESTIGATION.** (a) The director may request the cooperation of the Department of Public Safety to perform a background investigation of a person listed in Section 466.201(a) or (b). The director shall reimburse the department for the actual cost of an investigation.

(b) The director may require a person who is subject to investigation to pay all costs of the investigation and to provide any information, including fingerprints, necessary to carry out the investigation or facilitate access to state or federal criminal history record information. Payments made to the director under this subsection shall be deposited in the general revenue fund and may be used to reimburse the Department of Public Safety for the actual costs of an investigation.

(c) Unless otherwise prohibited by law, the Department of Public Safety may retain any record or information submitted to it under this section. The department shall notify the director of any change in information provided to the director when the department learns of the change.

Sec. 466.204. **ACCESS TO INTERNAL REVENUE SERVICE INFORMATION.** The director may obtain information relating to a person's qualification for licensing, employ-

ment, or contracting under this chapter from the Internal Revenue Service under a contract between the comptroller and the Internal Revenue Service on:

- (1) a sales agent or an applicant for a sales agent license;
- (2) an employee or prospective employee of the division;
- (3) a person required to be named in a license application;
- (4) a lottery operator or prospective lottery operator;
- (5) an employee of a lottery operator or prospective lottery operator, if the employee is or will be directly involved in lottery operations;
- (6) a person who manufactures or distributes lottery equipment or supplies, or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;
- (7) a person who has submitted a written bid or proposal to the division in connection with the procurement of goods or services by the division;
- (8) an employee or other person who works for or will work for a sales agent or an applicant for a sales agent license; or
- (9) a person who proposes to enter into or who has a contract with the division to supply goods or services to the division.

Sec. 466.205. **CONFIDENTIAL INFORMATION; OFFENSE.** (a) All criminal history record information received by the director is privileged information and is for the exclusive use of the director and employees of the division designated by the director. Except on court order or as provided by Subsection (c), the information may not be released or otherwise disclosed to any other person or agency.

(b) All information received by the director from the Internal Revenue Service is confidential and may only be used as provided by the contract between the comptroller and the Internal Revenue Service under which the information was obtained.

(c) The director or an employee of the division may not provide any person being investigated under this subchapter with a copy of the person's criminal history record obtained from the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency. This subsection does not prevent the director from disclosing to the person the dates and places of arrests, offenses, and dispositions contained in the criminal history records.

(d) The comptroller shall adopt necessary rules governing the custody and use of information obtained under this subchapter.

(e) A person commits an offense if the person releases or discloses information received by the comptroller under this subchapter except on court order or as provided by Subsection (c). An offense under this subsection is a Class A misdemeanor.

[Sections 466.206–466.250 reserved for expansion]

SUBCHAPTER F. REGULATION OF GAMES

Sec. 466.251. **TICKETS.** (a) The director shall prescribe the form of tickets.

(b) The toll-free "800" telephone number established by the Texas Commission on Alcohol and Drug Abuse under Section 461.018, Health and Safety Code, must be printed on each ticket.

(c) The overall estimated odds of winning a prize in a particular lottery game must be printed on each ticket and prominently displayed in association with the sale of lottery products. The estimate must be based on reasonable projections and past experience.

Sec. 466.252. **PURCHASE OF TICKET AGREEMENT TO ABIDE BY RULES.** (a) By purchasing a ticket in a particular lottery game, a player agrees to abide by and be bound by the division's rules, including the rules applicable to the particular lottery game involved. The player also acknowledges that the determination of whether the player is a valid winner is subject to:

(1) the division's rules and claims procedures, including those developed for the particular lottery game involved; and

(2) any validation tests established by the division for the particular lottery game involved.

(b) If the lottery uses tickets, an abbreviated form of the rules or a reference to the rules may appear on the tickets.

Sec. 466.253. SALE OF TICKET TO PERSON YOUNGER THAN 18 YEARS. (a) A sales agent or an employee of a sales agent may not intentionally or knowingly sell or offer to sell a ticket to an individual that the person knows is younger than 18 years of age.

(b) A person 18 years of age or older may purchase a ticket to give as a gift to another person, including an individual younger than 18 years of age. If an individual younger than 18 years of age directly purchases a ticket, the individual is not eligible to receive a prize, and the prize otherwise payable on the ticket is treated as an unclaimed prize as provided by Section 466.408.

Sec. 466.254. SALE OF TICKET OR PAYMENT OF PRIZE TO CERTAIN PERSONS. A person may not sell a ticket or pay a lottery prize to another person that the person knows is:

(1) a member, officer, or employee of a person that has a contract with the division to sell or lease goods or services used in the lottery;

(2) a member, officer, or employee of a lottery operator;

(3) an officer or employee of the comptroller; or

(4) a spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of a person described by Subdivision (1), (2), or (3).

Sec. 466.255. CERTAIN TICKET PURCHASES PROHIBITED. (a) A person may not purchase a ticket:

(1) through the use of:

(A) a food stamp coupon issued under the food stamp program administered under Chapter 33, Human Resources Code; or

(B) a credit card or a debit card;

(2) over the telephone; or

(3) by mail-order sales.

(b) A person may not pay for a ticket with the proceeds of a check issued as a payment under the Aid to Families with Dependent Children program administered under Chapter 31, Human Resources Code.

[Sections 466.256–466.300 reserved for expansion]

SUBCHAPTER G. OFFENSES

Sec. 466.301. DEFINITIONS. In this subchapter:

(1) "Communicate directly with" has the meaning assigned by Section 305.002.

(2) "Gift" includes a gratuity, trip, meal, or other thing of value for which the recipient does not compensate the person making the gift.

(3) "Legislation" has the meaning assigned by Section 305.002.

(4) "Member of the legislative branch" has the meaning assigned by Section 305.002.

(5) "Participated" means to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, or similar action.

(6) "Particular matter" includes an investigation, an application, a request for a ruling or determination, a license proceeding, rulemaking, a contract, a controversy, a claim, a charge, an accusation, an arrest, or a judicial or other proceeding.

(7) "Person that has a significant financial interest in the lottery" means:

(A) a person that manufactures, distributes, sells, or produces lottery equipment, supplies, services, or advertising;

(B) a person that has made a bid to operate the lottery in the preceding two years or that intends to make a bid to operate the lottery; or

(C) a sales agent.

(8) "Political committee" has the meaning assigned by Section 251.001, Election Code.

(9) "Political contribution" has the meaning assigned by Section 251.001, Election Code.

Sec. 466.302. **SALE OF TICKET AT PRICE GREATER THAN FIXED PRICE.** (a) A person commits an offense if the person intentionally or knowingly sells a ticket at a price the person knows is greater than that fixed by the division or by the lottery operator authorized to set that price.

(b) An offense under this section is a Class A misdemeanor.

Sec. 466.303. **SALE OF TICKET BY UNAUTHORIZED PERSON.** (a) Except as provided by Subsection (b), a person who is not a sales agent or an employee of a sales agent commits an offense if the person intentionally or knowingly sells a ticket.

(b) A lottery operator may sell tickets to a sales agent. A person who is not a sales agent may distribute tickets as premiums to customers, employees, or other persons who deal with the person if no purchase or service is required to entitle the recipient to the ticket.

(c) An offense under this section is a felony of the third degree.

Sec. 466.304. **SALE OF TICKET AT UNAUTHORIZED LOCATION.** (a) A person commits an offense if the person sells a ticket at a location other than the location of a sales agency.

(b) An offense under this section is a Class A misdemeanor.

Sec. 466.305. **SALE OF TICKET ON CREDIT.** (a) A sales agent or an employee of a sales agent commits an offense if the person intentionally or knowingly sells a ticket to another person by extending credit or lending money to the person to enable the person to purchase the ticket.

(b) An offense under this section is a Class C misdemeanor.

Sec. 466.306. **FORGERY; ALTERATION OF TICKET.** (a) A person commits an offense if the person intentionally or knowingly alters or forges a ticket.

(b) An offense under this section is a felony of the third degree unless it is shown on the trial of the offense that the prize alleged to be authorized by the ticket forged or altered is greater than \$10,000, in which event the offense is a felony of the second degree.

Sec. 466.307. **INFLUENCING SELECTION OF WINNER.** (a) A person commits an offense if the person intentionally or knowingly influences or attempts to influence the selection of the winner of a lottery game.

(b) An offense under this section is a felony of the third degree unless it is shown on the trial of the offense that a prize in the game influenced or attempted to be influenced is greater than \$10,000, in which event the offense is a felony of the second degree.

Sec. 466.308. **CLAIMING LOTTERY PRIZE BY FRAUD.** (a) A person commits an offense if the person intentionally or knowingly:

(1) claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or

(2) aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.

(b) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that:

(1) the amount claimed or attempted to be claimed is greater than \$200 but not more than \$10,000, in which event the offense is a felony of the third degree;

(2) the amount claimed or attempted to be claimed is greater than \$10,000, in which event the offense is a felony of the second degree; or

(3) the person has previously been convicted of an offense under Section 466.306, 466.307, 466.309, 466.310, or this section, in which event the offense is a felony of the third degree, unless the offense is designated as a felony of the second degree under Subdivision (2).

Sec. 466.309. **TAMPERING WITH LOTTERY EQUIPMENT.** (a) A person commits an offense if the person intentionally or knowingly tampers with, damages, defaces, or renders inoperable any vending machine, electronic computer terminal, or other mechanical device used in a lottery game.

(b) An offense under this section is a felony of the third degree.

Sec. 466.310. **CERTAIN TRANSFERS OF CLAIMS.** (a) A person commits an offense if the person:

- (1) induces another person to assign or transfer a right to claim a prize;
- (2) offers for sale the right to claim a prize; or
- (3) offers, for compensation, to claim the prize of another person.

(b) An offense under this section is a felony of the third degree, unless it is shown on the trial of the offense that the prize involved is greater than \$10,000, in which event the offense is a felony of the second degree.

Sec. 466.311. **REPORTING AND RECORD VIOLATIONS.** (a) A person commits an offense if the person, in a license application, in a book or record required to be maintained by this chapter or a rule adopted under this chapter, or in a report required to be submitted by this chapter or a rule adopted under this chapter:

- (1) intentionally or knowingly makes a statement or entry that the person knows to be false or misleading; or
- (2) fails to maintain or make an entry the person knows is required to be maintained or made.

(b) A person commits an offense if the person knowingly refuses to produce for inspection by the director, comptroller, or state auditor a book, record, or document required to be maintained or made by this chapter or a rule adopted under this chapter.

(c) An offense under this section is a Class A misdemeanor.

Sec. 466.312. **FALSE, INCORRECT, OR DECEPTIVE STATEMENT.** (a) A person commits an offense if the person intentionally, knowingly, recklessly, or with criminal negligence makes a material and false, incorrect, or deceptive statement to a person conducting an investigation or exercising discretion under this chapter or a rule adopted under this chapter.

(b) In this section, "statement" includes:

- (1) a written or oral statement; and
- (2) a sworn or unsworn statement.

(c) An offense under this section is a Class A misdemeanor.

Sec. 466.313. **CONSPIRACY.** (a) A person commits an offense of conspiracy if, with intent that an offense under this chapter be committed:

- (1) the person agrees with one or more other persons that they or one or more of them engage in conduct that would constitute the offense; and
- (2) one or more of the persons agreeing under Subdivision (1) performs an overt act in pursuance of the agreement.

(b) An agreement constituting a conspiracy may be inferred from acts of the parties.

(c) It is no defense to prosecution for conspiracy under this section that:

- (1) one or more of the coconspirators is not criminally responsible for the object offense;
- (2) one or more of the coconspirators has been acquitted, so long as at least two coconspirators have not been acquitted;
- (3) one or more of the coconspirators has not been prosecuted or convicted, has been convicted of a different offense, or is immune from prosecution;

(4) the actor belongs to a class of persons that by definition of the object offense is legally incapable of committing the object offense in an individual capacity; or

(5) the object offense was not actually committed.

(d) An offense under this section is one category lower than the most serious offense under this chapter that is the object of the conspiracy, and if the most serious offense under this chapter that is the object of the conspiracy is a felony of the third degree, the offense is a Class A misdemeanor.

Sec. 466.314. GIFT OR POLITICAL CONTRIBUTION TO OFFICER OR EMPLOYEE.

(a) The comptroller, the state treasurer, the director, or an employee of the division may not knowingly accept a gift or political contribution from:

(1) a person that has a significant financial interest in the lottery;

(2) a person related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) a person that owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) a person who, within the two years preceding the date of the gift or contribution, won a lottery prize exceeding \$600 in amount or value.

(b) A person may not knowingly make a gift or political contribution to the comptroller, the state treasurer, the director, or an employee of the division if the person:

(1) has a significant financial interest in the lottery;

(2) is related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) is a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) within the two years preceding the date of the gift or contribution, won a lottery prize exceeding \$600 in amount or value.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

Sec. 466.315. GIFT OR POLITICAL CONTRIBUTION TO FORMER OFFICER OR EMPLOYEE.

(a) A former comptroller, former state treasurer, former director, or former employee of the division may not, before the second anniversary of the date that the person's service in office or employment with the division ceases, knowingly accept a gift or political contribution from:

(1) a person that has a significant financial interest in the lottery;

(2) a person related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) a person that owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) a person who, within the two years preceding the date of the gift or contribution, won a lottery prize exceeding \$600 in amount or value.

(b) A person may not knowingly make a gift or political contribution to a former comptroller, former state treasurer, former director, or former employee of the division before the second anniversary of the date that the person's service in office or employment with the division ceases, if the person:

(1) has a significant financial interest in the lottery;

(2) is related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) is a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) within the two years preceding the date of the gift or contribution, won a lottery prize exceeding \$600 in amount or value.

(c) This section does not apply to a former comptroller or former state treasurer who left office on or before August 10, 1991. This section does not apply to a person who makes a gift or political contribution to a former comptroller or former state treasurer if the former comptroller or former state treasurer left office on or before August 10, 1991.

(d) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

Sec. 466.316. REPRESENTATION BY FORMER OFFICER OR EMPLOYEE. (a) A former comptroller, former state treasurer, or former director may not:

(1) for compensation, represent a person that has made or intends to make a bid to operate the lottery before the comptroller before the second anniversary of the date that the person's service in office or employment with the division ceases;

(2) represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former officer or employee participated during the period of service or employment with the division, either through personal involvement or because the matter was within the scope of the officer's or employee's official responsibility; or

(3) for compensation, communicate directly with a member of the legislative branch to influence legislation on behalf of a person that has a significant financial interest in the lottery, before the second anniversary of the date that the person's service in office or employment with the division ceases.

(b) This section does not apply to a former comptroller or former state treasurer who left office on or before August 10, 1991.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

[Sections 466.317–466.350 reserved for expansion]

SUBCHAPTER H. REVENUE

Sec. 466.351. DELIVERY OF FUNDS. (a) Except as provided by Subsection (d), all revenue received from the sale of tickets and all money credited to the state lottery account from any other source shall be deposited in the state treasury through approved state depositories on the settlement day or days established by the director.

(b) The director may require sales agents to establish separate electronic funds transfer accounts for the purposes of depositing money from ticket sales, making payments to the division, and receiving payments from the division. The comptroller by rule shall establish the procedures for depositing money from ticket sales into electronic funds transfer accounts, as well as other procedures regarding the handling of money from ticket sales.

(c) The director may not permit a sales agent to make payments to the division or a lottery operator in cash.

(d) The director may provide for a sales agent to retain from the money received from the sale of tickets the amount of prizes paid by the agent or the agent's commission, if any, and may establish how often the agent will make settlement payments to the treasury.

(e) The director may provide for a sales agent to pay amounts received for the sale of tickets directly to an officer or employee of the division for immediate deposit in the state treasury.

Sec. 466.352. REPORTING BY SALES AGENT; RECORDS. (a) *The director may require a sales agent to file with the division reports of receipts and transactions relating to the sale of tickets in the form and containing the information that the director requires.*

(b) *Each sales agent shall maintain records adequate to establish the disposition of each ticket provided to the sales agent, the amounts of money received for the sale of those tickets, and any prizes awarded by the sales agent.*

Sec. 466.353. LIABILITY OF SALES AGENT. (a) *A sales agent is liable to the division for all tickets accepted or generated by the sales agent or any employee or agent of the sales agent, and tickets shall be deemed to have been purchased by the sales agent unless returned to the division within the time and manner prescribed by the division.*

(b) *Money received by a sales agent from the sales of tickets, less the amount retained for prizes paid by the sales agent or for the agent's commission, if any, together with any unsold tickets, shall be held in trust for the benefit of the state before delivery to a lottery operator or the division or electronic transfer to the state treasury, and the sales agent is liable to the division for the full amount of the money or unsold tickets so held. If the sales agent is not an individual, each officer, director, or owner of the sales agent is personally liable to the division for the full amount of the money or unsold tickets held in trust for the benefit of the state.*

Sec. 466.354. DUTIES OF STATE TREASURER. (a) *The state treasurer, in consultation with the director, shall establish procedures for the efficient implementation and operation of an electronic funds transfer system to meet the needs of the director under this chapter.*

(b) *The state treasurer periodically shall file reports with the director providing information regarding the revenue credited to the state lottery account, the investments of the money in the account, and the distributions made from the account.*

Sec. 466.355. STATE LOTTERY ACCOUNT. (a) *The state lottery account is a special account in the general revenue fund. The account consists of all revenue received from the sale of tickets, license and application fees under this chapter, and all money credited to the account from any other fund or source under law. Interest earned by the state lottery account shall be deposited in the unobligated portion of the general revenue fund.*

(b) *Money in the state lottery account may be used only for the following purposes and shall be distributed as follows:*

(1) *the payment of prizes to the holders of winning tickets;*

(2) *the payment of costs incurred in the operation and administration of the lottery, including any fees received by a lottery operator, provided that the costs incurred in a fiscal biennium may not exceed an amount equal to 15 percent of the gross revenue accruing from the sale of tickets in that biennium;*

(3) *the transfer of amounts to the state lottery stabilization fund as provided by Section 466.356; and*

(4) *the balance, after creation of a reserve sufficient to pay the amounts provided by Subdivisions (1) and (2), to be transferred to the unobligated portion of the general revenue fund, on or before the 15th day of each month.*

(c) *Notwithstanding Subsection (b)(2), before September 1, 1993, the costs incurred in the operation and administration of the lottery in the fiscal biennium beginning September 1, 1991, may be more than 15 percent but not more than 20 percent of the gross revenue from the sale of tickets in that biennium. This subsection expires January 1, 1994.*

Sec. 466.356. STATE LOTTERY STABILIZATION FUND. (a) *The state lottery stabilization fund is a special fund in the state treasury. The fund consists of revenue credited to the fund from the state lottery account as provided by Subsection (b). Interest earned by the state lottery stabilization fund shall be deposited in the unobligated portion of the general revenue fund.*

(b) *For each month in which the monthly estimate of net lottery revenue exceeds \$10 million and the net lottery revenue equals or exceeds the monthly estimate of net lottery revenue, the comptroller shall transfer \$10 million plus the amount by which the net lottery*

revenue exceeds the monthly estimate of net lottery revenue from the state lottery account to the state lottery stabilization fund.

(c) Money in the state lottery stabilization fund shall be distributed only as follows:

(1) if in any month the net lottery revenue is less than 90 percent of the monthly estimate of net lottery revenue, an amount equal to the difference between the monthly estimate of net lottery revenue and the net lottery revenue shall be transferred to the unobligated portion of the general revenue fund; and

(2) on the first day of each fiscal biennium, one-half of the balance in the state lottery stabilization fund shall be transferred to the unobligated portion of the general revenue fund.

(d) In this section:

(1) "Annual estimate of net lottery revenue" means the estimated amount of net lottery revenue for a fiscal year, as determined by the comptroller for purposes of the biennial revenue estimate required by Article III, Section 49a, of the Texas Constitution.

(2) "Gross lottery revenue" means the sum of:

(A) the gross revenue from the sale of tickets; and

(B) license and application fees collected under this chapter.

(3) "Monthly estimate of net lottery revenue" means an amount equal to one-twelfth the annual estimate of net lottery revenue for the fiscal year that includes the month for which the monthly estimate is made.

(4) "Net lottery revenue" means the gross lottery revenue minus the amounts distributed or obligated for a purpose described by Sections 466.355(b)(1) and (b)(2).

(e) Notwithstanding Subsection (b) and Section 466.355(b)(4), the initial transfer of revenue from the state lottery account to the unobligated portion of the general revenue fund and the state lottery stabilization fund under those subsections shall be made on the 15th day of the month following the month in which the earlier of the following occurs:

(1) the first ticket is sold to a player under this chapter; or

(2) the director receives liquidated damages or a payment under a performance bond under a contract with a lottery operator.

(f) Notwithstanding Subsection (b), the first transfer from the state lottery account to the state lottery stabilization fund may not be made before September 1, 1993. Notwithstanding Subsection (c)(1), the first transfer from the state lottery stabilization fund to the unobligated portion of the general revenue fund may not be made before December 1, 1993.

(g) Notwithstanding Subsection (d), the monthly estimate of net lottery revenue for the month following the month in which the first ticket is sold to a player and for each of the subsequent months in that fiscal year is the amount of estimated net lottery revenue for that fiscal year included in the comptroller's revenue estimate under Article III, Section 49a, of the Texas Constitution for the biennium ending August 31, 1993, divided by the number of whole months remaining in the fiscal year after the month in which the first ticket is sold to a player. If the comptroller's revenue estimate for the fiscal biennium ending August 31, 1993, does not include revenue from a state-operated lottery, all net lottery revenue for that biennium shall be credited to the state lottery stabilization fund.

(h) Subsections (e) through (g) and this subsection expire January 1, 1994.

Sec. 466.357. **APPLICABILITY OF CONSTITUTIONAL PROVISIONS.** For purposes of Article III, Section 49a, and Article VIII, Section 22, of the Texas Constitution:

(1) funds received from the operation of a lottery are not revenue; and

(2) expenses of operating the lottery and paying prizes are not expenses of state government.

Sec. 466.358. **COMPENSATION OF SALES AGENT.** (a) The director and each lottery operator shall determine the compensation to be paid to sales agents for the sale of tickets as provided by this section. The compensation paid to a sales agent may not be an amount less than five percent of the retail price of the tickets sold plus, at the discretion of the director or lottery operator supervising the lottery game involved, an incentive bonus based on attain-

ment of sales volume, the redemption of winning tickets, or other objectives specified by the director or lottery operator for each type of lottery.

(b) The division or a lottery operator may run sales agent incentive games for sales agents using the incentive bonus amount or other amounts allocated by the director as compensation for sales agents.

Sec. 466.359. COMPENSATION OF SALES AGENT FOR PURPOSES OF CONTRACTUAL RENTAL PAYMENT. *If a sales agent's rental payments for premises are contractually computed in whole or in part on the basis of a percentage of the lessee's retail sales and if the computation of the lessee's rental payment is not explicitly defined to include sales of tickets in a state-operated lottery, the compensation received by the sales agent from the lottery is considered to be the net amount of the lessee's retail sales of tickets for the purpose of computing the rental payment.*

[Sections 466.360–466.400 reserved for expansion]

SUBCHAPTER I. PRIZES

Sec. 466.401. TICKET VALIDATION; DRAWINGS. (a) *The department of security shall supervise ticket validation and lottery drawings.*

(b) *If a lottery game involves a drawing, the drawing must be open to the public. An independent certified public accountant must witness the drawing.*

(c) *An employee of the division and the independent certified public accountant witnessing the drawing shall inspect any equipment used in the drawing. The equipment must be inspected immediately before and after the drawing. The drawing and inspections must be recorded on video and audio tape.*

Sec. 466.402. PAYMENT OF PRIZES GENERALLY. (a) *The director may authorize prizes to be paid by warrants to be drawn on the state lottery account.*

(b) *The payment of a prize in an amount of \$600 or more may be made only by the director.*

(c) *The director may authorize a sales agent to pay a prize in an amount less than \$600 after performing procedures to validate the winning ticket as required by the director. A prize paid under this subsection is not required to be paid by warrant on the state lottery account.*

(d) *The state is discharged of all further liability on the payment of a prize under Section 466.403, 466.404, 466.406, or 466.407 or this section or under any additional procedures established by rule.*

Sec. 466.403. PAYMENT OF PRIZE IN INSTALLMENTS. *If the director determines that prize money is to be paid in installments, the state treasurer shall invest funds from the state lottery account as necessary to ensure the payment of the installments. The investments may be in securities, annuities, or other instruments as determined by the treasurer.*

Sec. 466.404. PAYMENT OF PRIZE TO MULTIPLE WINNERS. (a) *A specific prize as set forth by the prize structure of a specific lottery game may not be paid more than once. If the director determines that more than one claimant has been awarded a specific unpaid prize in a specific lottery game, each claimant is entitled only to an equal share of the prize.*

(b) *The director shall pay the cash equivalent of a prize other than prize money if more than one person is entitled to share the prize as provided by Subsection (a).*

Sec. 466.405. PAYMENT OF PRIZE AWARDED TO MINOR. (a) *If a minor is entitled to prize money on a winning ticket in an amount less than \$600, the director may make payment by delivery to an adult member of the minor's family, or to the minor's guardian, of a warrant payable to the order of the minor.*

(b) *If a minor is entitled to prize money on a winning ticket in an amount of \$600 or more, the director may direct payment to the minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or of the minor's guardian as custodian for the minor.*

(c) *The director shall pay the cash equivalent of a prize other than prize money if the person entitled to claim the prize is a minor. Payment of the cash equivalent of a prize other than prize money to a minor shall be made as provided by Subsections (a) and (b).*

(d) *A person designated to receive payment on behalf of a minor has the powers and duties of a custodian under Chapter 141, Property Code.*

(e) *In this section, "adult," "bank," "custodian," "guardian," "member of a minor's family," and "minor" have the meanings assigned by Section 141.002, Property Code.*

Sec. 466.406. RIGHT TO PRIZE NOT ASSIGNABLE. (a) *Except as otherwise provided by this section, the right of any person to a prize is not assignable.*

(b) *Payment of a prize may be made to the estate of a deceased prizewinner.*

(c) *A prize to which a winner is otherwise entitled may be paid to any person under an appropriate judicial order.*

Sec. 466.407. DEDUCTIONS FROM PRIZES. (a) *The director shall deduct the amount of a delinquent tax or other money from the winnings of a person who has been finally determined to be:*

(1) *delinquent in the payment of a tax or other money collected by the comptroller, the state treasurer, or the Texas Alcoholic Beverage Commission;*

(2) *delinquent in making child support payments administered or collected by the attorney general; or*

(3) *in default on a loan guaranteed under Chapter 57, Education Code.*

(b) *If a person's winnings exceed a delinquency under Subsection (a), the director shall pay the balance to the person. The director shall transfer the amount deducted to the appropriate agency.*

(c) *The attorney general, state treasurer, Texas Alcoholic Beverage Commission, and Texas Guaranteed Student Loan Corporation shall each provide the director with a report of persons who have been finally determined to be delinquent in the payment of a tax or other money collected by the agency. The comptroller shall adopt rules regarding the form and frequency of reports under this subsection.*

Sec. 466.408. UNCLAIMED PRIZES. (a) *The division shall retain an unclaimed prize on a winning ticket for payment or delivery to the person entitled to the prize for 180 days after the date on which the winner was selected.*

(b) *If a claim is not made for prize money on or before the 180th day after the date on which the winner was selected, the prize money shall be used to provide additional money to the state lottery account for the purposes prescribed by Section 466.355(b)(1).*

(c) *If a claim is not made for a prize other than prize money on or before the 180th day after the date on which the winner was selected, the prize shall revert to the division for use in subsequent games.*

(d) *A ticket holder forfeits any claim or entitlement to a prize after the expiration of the 180th day after the date on which the prizewinner was selected.*

(c) Section 2, Chapter 6, Acts of the 72nd Legislature, 1st Called Session, 1991 (Article 179g, Vernon's Texas Civil Statutes), is repealed.

SECTION 4.04. Section 47.02(c), Penal Code, is amended to correct a reference to read as follows:

(c) It is a defense to prosecution under this section that the actor reasonably believed that the conduct:

(1) was permitted under the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes);

(2) was permitted under the Charitable Raffle Enabling Act (Article 179f, Revised Statutes); or

(3) consisted entirely of participation in the state lottery authorized by Chapter 466, Government Code [~~the State Lottery Act~~].

SECTION 4.05. Section 47.06(g), Penal Code, is amended to correct a reference to read as follows:

(g) It is a defense to prosecution for an offense under this chapter that the conduct was authorized, directly or indirectly, by *Chapter 466, Government Code* [~~the State Lottery Act~~], the lottery division in the office of the comptroller, the comptroller, or the director of the lottery division.

SECTION 4.06. Section 47.14, Penal Code, is amended to correct a reference to read as follows:

Sec. 47.14. STATE LOTTERY. It is a defense to prosecution for an offense under this chapter that the conduct:

(1) consisted entirely of participation in the state lottery authorized by *Chapter 466, Government Code* [~~the State Lottery Act~~]; or

(2) was a necessary incident to the operation of the state lottery and was authorized, directly or indirectly, by *Chapter 466, Government Code* [~~the State Lottery Act~~], the lottery division in the office of the comptroller, the comptroller, or the director of the lottery division.

SECTION 4.07. Article 2.12, Code of Criminal Procedure, is amended to correct references to read as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

- (1) sheriffs and their deputies;
- (2) constables and deputy constables;
- (3) marshals or police officers of an incorporated city, town, or village;
- (4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;
- (5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;
- (6) law enforcement agents of the Texas Alcoholic Beverage Commission;
- (7) each member of an arson investigating unit commissioned by a city, a county, or the state;
- (8) officers commissioned under Subchapter E, Chapter 51, Education Code;
- (9) officers commissioned by the [~~State Purchasing and~~] General Services Commission;
- (10) law enforcement officers commissioned by the Parks and Wildlife Commission;
- (11) airport police officers commissioned by a city with a population of more than one million, according to the most recent federal census, that operates an airport that serves commercial air carriers;
- (12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state, other than a city described by Subdivision (11), that operates an airport that serves commercial air carriers;
- (13) municipal park and recreational patrolmen and security officers;
- (14) security officers commissioned as peace officers by the State Treasurer;
- (15) officers commissioned by a water control and improvement district under Section 51.132, Water Code;
- (16) officers commissioned by a board of trustees under Chapter 341, Acts of the 57th Legislature, Regular Session, 1961 (Article 1187f, Vernon's Texas Civil Statutes);
- (17) investigators commissioned by the Texas State Board of Medical Examiners;
- (18) officers commissioned by the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, or the Bexar County Hospital District under Section 281.057, Health and Safety Code;
- (19) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;
- (20) investigators employed by the Texas Racing Commission;

- (21) officers commissioned by the State Board of Pharmacy;
- (22) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 13, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or by a regional transportation authority under Section 10, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes);
- (23) officers commissioned by the Texas High-Speed Rail Authority;
- (24) investigators commissioned by the attorney general under Section 402.009, Government Code; and
- (25) security officers and investigators commissioned as peace officers under *Chapter 466, Government Code* [~~the State Lottery Act~~].

SECTION 4.08. Section 111.0047(a), Tax Code, is amended to correct references to read as follows:

(a) If a person fails to comply with any provision of this title, with any provision of *Chapter 466, Government Code* [~~the State Lottery Act~~], or with a rule of the comptroller adopted under this title or *Chapter 466, Government Code* [~~the State Lottery Act~~], the comptroller, after a hearing, may revoke or suspend any permit or license issued to the person.

SECTION 4.09. Section 111.0048(a), Tax Code, is amended to correct references to read as follows:

(a) A new permit or license may not be issued to a former holder of a revoked permit or license unless the comptroller is satisfied that the person will comply with the provisions of this title and *Chapter 466, Government Code* [~~the State Lottery Act~~] and the rules of the comptroller relating to this title and *Chapter 466, Government Code* [~~the State Lottery Act~~].

SECTION 4.10. Section 499.025(b), Government Code, as amended by Chapters 16 and 655, Acts of the 72nd Legislature, Regular Session, 1991, and Chapter 10, Acts of the 72nd Legislature, 2nd Called Session, 1991, is reenacted to read as follows:

(b) If the inmate population of the institutional division reaches 95 percent of capacity or, if the attorney general has authorized an increase in the permissible percentage of capacity under Section 499.109, the inmate population reaches that increased permissible percentage, the director shall immediately notify the executive director, the board, and the attorney general in writing of that fact. The attorney general shall certify to the board in writing as to whether the institutional division has reached 95 percent of capacity or, if applicable, the increased permissible percentage. If the attorney general certifies that 95 percent of capacity has been reached or, if applicable, that the increased permissible percentage has been reached, the board shall immediately certify that an emergency overcrowding situation exists and direct the Board of Pardons and Paroles to proceed in the manner described by Subsection (c). If the Commission on Jail Standards determines that in any county jail in this state there exists an inmate awaiting transfer to the institutional division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom all paperwork and processing required for transfer have been completed for not less than 45 days, the board may direct the Board of Pardons and Paroles to proceed in the manner described by Subsection (c).

SECTION 4.11. (a) Section 771.002(3), Government Code, is amended to conform to Section 29, Chapter 641, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(3) "Resources" means materials *and*[,] equipment[~~, and supplies~~].

(b) Sections 771.003, 771.004, 771.006, 771.007, and 771.008, Government Code, are amended to conform to Sections 29 and 30, Chapter 641, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 771.003. AUTHORITY TO CONTRACT; EXCEPTIONS. (a) A state agency may agree or contract with another state agency for the *provision* [~~furnishing~~] of necessary and authorized services and resources.

(b) A state agency may not construct a highway, road, building, or other structure for another agency under this chapter, except that the State Department of Highways and Public

Transportation may enter into an interagency agreement with a state college, university, or public junior college [providing] for the maintenance, improvement, relocation, or extension of existing on-campus streets, parking lots, and access-ways.

(c) A state agency may not *provide* [supply] services or resources to another agency that are required by Article XVI, Section 21, of the Texas Constitution to be *provided* [supplied] under a contract *awarded* [given] to the lowest responsible bidder.

Sec. 771.004. **CONTRACT REQUIREMENTS; EXCEPTIONS.** (a) Before a state agency may *provide* [furnish] or receive a service or resource under this chapter, the agency must have entered into a written agreement or contract that has been approved by the administrator of each agency that is a party to the agreement or contract and by the commission.

(b) The agreement or contract must specify:

- (1) the kind and amount of services or resources to be *provided* [furnished];
- (2) the basis for computing reimbursable costs; and
- (3) the maximum cost during the period of the agreement or contract.

(c) A written agreement or contract and advance approval by the commission are not required:

- (1) in an emergency for the defense or safety of the civil population or in the planning and preparation for those emergencies;
- (2) in cooperative efforts, proposed by the governor, for the economic development of the state; or
- (3) in a situation in which the amount involved is less than \$2,500.

Sec. 771.006. **[EQUIPMENT] PURCHASES AND SUBCONTRACTS OF SERVICES AND RESOURCES.** A contract under this chapter may *authorize an* [permit a ~~furnishing~~] agency *providing services and resources* to subcontract and purchase *the services and resources* [equipment] to the extent considered appropriate by the commission.

Sec. 771.007. **REIMBURSEMENT AND ADVANCEMENT OF COSTS.** (a) A state agency that receives services or resources under this chapter shall reimburse each state agency *providing* [supplying] the services or resources the actual cost of *providing* [furnishing] the services or resources, or the nearest practicable estimate of that cost. *Reimbursement is not required if,* ~~unless~~ the services or resources are *provided* [furnished]:

- (1) for national defense or disaster relief; or
- (2) in cooperative efforts, proposed by the governor, to promote the economic development of the state.

(b) A state agency that receives services or resources under this chapter may advance federal funds to a state agency *providing* [supplying] the services or resources if the agency receiving the services or resources determines that the advance would facilitate the implementation of a federally funded program.

(c) *A state agency that receives services or resources under this chapter may advance funds to the state agency providing the services or resources if an advance is necessary to enable the providing agency to provide the services or resources. If an advance is made under this section, the agencies shall ensure after the services or resources are provided that the providing agency has received only sufficient funds to reimburse its total costs. An advance of funds is a reimbursement for the purpose of Section 771.008.*

Sec. 771.008. **REIMBURSEMENT [PAYMENT] PROCEDURES.** (a) An agency shall *reimburse an agency* [pay] for the services or resources *provided* [received under this chapter] with a voucher payable to the *providing* [furnishing] agency or *electronically as prescribed by the uniform statewide accounting system.* The voucher or *electronic transfer* must be drawn on the appropriation item or account of the receiving agency from which the agency would ordinarily make expenditures for similar services or resources. *A receiving agency may authorize a providing agency to gain access to the receiving agency's appropriation items or accounts for reimbursements under this chapter.*

(b) A reimbursement [payment] received by an agency for services or resources provided [furnished] under this chapter shall be credited to the appropriation items or accounts from which the agency's expenditures for the [furnished] services or resources were made.

(c) A payment for an intraagency transaction is accounted for in the same manner as an interagency transaction or an interdivisional transfer of money on the records of the agency, subject to the applicable provisions of the General Appropriations Act.

(d) *The commission shall audit a reimbursement under this chapter for compliance with the contract after the reimbursement has been completed. If the commission determines that an unauthorized reimbursement has occurred, the commission shall notify the comptroller. On receipt of the notification, the comptroller shall return the reimbursement to the receiving agency's appropriation items or accounts. To the extent practicable, the comptroller must return a reimbursement to the item or account from which the reimbursement was made.*

(c) Sections 29 and 30, Chapter 641, Acts of the 72nd Legislature, Regular Session, 1991, are repealed.

SECTION 4.12. (a) Title 7, Government Code, is amended to codify Chapter 427, Acts of the 72nd Legislature, Regular Session, 1991 (Article 5190.13, Vernon's Texas Civil Statutes), by adding Chapter 764 to read as follows:

CHAPTER 764. TRI-STATE CORRIDOR COMMISSION

Sec. 764.001. TRI-STATE CORRIDOR COMMISSION MEMBERSHIP. (a) *The Tri-State Corridor Commission consists of 12 members.*

(b) *The political subdivisions in the area the commission serves shall jointly appoint nine voting members to the commission. The state highway departments of Texas, Arkansas, and Louisiana shall each appoint one nonvoting member to the commission.*

(c) *Members of the commission serve without compensation.*

Sec. 764.002. POWERS AND DUTIES. (a) *The commission shall make recommendations to the municipal, county, and state governments on the promotion of the economic, industrial, tourist, and highway development of the following area:*

- (1) *Marion, Cass, and Bowie counties in Texas;*
- (2) *Miller and Little River counties in Arkansas; and*
- (3) *Caddo Parish in Louisiana.*

(b) *The commission may accept gifts or grants from any source to pay operating expenses of the commission.*

(c) *The commission has all powers necessary and may adopt rules to carry out the purposes of this chapter.*

Sec. 764.003. APPLICABLE LAW. *The commission is subject to the law of Texas, Arkansas, Louisiana, and the United States relating to open meetings and public records.*

Sec. 764.004. APPROPRIATIONS. *The legislature may not appropriate money to the commission.*

(b) Chapter 427, Acts of the 72nd Legislature, Regular Session, 1991 (Article 5190.13, Vernon's Texas Civil Statutes), is repealed.

SECTION 4.13. (a) Chapter 772, Government Code, is amended to codify Chapter 429, Acts of the 61st Legislature, Regular Session, 1969 (Article 1269-2.1, Vernon's Texas Civil Statutes), by adding Section 772.008 to read as follows:

Sec. 772.008. PLANNING ASSISTANCE FOR POLITICAL SUBDIVISIONS. (a) *The governor may, on request of the governing body of a political subdivision or the authorized agency of a group of political subdivisions:*

- (1) *arrange planning assistance, including surveys, community renewal plans, technical services, and other planning; and*
- (2) *arrange for a study or report on a planning problem submitted to the governor.*

(b) *The governor and the governing body may agree on the amount, if any, to be paid to the governor's office for planning services.*

(c) *The governor may apply for and accept grants from, and contract with, the federal government or other sources for any planning assistance, study, or report under this section.*

(d) *The governor may use the regular functions of the office of the governor or another state agency in providing planning assistance under this section.*

(e) *The governor may exercise powers under this section through a designated representative.*

(b) Chapter 429, Acts of the 61st Legislature, Regular Session, 1969 (Article 1269l-2.1, Vernon's Texas Civil Statutes), is repealed.

ARTICLE 5. CHANGES RELATING TO HEALTH AND SAFETY CODE

SECTION 5.01. (a) Sections 106.001, 106.002, and 106.009, Health and Safety Code, are designated as SUBCHAPTER A. GENERAL PROVISIONS.

(b) Sections 106.003-106.008, Health and Safety Code, are designated as SUBCHAPTER B. ADMINISTRATIVE PROVISIONS, and are redesignated as Sections 106.021-106.026.

(c) Section 106.009, Health and Safety Code, is redesignated as Section 106.003.

(d) Chapter 106, Health and Safety Code, is amended to codify Article 4414b-1.1, Revised Statutes, and Section 4(d), Article 4414b-1, Revised Statutes, by adding Subchapter C to read as follows:

SUBCHAPTER C. OUTSTANDING RURAL SCHOLAR RECOGNITION AND LOAN PROGRAM

Sec. 106.041. *DEFINITIONS. In this subchapter:*

(1) *"Advisory committee" means the outstanding rural scholar advisory committee.*

(2) *"Fund" means the outstanding rural scholar fund.*

(3) *"Postsecondary educational institution" means:*

(A) *an institution of higher education, as defined by Section 61.003, Education Code;*

(B) *a nonprofit, independent institution approved under Section 61.222, Education Code; or*

(C) *a nonprofit, health-related school or program accredited by the Southern Association of Colleges and Schools, the Liaison Committee on Medical Education, the American Osteopathic Association, the Board of Nurse Examiners, the Board of Vocational Nurse Examiners, or, in the case of allied health, an accrediting body recognized by the United States Department of Education.*

(4) *"Program" means the outstanding rural scholar recognition and loan program.*

(5) *"Rural community" means a municipality in a nonmetropolitan county as defined by the United States Census Bureau in its most recent census.*

Sec. 106.042. *ADMINISTRATION. The center shall administer or contract for the administration of the program.*

Sec. 106.043. *ADVISORY COMMITTEE. (a) The advisory committee shall advise the executive committee on the progress of the program.*

(b) *The advisory committee is composed of 12 members appointed by the executive committee and must include:*

(1) *a rural practicing family practice physician;*

(2) *a rural hospital administrator;*

(3) *a rural practicing registered professional nurse;*

(4) *a rural practicing allied health professional;*

(5) *a dean of a medical school;*

(6) *a dean of a nursing school;*

(7) *a dean of a school of allied health science;*

(8) *a head of a vocational/technical institution;*

- (9) a community college administrator;
- (10) an individual knowledgeable in student financial assistance programs;
- (11) a rural public school superintendent; and
- (12) a rural resident.

(c) The executive committee shall consider geographical representation in making appointments to the advisory committee.

(d) Advisory committee members serve for staggered six-year terms, with the term of four members expiring August 31 of each odd-numbered year. A member is eligible for reappointment to consecutive terms.

(e) The executive committee shall fill a vacancy on the advisory committee in the same manner as other appointments to the advisory committee.

(f) A member of the advisory committee is entitled to reimbursement for expenses incurred in performing duties under this subchapter in amounts not to exceed the amounts specified in the General Appropriations Act for travel and per diem allowances for state employees.

(g) The advisory committee may:

- (1) elect a chairman, vice-chairman, and secretary from among its members; and
- (2) adopt rules for the conduct of its activities.

Sec. 106.044. **SELECTION OF OUTSTANDING RURAL SCHOLARS.** (a) The advisory committee shall select outstanding rural scholars through a statewide competition.

(b) The advisory committee shall make selections after considering:

- (1) the academic credentials of the applicant;
- (2) one or more interviews with the applicant;
- (3) a statement written by the applicant of the applicant's reasons for:
 - (A) entering the competition and a health care profession; and
 - (B) wanting to provide health care services to rural Texans; and
- (4) the financial support committed to the applicant by the applicant's sponsoring community.

(c) The advisory committee may not use the applicant's performance on a standardized test as the sole criterion to determine the applicant's selection as an outstanding rural scholar.

(d) The advisory committee shall recommend to the executive committee guidelines to be used by rural communities in the selection of students for nomination and sponsorship as outstanding rural scholars.

(e) An outstanding rural scholar receives public recognition and a certificate of award and is eligible for a forgivable loan under this subchapter.

Sec. 106.045. **ELIGIBILITY FOR OUTSTANDING RURAL SCHOLAR COMPETITION.** (a) To be eligible to participate in the competition under Section 106.044, a high school student or an undergraduate student at a postsecondary educational institution must:

- (1) be nominated and sponsored by a rural community, which sponsorship must include financial support;
- (2) be a Texas resident under Subchapter B, Chapter 54, Education Code;
- (3) if the person is a high school student, be in the upper 25 percent of the student's high school class if the class contains 48 or more students, and intend to enter a postsecondary educational institution; and

(4) if the person is an undergraduate student, be in the upper 25 percent of the student's class or have a cumulative grade average that is equal to or greater than the equivalent of a 3.0 on a 4.0 scale, and be enrolled in a postsecondary educational institution.

(b) If a person is neither a high school student nor an undergraduate student, the person must be eligible for participation in the competition under rules adopted by the advisory committee.

Sec. 106.046. **ELIGIBILITY FOR LOANS; RURAL COMMUNITY FINANCIAL SUPPORT.** (a) For an outstanding rural scholar to be eligible for a forgivable loan, community sponsorship must include financial support.

(b) Community financial support consists of a commitment to fund 50 percent of the costs of a scholar's tuition, fees, educational materials, and living expenses.

(c) The financial support under this section may be satisfied in whole or in part by a grant, a scholarship, or private foundation support.

(d) Evidence of the financial support must be submitted with a community's nomination.

Sec. 106.047. **AWARDING OF LOANS.** (a) The advisory committee shall recommend to the executive committee guidelines for the awarding of forgivable loans to outstanding rural scholars.

(b) The executive committee, acting on the advice of the advisory committee, shall award forgivable loans to outstanding rural scholars based on the availability of money in the fund.

(c) If in any year the fund is inadequate to provide loans to all eligible applicants, the executive committee shall award forgivable loans on a priority basis according to the applicants' academic performance, test scores, and other criteria of eligibility.

Sec. 106.048. **AMOUNT OF LOAN.** (a) On confirmation of an outstanding rural scholar's admission to a postsecondary educational institution or on receipt of an enrollment report of the scholar at a postsecondary educational institution, and a certification of the amount of financial support needed, the advisory committee annually shall recommend to the executive committee that the committee award a forgivable loan to the scholar in the amount of 50 percent of the cost of the scholar's tuition, fees, educational materials, and living expenses.

(b) An outstanding rural scholar may receive another grant, loan, or scholarship for which the scholar is eligible in addition to the receipt of a forgivable loan, except that the total amount of funds received may not exceed the reasonable needs of the scholar.

Sec. 106.049. **LOAN FORGIVENESS.** (a) The principal balance and interest for one year of a forgivable loan awarded to an outstanding rural scholar must be forgiven for each year the scholar practices as a health care professional in the sponsoring community.

(b) The sponsoring community shall report through the executive committee to the advisory committee the length of time the scholar practices as a health care professional in the community.

(c) If, on the recommendation of the advisory committee, the executive committee finds that a sponsoring community is not in need of the scholar's services, the executive committee by rule may provide for the principal balance and interest of one year of the scholar's loan to be forgiven for each year the scholar practices in another rural community in this state.

(d) Any amount of loan principal or interest that is not forgiven under this section shall be repaid to the center with reasonable collection fees in a timely manner as provided by executive committee rule.

Sec. 106.050. **FUND.** (a) The outstanding rural scholar fund is in the state treasury.

(b) The fund consists of legislative appropriations, gifts, grants, donations, the market value of in-kind contributions, and principal and interest payments on forgivable loans deposited to the credit of the fund by the center.

(c) The center shall administer the fund.

(d) The center, with the recommendation of the advisory committee, shall allocate the fund, as available, for forgivable loans under this subchapter.

(e) The center shall deposit any principal and interest payments on forgivable loans to the credit of the fund.

Sec. 106.051. **POSTSECONDARY EDUCATIONAL INSTITUTIONS.** (a) Each postsecondary educational institution shall be provided with a list of the outstanding rural scholars and shall be encouraged to recruit those scholars.

(b) A postsecondary educational institution annually shall report the progress and performance of each outstanding rural scholar to the advisory committee in accordance with

the guidelines established by the executive committee. A report shall be shared with the community sponsoring the scholar.

Sec. 106.052. **ADOPTION AND DISTRIBUTION OF RULES.** (a) The executive committee shall adopt reasonable rules to enforce the requirements, conditions, and limitations under this subchapter.

(b) The executive committee shall set the rate of interest charged on a forgivable loan under this subchapter.

(c) The executive committee shall adopt rules necessary to ensure compliance with the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) concerning nondiscrimination in admissions.

(d) The executive committee shall distribute to each postsecondary educational institution copies of all rules adopted under this subchapter.

(e) The following provisions are repealed:

(1) Article 4414b-1.1, Revised Statutes; and

(2) Section 4(d), Article 4414b-1, Revised Statutes.

SECTION 5.02. (a) Chapter 161, Health and Safety Code, is amended to codify Chapter 580, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6674v-3a, Revised Statutes), by adding Subchapter K to read as follows:

SUBCHAPTER K. PROHIBITION OF CERTAIN CIGARETTE OR TOBACCO PRODUCT ADVERTISING

Sec. 161.121. **DEFINITIONS.** In this subchapter:

(1) "Church" means a facility that is owned by a religious organization and that is used primarily for religious services.

(2) "School" means a private or public elementary or secondary school.

(3) "Sign" means an outdoor medium, including a structure, display, light device, figure, painting, drawing, message, plaque, poster, or billboard, that is:

(A) used to advertise or inform; and

(B) visible from the main-traveled way of a street or highway.

(4) "Tobacco product" has the meaning assigned by Section 155.001, Tax Code.

Sec. 161.122. **PROHIBITION; EXCEPTIONS.** (a) A sign containing an advertisement for cigarettes or tobacco products may not be located closer than 500 feet to a church or school.

(b) The measurement of the distance between the sign containing an advertisement for cigarettes or tobacco products and an institution listed in Subsection (a) is from the nearest property line of the institution to a point on a street or highway closest to the sign, along street lines and in direct lines across intersections.

(c) This section does not apply to:

(1) a sign located on or in a facility owned or leased by a professional sports franchise or in a facility where professional sports events are held at least 10 times during a 12-month period; or

(2) a contract for a cigarette or other tobacco product advertisement entered into before August 26, 1991.

(d) In Subsection (c)(1), a "facility" includes a stadium, arena, or events center and any land or property owned or leased by the professional sports franchise that is connected to or immediately contiguous to the stadium, arena, or events center.

(b) Article 6674v-3a, Revised Statutes, is repealed.

SECTION 5.03. Section 462.002(c), Health and Safety Code, is amended to correct terminology to read as follows:

(c) A person may initially file a paper with the county clerk by the use of reproduced, photocopied, or electronically transmitted paper if the person files the original signed copies

of the paper with the clerk not later than the 72nd hour after the hour on which the initial filing is made. If the 72-hour period ends on a Saturday, Sunday, or legal holiday, the filing period is extended until 4 p.m. on the first succeeding business day. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may by written order made each day extend the filing period until 4 p.m. on the first succeeding business day. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster. If a person detained under this *chapter* ~~[code]~~ would otherwise be released because the original signed copy of a paper is not filed within the 72-hour period but for the extension of the filing period under this section, the person may be detained until the expiration of the extended filing period. This subsection does not affect another provision of this *chapter* ~~[code]~~ requiring the release or discharge of a person.

SECTION 5.04. Section 672.002(7), Health and Safety Code, is amended to conform more closely to the law from which it was derived to read as follows:

(7) "Physician" means a physician licensed by the Texas State Board of Medical Examiners or a properly credentialed physician who holds a commission in the *uniformed services of the United States* ~~[armed forces]~~ and who is serving on active duty in this state.

SECTION 5.05. If the number, letter, or designation assigned by this article conflicts with a number, letter, or designation assigned by another Act of the 73rd Legislature, the other Act controls, and the number, letter, or designation assigned by this article has no effect.

ARTICLE 6. CHANGES RELATING TO TITLE 7, HEALTH AND SAFETY CODE

SECTION 6.01. Section 531.002, Health and Safety Code, is amended to conform to Section 1, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, by amending Subdivision (7) and adding Subdivisions (16) and (17) to read as follows:

(7) "Local agency" means:

(A) a municipality, county, hospital district, rehabilitation district, school district, state-supported institution of higher education, or state-supported medical school; or

(B) any organizational combination of two or more of *those* ~~[the following]~~ entities[
~~(i) a municipality;~~
~~(ii) a county;~~
~~(iii) a hospital district; or~~
~~(iv) a school district].~~

(16) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

(17) "Chemical dependency" has the meaning assigned by Section 461.002.

SECTION 6.02. Section 533.007, Health and Safety Code, is amended to conform to Section 1, Chapter 379, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 533.007. ACCESS TO CRIMINAL HISTORY RECORD [CONVICTION] INFORMATION; CRIMINAL PENALTY FOR UNLAWFUL DISCLOSURE. (a) The department and each community center may receive from a law enforcement agency *criminal history record information that indicates a conviction, probation, arrest warrant, or wanted person notice if the person to whom the criminal history record information relates:*

(1) is:

(A) an applicant or employee of the department or a community center;

(B) an applicant or employee of a business or ~~[information about the conviction of:~~

~~(1) a person who is offered employment that would place the person in direct contact with patients with mental illness or clients with mental retardation; or~~

~~(2) an employee of a person who contracts with the department or a community center to provide residential services to patients with mental illness or clients with mental retardation who were furloughed or discharged from a department facility or community center; or~~

(C) a volunteer or an applicant to be a volunteer with the department or a community center; and

(2) would be placed in direct contact with patients with mental illness or clients with mental retardation [if the employee's duties would place the employee in direct contact with the patients or clients].

(b) The department shall establish for department facilities and community centers a uniform method of obtaining the *criminal history record* [~~conviction~~] information. The uniform method must require that:

(1) either a complete set of fingerprints or the complete name of the person being investigated be submitted to the Department of Public Safety or to another law enforcement agency; and

(2) if fingerprints are submitted, the fingerprints be submitted to the Federal Bureau of Investigation for further information if a relevant disqualifying record or other substantive information is not obtained from a state or local law enforcement agency.

(c) A law enforcement agency may provide to the department or a community center *criminal history record* information [~~about the conviction~~] of an *applicant, employee, or volunteer* [a person] being investigated only if the information is relevant to the person's *work duties* [~~current or proposed employment and was collected~~] in accordance with this section. Information [~~The department or community center is not entitled to conviction information that is not relevant. Conviction information~~] is relevant [only] if it relates to [a conviction for]:

(1) a sexual offense;

(2) a drug-related offense;

(3) theft; or

(4) *homicide* [~~murder~~], assault, battery, or any other offense involving personal injury or threat to another person.

(d) The department or a community center may deny employment or *volunteer status* to an applicant if:

(1) the department or community center determines that *the applicant's criminal history record information* [a previous criminal conviction] indicates that the person [applicant] is not qualified or suitable; or

(2) the applicant fails to provide a complete set of fingerprints if the department establishes that method of obtaining *criminal history record* [~~conviction~~] information.

(e) All *criminal history record* [~~conviction~~] information received by the department or a community center is privileged information and is for the exclusive use of the department and the community centers. The information may not be released or otherwise disclosed to any other person or agency, except the information may be released or disclosed:

(1) to the contractor employing the person;

(2) on court order; or

(3) with the consent of the person being investigated.

(f) The department or community center shall collect and destroy *criminal history record* [~~conviction~~] information relating to a person immediately after the department, the community center, or a contractor makes a [an employment] decision or takes any personnel action relating to the person.

(g) A person commits an offense if the person releases or discloses in violation of this section *criminal history record* [~~conviction~~] information received by the department or a community center. An offense under this subsection is a felony of the second degree.

(h) The Department of Public Safety is required to provide conviction information to the department or a community center only if a written agreement provides for the reimbursement of the Department of Public Safety for the costs it incurs in providing the information.

(i) The board shall adopt rules relating to the use of information obtained under this section, including rules that prohibit an adverse personnel action based on arrest warrant or wanted persons information received by the department.

SECTION 6.03. Section 533.035, Health and Safety Code, is amended to conform to Section 2, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) The department by contract or other method of allocation may disburse to a local mental health and mental retardation authority ~~department~~ ~~[all]~~ federal mental health ~~[block grant]~~ funds and department state funds to be spent in the local service area for:

(1) community mental health ~~and[,]~~ mental retardation~~[-, and substance abuse]~~ services; and

(2) chemical dependency services for persons who are dually diagnosed as having both chemical dependency and mental illness or mental retardation ~~[to be spent in the local service area].~~

(c) A local mental health and mental retardation authority, with the department's approval, shall use ~~[by subcontract or other method of allocation disburse]~~ the funds received under Subsection (b) to provide mental health, mental retardation, and *chemical dependency* ~~[substance abuse]~~ services in the local service area or to subcontract for those services.

(d) A local mental health and mental retardation authority shall demonstrate to the department that the services that the authority provides directly or through subcontractors and that involve state funds comply with relevant state standards.

SECTION 6.04. Subchapter B, Chapter 533, Health and Safety Code, is amended to conform to Section 6, Chapter 627, Acts of the 72nd Legislature, Regular Session, 1991, by adding Section 533.0415 to read as follows:

Sec. 533.0415. MEMORANDUM OF UNDERSTANDING ON INTERAGENCY TRAINING. (a) *The department, the Texas Department of Human Services, the Texas Youth Commission, the Texas Juvenile Probation Commission, and the Central Education Agency by rule shall adopt a joint memorandum of understanding to develop interagency training for the staffs of the agencies involved in the functions of assessment, case planning, case management, and in-home or direct delivery of services to children, youth, and their families. The memorandum must:*

(1) *outline the responsibility of each agency in coordinating and developing a plan for interagency training on individualized assessment and effective intervention and treatment services for children and dysfunctional families; and*

(2) *provide for the establishment of an interagency task force to:*

(A) *develop a training program to include identified competencies, content, and hours for completion of the training with at least 20 hours of training required each year until the program is completed;*

(B) *design a plan for implementing the program, including regional site selection, frequency of training, and selection of experienced clinical public and private professionals or consultants to lead the training;*

(C) *monitor, evaluate, and revise the training program, including the development of additional curricula based on future training needs identified by staff and professionals; and*

(D) *submit a report to the governor, lieutenant governor, and speaker of the house of representatives by October 15 of each even-numbered year.*

(b) *The task force consists of:*

(1) *one clinical professional and one training staff member from each agency, appointed by that agency; and*

(2) *10 private sector clinical professionals with expertise in dealing with troubled children, youth, and dysfunctional families, two of whom are appointed by each agency.*

(c) *The task force shall meet at the call of the department.*

(d) *The department shall act as the lead agency in coordinating the development and implementation of the memorandum.*

(e) *The agencies shall review and by rule revise the memorandum not later than August each year.*

SECTION 6.05. Section 533.061(f), Health and Safety Code, is amended to conform to Section 2, Chapter 248, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(f) Not later than August 30 of each *odd-numbered* year, the council shall review the plan submitted by the department under Section 533.062, make changes the council considers necessary, and approve the final plan.

SECTION 6.06. Sections 533.062(a) and (c), Health and Safety Code, are amended to conform to Section 1, Chapter 248, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(a) The department shall *biennially* [~~annually~~] plan for the creation of new beds in the ICF-MR program.

(c) Each plan shall cover the subsequent fiscal *biennium* [~~year~~]. Not later than July 1 of each *odd-numbered* year, the department shall submit the plan to the Interagency Council on ICF-MR Facilities for approval.

SECTION 6.07. Section 534.001, Health and Safety Code, is amended to correct a reference and to conform more closely to the source law from which it was derived and to Section 3, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, by amending Subsections (c) and (d) and adding Subsection (e) to read as follows:

(c) A community center is:

(1) *an agency of the state*, a [~~state agency~~] governmental unit, and *a unit of local government*, as defined and specified by Chapters 101 and 102, Civil Practice and Remedies Code; and

(2) a local government, as defined by *Section 791.003, Government Code* [~~Section 3, The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes)~~].

(d) A community center may be established only if:

(1) *the proposed center submits to the department a copy of the contract between the participating local agencies, if applicable;*

(2) the department approves the proposed center's plan to *develop and make available to the region's residents an effective mental health or mental retardation program, or both, through a community center that is appropriately structured to include the financial, physical, and personnel resources necessary to meet the region's needs; and*

(3) *the department* [~~deliver mental health or mental retardation services and~~] determines that the center can appropriately, effectively, and efficiently provide those services in the region.

(e) A community center established under *Subsection (d)* [~~this section~~] may operate only for the purposes defined in the center's plan. The board by rule shall specify the elements that must be included in a plan and shall prescribe the procedure for submitting and approving a center's plan.

SECTION 6.08. Subchapter A, Chapter 534, Health and Safety Code, is amended to conform more closely to the source law from which it was derived and to Section 4, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, by adding Section 534.0015 to read as follows:

Sec. 534.0015. PURPOSE AND POLICY. (a) A community center created under this subchapter is intended to be a vital component in a continuum of services for persons in this state who are mentally ill or mentally retarded.

(b) It is the policy of this state that community centers strive to develop services for persons who are mentally ill or mentally retarded, and may provide requested services to persons with a chemical dependency, that are effective alternatives to treatment in a large residential facility.

SECTION 6.09. Section 534.002, Health and Safety Code, is amended to conform to Section 4, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.002. BOARD OF TRUSTEES FOR CENTER ESTABLISHED BY ONE LOCAL AGENCY. The board of trustees of a community center established by one local agency is composed of:

- (1) the *members of the* local agency's governing body; or
- (2) not fewer than five or more than nine qualified voters who reside in the region to be served by the center and who are appointed by the local agency's governing body.

SECTION 6.10. Section 534.003(c), Health and Safety Code, is amended to conform to Section 3, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(c) When the center is established, the governing bodies shall enter into a contract that stipulates the number of board members and the group from which the members are chosen. They may renegotiate or amend the contract as necessary to change the:

- (1) method of choosing the members; or
- (2) *membership of the board of trustees to more accurately reflect the ethnic and geographic diversity of the local service area.*

SECTION 6.11. Section 534.004, Health and Safety Code, is amended to conform to Section 4, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.004. PROCEDURES RELATING TO BOARD OF TRUSTEES MEMBERSHIP. (a) The local agency or organizational combination of local agencies that establishes a community center shall prescribe:

- (1) the application procedure for a position on the board of trustees;
- (2) the procedure and criteria for making appointments to the board of trustees;
- (3) the procedure for posting *notice of* and filling a vacancy on the board of trustees;

[and]

- (4) the *grounds and* procedure for removing a member of the board of trustees; *and*
- (5) *a procedure to ensure that an appointed member of a board of trustees appointed by a local agency or organizational combination of local agencies primarily located in only one county serves not more than four consecutive and complete two-year terms.*

(b) *The local agency or organizational combination of local agencies that appoints the board of trustees shall, in appointing the members, attempt to reflect the ethnic and geographic diversity of the local service area the community center serves. The local agency or organizational combination shall include on the board of trustees one or more persons otherwise qualified under this chapter who are consumers of the types of services the center provides or who are family members of consumers of the types of services the center provides.*

SECTION 6.12. Section 534.005, Health and Safety Code, is amended to conform to Section 4, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, by adding Subsection (c) to read as follows:

(c) *If the local agency or organizational combination of local agencies that appoints the board of trustees is primarily located in only one county, a person appointed to the board of trustees may not serve more than four consecutive and complete two-year terms.*

SECTION 6.13. Subchapter A, Chapter 534, Health and Safety Code, is amended to conform to Section 4, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, by amending Section 534.006 and adding Section 534.0065 to read as follows:

Sec. 534.006. TRAINING. (a) *The board by rule shall establish:*

- (1) *an annual training program for members of a board of trustees administered by the professional staff of that community center, including the center's legal counsel; and*
- (2) *an advisory committee to develop training guidelines that includes representatives of advocates for persons with mental illness or mental retardation and representatives of boards of trustees.*

(b) *Before a member of a board of trustees may assume office, the member shall attend at least one training session administered by that center's professional staff to receive information relating to:*

- (1) the enabling legislation that created the community center;
- (2) the programs the community center operates;
- (3) the community center's budget for that program year;
- (4) the results of the most recent formal audit of the community center;
- (5) the requirements of the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes);
- (6) the requirements of conflict of interest laws and other laws relating to public officials; and
- (7) any ethics policies adopted by the community center ~~[EFFECT ON PREVIOUS BOARDS. (a) This subchapter does not affect the validity of:~~

~~(1) a community center or board of trustees established or appointed before September 1, 1969; or~~

~~(2) a board selection committee appointed by an organizational combination of more than six local agencies under Section 3.02(a), Chapter 67, Acts of the 59th Legislature, Regular Session, 1965, as it read preceding September 1, 1969.~~

~~[(b) A community center or board of trustees established or appointed under prior law may be reorganized to comply with this subchapter].~~

Sec. 534.0065. **QUALIFICATIONS; CONFLICT OF INTEREST; REMOVAL.** (a) As a local public official, a member of the board of trustees of a community center shall uphold the member's position of public trust by meeting and maintaining the applicable qualifications for membership and by complying with the applicable requirements relating to conflicts of interest.

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

(1) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the community center by contract or other method; or

(2) uses or receives a substantial amount of tangible goods or funds from the community center, other than:

(A) compensation or reimbursement authorized by law for board of trustees membership, attendance, or expenses; or

(B) as a consumer or as a family member of a client or patient receiving services from the community center.

(c) The primary residence of a member of the board of trustees must be in the local service area the member represents.

(d) A member of the board of trustees is subject to Chapter 171, Local Government Code.

(e) A member of the board of trustees may not:

(1) refer for services a client or patient to a business entity owned or controlled by a member of the board of trustees, unless the business entity is the only business entity that provides the needed services within the jurisdiction of the community center;

(2) use a community center facility in the conduct of a business entity owned or controlled by that member;

(3) solicit, accept, or agree to accept from another person or business entity a benefit in return for the member's decision, opinion, recommendation, vote, or other exercise of discretion as a local public official or for a violation of a duty imposed by law;

(4) receive any benefit for the referral of a client or a patient to the community center or to another business entity;

(5) appoint, vote for, or confirm the appointment of a person to a paid office or position with the community center if the person is related to a member of the board of trustees by affinity within the second degree or by consanguinity within the third degree; or

(6) solicit or receive a political contribution from a supplier to or contractor with the community center.

(f) Not later than the date on which a member of the board of trustees takes office by appointment or reappointment and not later than the anniversary of that date, each member shall annually execute and file with the community center an affidavit acknowledging that the member has read the requirements for qualification, conflict of interest, and removal prescribed by this chapter.

(g) In addition to any grounds for removal adopted under Section 534.004(a), it is a ground for removal of a member of a board of trustees if the member:

(1) violates Chapter 171, Local Government Code;

(2) is not eligible for appointment to the board of trustees at the time of appointment as provided by Subsections (b) and (c);

(3) does not maintain during service on the board of trustees the qualifications required by Subsections (b) and (c);

(4) violates a provision of Subsection (e);

(5) violates a provision of Section 534.0115; or

(6) does not execute the affidavit required by Subsection (f).

(h) If a board of trustees is composed of members of the governing body of a local agency or organizational combination of local agencies, this section applies only to the qualifications for and removal from membership on the board of trustees.

SECTION 6.14. Section 534.008(a), Health and Safety Code, is amended to conform to Section 4, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(a) The board of trustees is responsible for the effective administration of ~~[shall administer]~~ the community center.

SECTION 6.15. Section 534.009, Health and Safety Code, is amended to conform to Section 4, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The board of trustees shall keep a record of its proceedings in accordance with the open meetings law (Article 6252-17, Vernon's Texas Civil Statutes). The record is open for public inspection in accordance with that law.

(d) The board of trustees shall send to the department and each local agency that appoints the members a copy of the approved minutes of board of trustees meetings by:

(1) mailing a copy appropriately addressed and with the necessary postage paid using the United States postal service; or

(2) another method agreed to by the board of trustees and the local agency.

SECTION 6.16. Section 534.010(b), Health and Safety Code, is amended to conform to Section 4, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(b) The board of trustees shall:

(1) adopt a written policy governing the powers that may be delegated to the executive director; and

(2) annually report to each local agency that appoints the members the executive director's total compensation and benefits ~~[executive director has the powers delegated by the board of trustees. Those powers are subject to the policy direction of the board of trustees].~~

SECTION 6.17. Section 534.011, Health and Safety Code, is amended to conform to Section 4, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.011. PERSONNEL. (a) The ~~[board of trustees or]~~ executive director, in accordance with the policies of the board of trustees, shall ~~[may]~~

~~[(1)] employ and train personnel to administer the community center's programs and services. The community center may[; and~~

~~[(2)] recruit [and train] those personnel and contract for recruiting and training purposes [that purpose].~~

~~(b) [The board of trustees shall adopt standardized qualifications for personnel positions for the community center that are consistent with the standards developed by the commissioner under Section 532.011(e).~~

~~[(e)] The board of trustees shall provide employees of the community center with appropriate rights, privileges, and benefits [that are consistent with the rights, privileges, and benefits available to employees of the local agencies that establish the center].~~

~~(c) [(d)] The board of trustees may provide workers' compensation benefits.~~

~~(d) [(e)] The board of trustees shall prescribe the number of employees and their salaries[, subject to the commissioner's approval]. The board of trustees may choose to set salaries and benefits in compliance with a market analysis or internal salary study. If an internal salary study is used, the board of trustees shall conduct the study in accordance with the guidelines established by the commissioner.~~

~~(e) Instead of using a market analysis or internal salary study to establish salaries and benefits, the board of trustees may use the state position classification plan and the General Appropriations Act to determine the appropriate classification and relative compensation of officers and employees. The board of trustees may pay salaries in amounts less than those provided by the General Appropriations Act. For a position not on the classification plan, the board of trustees shall set the compensation according to guidelines adopted by the commissioner. The board of trustees may petition the department for approval to exclude a position from the position classification plan and to provide a stated salary for that position that exceeds the amount prescribed by the General Appropriations Act for the classified position.~~

~~(f) During a management audit of a community center, the department is entitled to confirm the method the center used to determine salaries and benefits.~~

SECTION 6.18. Subchapter A, Chapter 534, Health and Safety Code, is amended to conform to Section 4, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, by adding Section 534.0115 to read as follows:

Sec. 534.0115. *NEPOTISM.* (a) *The board of trustees or executive director may not hire as a paid officer or employee of the community center a person who is related to a member of the board of trustees by affinity within the second degree or by consanguinity within the third degree.*

(b) An officer or employee who is related to a member of the board of trustees in a prohibited manner may continue to be employed if the person began the employment not later than the 31st day before the date on which the member was appointed.

(c) The officer or employee or the member of the board of trustees shall resign if the officer or employee began the employment later than the 31st day before the date on which the member was appointed.

(d) If an officer or employee is permitted to remain in employment under Subsection (b), the related member of the board of trustees may not participate in the deliberation of or voting on an issue that is specifically applicable to the officer or employee unless the issue affects an entire class or category of employees.

SECTION 6.19. Sections 534.012(a) and (b), Health and Safety Code, are amended to conform to Section 4, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(a) The board of trustees may appoint committees, including medical committees, to advise the board of trustees on matters relating to ~~[the administration of]~~ mental health and mental retardation services.

(b) Each committee must be composed of at least *three* ~~[five]~~ members.

SECTION 6.20. Section 534.014, Health and Safety Code, is amended to conform to Sections 4 and 13, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.014. *BUDGET; REQUEST FOR FUNDS.* (a) *Each community center shall annually provide to each local agency that appoints members to the board of trustees a copy of the center's:*

- (1) *approved fiscal year operating budget;*
- (2) *most recent annual financial audit; and*
- (3) *staff salaries by position.*

(b) *The board of trustees shall annually submit to each local agency that appoints the members a request for funds or in-kind assistance to support the center* [~~PLAN FOR SERVICES. As soon as possible after a community center is established, the board of trustees shall submit to the department;~~

~~(1) a copy of the contract between the participating local agencies, if applicable; and~~

~~(2) a plan, within the projected financial, physical, and personnel resources of the region to be served, to develop and make available to the region's residents an effective mental health or mental retardation services program, or both, through one or more community centers].~~

SECTION 6.21. Subchapter A, Chapter 534, Health and Safety Code, is amended to conform to Section 6, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, by adding Section 534.0155 to read as follows:

Sec. 534.0155. *FOR WHOM SERVICES MAY BE PROVIDED.* (a) *This subtitle does not prevent a community center from providing services to a person with chemical dependency or to a person with a mental disability, as that term is defined by Section 535.001.*

(b) *A community center may provide those services by contracting with a public or private agency in addition to the department.*

(c) *A community center may not provide services to a person with a disability that is not listed in the definition of person with a mental disability provided by Section 535.001, except that a community center that, on or before September 1, 1991, has contracted to provide services to a person with a disability that is not listed in that definition may continue to receive funding and provide services to that person for the term of the contract.*

SECTION 6.22. Section 534.017(a), Health and Safety Code, is amended to conform to Section 7, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(a) *A community center shall charge reasonable fees for [to cover the cost of] services the center provides, unless prohibited by other service contracts or law.*

SECTION 6.23. Sections 534.018, 534.019, and 534.020, Health and Safety Code, are amended to conform to Section 4, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.018. *GIFTS AND GRANTS.* A community center may accept gifts and grants of money, personal property, and real property to use in *providing* [~~administering~~] the center's programs and services.

Sec. 534.019. *CONTRIBUTION BY LOCAL AGENCY.* A participating local agency may contribute land, buildings, facilities, *other real and personal property*, personnel, and funds to administer the community center's programs and services.

Sec. 534.020. *ACQUISITION AND CONSTRUCTION OF PROPERTY AND FACILITIES BY COMMUNITY CENTER.* (a) A community center may purchase or lease real and personal property and may construct buildings and facilities.

(b) *The board of trustees shall require that an appraiser certified by a master appraisal institute conduct an independent appraisal of real estate the community center intends to purchase. The board of trustees may waive this requirement if the purchase price is less than the value listed for the property by the local appraisal district and the property has been appraised by the local appraisal district within the preceding two years. A community*

center may not purchase or lease property for an amount that is greater than the property's appraised value unless:

(1) the purchase or lease of that property at that price is necessary;

(2) the board of trustees documents in the official minutes the reasons why the purchase or lease is necessary at that price; and

(3) a majority of the board approves the transaction.

(c) The board of trustees shall establish in accordance with relevant department rules competitive bidding procedures and practices for capital purchases and for purchases involving department funds or required local matching funds.

SECTION 6.24. Section 534.022, Health and Safety Code, is amended to conform to Section 5, Chapter 569, and Section 1, Chapter 596, Acts of the 72nd Legislature, Regular Session, 1991, by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The community center shall issue the bonds or notes in accordance with the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes). The attorney general must approve the bonds [~~or notes~~] before issuance.

(d) The board shall review the issuance of bonds or notes under this section and for each issuance shall make a finding of whether the proceeds are to be expended on projects or purchases that are related to the provision of services. Not later than November 1 of each year, the board shall submit to the Legislative Budget Board, the Governor's Office of Budget and Planning, and the state auditor a report that describes the use and amount of proceeds derived from bonds and notes issued by community centers in the preceding fiscal year.

SECTION 6.25. Section 534.023(b), Health and Safety Code, is amended to conform to Section 5, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(b) The agreement must include a provision for a lease-purchase arrangement *between* [~~among~~] the community center [~~the governing body of each local agency establishing the center,~~] and the department.

SECTION 6.26. Sections 534.026 and 534.030, Health and Safety Code, are amended to conform to Section 5, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.026. TERMS OF CONSTRUCTION OR RENOVATION AGREEMENT. (a) In an agreement to construct a facility under Section 534.023 or to renovate a facility under Section 534.024, the department shall specify the lease or loan payments that include the amortization of the cost of the facility or renovation [~~for not more than 40 years~~].

(b) The agreement *must* [~~may~~] provide for reasonable interest to be paid by the community center on the total cost of the facility or renovation. The rate of interest may not exceed 50 percent of the market interest rate, as determined by the department, that a local agency that established the community center would pay at the time the agreement is made if the agency issued revenue bonds to construct or renovate the facility payable for the same period as the period of the agreement to construct or renovate the facility.

Sec. 534.030. STATE FUNDS. (a) A community center may use state funds, including state contract funds, to operate a facility *constructed under Section 534.023 or renovated under Section 534.024*. The total amount of state funds used in the actual operation of the facility may not exceed an amount equal to 60 percent of the facility's total operating budget.

(b) In determining a facility's total operating budget, a community center may not include lease-purchase payments or renovation funding repayments.

(c) [~~A community center may not use state funds to make lease-purchase payments or renovation funding repayments.~~]

[(d)] The construction, renovation, or operation of a facility under Sections 534.023-534.029 does not constitute grounds for a community center to receive contract funds that are in addition to the contract funds the center would otherwise receive under the board's rules governing distribution of those funds.

SECTION 6.27. Sections 534.033(a) and (c), Health and Safety Code, are amended to conform to Section 6, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(a) It is the intent of the legislature that the department limit its control over, and routine reviews of, community center programs to those programs that:

- (1) use *department [state]* funds or use required local funds that are matched with *department [state]* funds;
- (2) provide core or required services;
- (3) provide services to former clients or patients of a department facility; or
- (4) are affected by litigation in which the department is a defendant.

(c) The department may determine whether a particular program uses *department [state]* funds or uses required local matching funds.

SECTION 6.28. Subchapter A, Chapter 534, Health and Safety Code, is amended to conform to Section 8, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, by adding Section 534.035 to read as follows:

Sec. 534.035. PROGRAM REVIEW AND MANAGEMENT AUDIT. (a) The department by rule shall establish as a contract requirement for community centers program review and management audit procedures to ensure that reviews and audits are conducted in sufficient quantity and type to provide reasonable assurance that adequate and appropriate fiscal controls exist in community centers.

(b) The department shall conduct periodic program reviews at each community center. The commissioner or the commissioner's designee shall prepare, publish, and distribute a formal procedure for the periodic program reviews.

(c) The department shall conduct periodic management audits at each community center. The director of the internal audit unit, with the approval of the board's audit committee, shall prepare and publish a formal risk assessment procedure for the audits. The department shall include in a management audit a comprehensive review of the center's annual financial and compliance audit activities required under Section 534.068.

(d) After a program review or management audit is conducted, the department shall send to the community center a written report that identifies in clear language each significant deficiency identified and each question raised by the review or audit.

(e) The board of trustees shall provide to the department a written response to the concerns raised by the review or audit within the period prescribed by department rule. The response must:

- (1) describe any action taken or to be taken to correct an identified deficiency;*
- (2) provide narrative responses to questions relating to policies or procedures raised in the review or audit; and*
- (3) give notice of any disagreement the board of trustees has with a specific finding of the review or audit.*

(f) Within the period prescribed by department rules, the commissioner or the board's audit committee shall review the community center's responses and shall notify in writing the community center of any inadequacy or deficiency found in the response. The community center may provide additional responses to the commissioner. The commissioner shall establish a reasonable deadline for receiving responses.

(g) If, by the date prescribed by the commissioner, the community center fails to respond to a deficiency identified in a review or audit to the satisfaction of the commissioner, the department may discontinue the transfer of related department funds to the community center until the dispute is resolved. The community center is entitled to notice and an opportunity for a hearing before the transfer of department funds is discontinued. The board by rule shall prescribe the hearings procedure.

(h) The department may withhold funds during the pendency of an appeal to a court if the department hearing upholds the discontinuation of the funds. The department shall transfer the withheld funds to the community center if the final determination is favorable to the community center.

(i) *The department shall incorporate the community center's responses into the official management audit report in accordance with the Government Auditing Standards published by the United States General Accounting Office. The department shall publish the final report within the period prescribed by department rules, but not later than the 60th day after the date on which the audit staff conducts the official exit conference with the community center. If the department disagrees with the community center's responses as provided by Subsection (f), the department shall publish the official report within the period prescribed by department rules.*

SECTION 6.29. Section 534.052, Health and Safety Code, is amended to conform to Section 9, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.052. RULES AND STANDARDS. (a) The board shall adopt rules, including standards, the board considers necessary and appropriate to ensure the adequate provision of community-based mental health and mental retardation services *through a local mental health or mental retardation authority* [~~by department facility outreach programs or by community centers and other providers receiving contract funds as designated providers~~] under this subchapter.

(b) The department shall send a copy of the rules to each *local mental health or mental retardation authority or other provider receiving contract funds as a local mental health or mental retardation authority or* [~~department facility outreach program and to each~~] designated provider.

SECTION 6.30. Subchapter B, Chapter 534, Health and Safety Code, is amended to conform to Section 10, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, by adding Section 534.0535 to read as follows:

Sec. 534.0535. JOINT DISCHARGE PLANNING. (a) *The board shall adopt, and the department shall enforce, rules that require continuity of services and planning for patient or client care between department facilities and local mental health or mental retardation authorities.*

(b) *At a minimum, the rules must require joint discharge planning between a department facility and a local mental health or mental retardation authority before a facility discharges a patient or client or places the patient or client on an extended furlough with an intent to discharge.*

(c) *The local mental health or mental retardation authority shall plan with the department facility and determine the appropriate community services for the patient or client.*

(d) *The local mental health or mental retardation authority shall arrange for the provision of the services if department funds are to be used and may subcontract with or make a referral to a local agency or entity.*

SECTION 6.31. Section 534.054, Health and Safety Code, is amended to conform to Section 10, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.054. DESIGNATION OF PROVIDER [~~DESIGNATED PROVIDERS~~]. (a) The department shall identify and contract with *a local mental health or mental retardation authority* [~~one or more designated providers~~] for each service area to provide services to patient and client populations determined by the department. A local mental health or mental retardation authority [~~designated provider~~] shall provide, directly or by subcontract, services to address the needs of priority populations as required by the department and shall comply with the rules and standards adopted under Section 534.052.

(b) In identifying a *local mental health or mental retardation authority* [~~designated provider~~], the department shall give preference to a community center located in that service area.

(c) The department may contract with a local agency or a private provider or organization to act as a designated provider of [~~for~~] a service [~~area~~] if the department:

(1) cannot negotiate a contract with a *local mental health or mental retardation authority* [~~community center~~] to ensure that a specific required service [~~services~~] for priority populations is [~~are~~] available in that service area; or

(2) determines that a *local mental health or mental retardation authority* ~~[center]~~ does not have the capacity to ensure the availability of *that service* ~~[the services]~~.

(d) The department shall provide the required services in a service area directly through a department facility outreach program or contract with another agency, provider, or organization as the *local mental health or mental retardation authority* if the department cannot identify and contract with a *community center* ~~[designated provider]~~ in that service area.

SECTION 6.32. Section 534.055(c), Health and Safety Code, is amended to correct a reference and to conform to Section 11, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(c) A model contract must:

(1) require that the services provided by the private provider be based on the patient's or client's individual treatment plan;

(2) provide that a community-based residential facility that is a family home as defined in Chapter 123, Human Resources Code ~~[the Community Homes for Disabled Persons Location Act (Article 1011n, Vernon's Texas Civil Statutes)]~~ may house only a *person with a disability as defined in Section 123.002, Human Resources Code* ~~[disabled persons as defined in Section 2 of that Act]; [and]~~

(3) prohibit the use of the facility for purposes such as restitution centers, homes for substance abusers, or halfway houses; and

(4) outline a dispute resolution procedure.

SECTION 6.33. Section 534.056, Health and Safety Code, is amended to conform to Section 10, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.056. COORDINATION OF ACTIVITIES. A *local mental health or mental retardation authority* ~~[designated provider]~~ shall coordinate its activities with the activities of other appropriate agencies that provide care and treatment for persons with drug or alcohol problems.

SECTION 6.34. Sections 534.058(a) and (c), Health and Safety Code, are amended to conform to Section 10, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(a) The department shall develop standards of care for the services provided by a *local mental health or mental retardation authority* ~~[department facility outreach program or by a designated provider]~~ and its subcontractors under this subchapter.

(c) In conjunction with *local mental health or mental retardation authorities* ~~[designated providers]~~, the department shall review the standards biennially to determine if each standard is necessary to ensure the quality of care.

SECTION 6.35. Section 534.059, Health and Safety Code, is amended to conform to Section 10, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.059. PERFORMANCE STANDARDS. The department shall specify performance standards, including measures of results, to use in evaluating the compliance of a *local mental health or mental retardation authority* ~~[department facility outreach program or designated provider]~~ with its obligation or contract to provide specific services to priority populations.

SECTION 6.36. Section 534.060, Health and Safety Code, is amended to conform to Sections 9 and 10, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.060. PROGRAM AND SERVICE MONITORING AND REVIEW. (a) The department shall develop mechanisms for monitoring the services provided by a *local mental health or mental retardation authority and the authority's* ~~[department facility outreach program or by a designated provider and the provider's]~~ subcontractors.

(b) The department shall review the program quality and program performance results of each *local mental health or mental retardation authority* ~~[department facility outreach~~

~~program or designated provider~~] at least once each fiscal year. The department may determine the scope of each review.

(c) Each ~~[designated provider]~~ contract *between a local mental health or mental retardation authority and the department* must authorize the department to have unrestricted access to all facilities, records, data, and other information under the control of the *local mental health or mental retardation authority, the authority's subcontractors, or the designated provider* ~~[provider or the provider's subcontractors]~~ as necessary to enable the department to audit, monitor, and review the financial and program activities and services associated with *department funds* ~~[the contract]~~.

SECTION 6.37. Section 534.063, Health and Safety Code, is amended to conform to Section 10, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.063. PEER REVIEW ORGANIZATION. The department shall assist a *local mental health or mental retardation authority* ~~[designated provider]~~ in developing a peer review organization to provide self-assessment of programs and to supplement department reviews under Section 534.060.

SECTION 6.38. Subchapter B, Chapter 534, Health and Safety Code, is amended to conform to Section 10, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991, by amending Sections 534.064, 534.066, and 534.067 and adding Section 534.0675 to read as follows:

Sec. 534.064. CONTRACT RENEWAL. The commissioner *may* ~~[shall]~~ refuse to renew a contract with a *local mental health or mental retardation authority* ~~[designated provider]~~ and *may* ~~[shall]~~ select *other agencies, providers, or organizations to be the local mental health or mental retardation authority* ~~[a new designated provider]~~ if the department's evaluation of the *authority's* ~~[provider's]~~ performance indicates that the *authority* ~~[provider]~~ cannot ensure the availability of the specific services to priority populations required by the department and this subtitle.

Sec. 534.066. LOCAL MATCH REQUIREMENT. (a) The department *shall* ~~[may]~~ include in a contract with a *local mental health or mental retardation authority* ~~[designated provider]~~ a requirement that some or all of the state funds the *authority* ~~[provider]~~ receives be matched by local support in an amount or proportion *jointly agreed to by the department and the authority's board of trustees and based on the authority's financial capability and its overall commitment to other mental health or mental retardation programs, as appropriate* ~~[determined by the department]~~.

(b) The department shall establish, for department facility outreach programs that provide community-based services required under this subchapter, a local match requirement that is consistent with the requirements applied to *other local mental health or mental retardation authorities* ~~[designated providers]~~.

(c) ~~[A requirement of a local match under this section must apply uniformly to each provider or contractor in a service area.]~~

~~[(d)]~~ Patient fee income, *third-party insurance income*, services and facilities contributed by the *local mental health or mental retardation authority* ~~[provider]~~, contributions by a county or municipality, and other locally generated contributions, *including local tax funds*, may be counted ~~[as local support]~~ when calculating the local support for a *local mental health or mental retardation authority* ~~[share of the operating costs of a department facility outreach program or a designated provider]~~. *The department may disallow or reduce the value of services claimed as support.*

Sec. 534.067. FEE COLLECTION POLICY. The department shall establish a uniform fee collection policy for *all local mental health or mental retardation authorities* ~~[community centers and other designated providers]~~ that is equitable, provides for collections, and maximizes contributions to local revenue.

Sec. 534.0675. NOTICE OF DENIAL, REDUCTION, OR TERMINATION OF SERVICES. *The board by rule, in cooperation with local mental health and mental retardation authorities, consumers, consumer advocates, and service providers, shall establish a uniform procedure that each local mental health or mental retardation authority shall use to notify*

consumers in writing of the denial, involuntary reduction, or termination of services and of the right to appeal those decisions.

SECTION 6.39. Section 534.068, Health and Safety Code, is amended to conform to Section 12, Chapter 569, and Section 24, Chapter 599, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

Sec. 534.068. AUDITS. (a) As a condition to receiving ~~[contract]~~ funds under this subtitle, a local mental health and mental retardation authority ~~[the board of trustees of a community center or the administrative authority of a designated provider]~~ other than a state facility designated as an authority ~~[center]~~ must annually submit to the department a financial and compliance audit prepared ~~[have the center's or provider's accounts audited]~~ by a certified public accountant or public accountant licensed by the Texas State Board of Public Accountancy. To ensure the highest degree of independence and quality, the local mental health or mental retardation authority shall use an invitation-for-proposal process as prescribed by the department to select the auditor.

(b) The audit must meet the minimum requirements as shall be, and be in the form and in the number of copies as may be, prescribed by the department, subject to review and comment ~~[and approved]~~ by the state auditor.

(c) The local mental health or mental retardation authority ~~[community center or other designated provider]~~ shall file the required number of copies ~~[a copy]~~ of the audit report with the department by the date prescribed by the department. From the copies filed with the department, ~~[The center or provider shall also submit]~~ copies of the report shall be submitted to the governor and~~[,]~~ Legislative Budget Board~~[, and Legislative Audit Committee]~~.

(d) The local mental health or mental retardation authority ~~[board of trustees or administrative authority]~~ shall either approve or refuse to approve the audit report. If the ~~[board or]~~ authority refuses to approve the report, the ~~[board or]~~ authority shall include with the department's copies ~~[copy]~~ a statement detailing the reasons for refusal.

(e) The commissioner and state auditor have access to all vouchers, receipts, journals, or other records the commissioner or auditor considers necessary to review and analyze the audit report.

(f) The department shall annually submit to the governor, Legislative Budget Board, and Legislative Audit Committee a summary of the significant findings identified during the department's reviews of fiscal audit activities.

SECTION 6.40. Section 534.051, Health and Safety Code, is repealed to conform to Section 13, Chapter 569, Acts of the 72nd Legislature, Regular Session, 1991.

SECTION 6.41. (a) Subchapter B, Chapter 535, Health and Safety Code, is repealed to conform to the repeal of the law from which it was derived by Section 1, Article 3, Chapter 637, Acts of the 72nd Legislature, Regular Session, 1991.

(b) The subchapter heading to Subchapter A, Chapter 535, Health and Safety Code, is repealed to conform to Section 1, Article 3, Chapter 637, Acts of the 72nd Legislature, Regular Session, 1991.

SECTION 6.42. Section 571.014, Health and Safety Code, is amended to conform to Section 1, Chapter 567, Acts of the 72nd Legislature, Regular Session, 1991, by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) A person may initially file a paper with the county clerk by the use of reproduced, photocopied, or electronically transmitted paper if the person files the original signed copies of the paper with the clerk not later than the 72nd hour after the hour on which the initial filing is made. If the 72-hour period ends on a Saturday, Sunday, or legal holiday, the filing period is extended until 4 p.m. on the first succeeding business day. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may by written order made each day extend the filing period until 4 p.m. on the first succeeding business day. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster. If a person detained under this subtitle would otherwise be released because the original signed copy of a paper is not filed within the 72-hour period but for the extension of the filing period under this section, the person may be detained until the expiration of the extended filing period. This subsection does not affect

another provision of this subtitle requiring the release or discharge of a person [~~third working day after the date on which the initial filing is made~~].

(d) If the clerk does not receive the original signed copy of a paper within the period prescribed by this section, the judge may dismiss the proceeding on the court's own motion or on the motion of a party and, if the proceeding is dismissed, shall order the immediate release of a proposed patient who is not at liberty.

SECTION 6.43. Chapter 571, Health and Safety Code, is amended to conform to Section 5, Chapter 567, Acts of the 72nd Legislature, Regular Session, 1991, by adding Section 571.0165 to read as follows:

Sec. 571.0165. *EXTENSION OF DETENTION PERIOD.* (a) If extremely hazardous weather conditions exist or a disaster occurs, the judge of a court having jurisdiction of a proceeding under Chapters 572, 573, 574, and 575 or a magistrate appointed by the judge may by written order made each day extend the period during which the person may be detained under those chapters until 4 p.m. on the first succeeding business day.

(b) The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

(c) This section does not apply to a situation for which a specific procedure is prescribed by this subtitle for extending the detention period because of extremely hazardous weather conditions or the occurrence of a disaster.

SECTION 6.44. Section 571.018(g), Health and Safety Code, is amended to conform to Section 2, Chapter 567, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(g) The state or a county may not pay any costs for a patient committed to a private mental hospital unless:

(1) a public facility is not available; and

(2) the commissioners court of the county authorizes the payment, if appropriate.

SECTION 6.45. Section 571.020(a), Health and Safety Code, is amended to conform to Section 3, Chapter 567, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(a) A person commits an offense if the person intentionally causes, conspires with another to cause, or assists another to cause the unwarranted commitment of a person to a mental health facility. An offense under this subsection is a misdemeanor punishable by a fine of not more than \$5,000, confinement in the county jail for not more than *one year* [~~two years~~], or both.

SECTION 6.46. Section 572.004, Health and Safety Code, is amended to conform to Section 4, Chapter 567, Acts of the 72nd Legislature, Regular Session, 1991, by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (b) and (e), a voluntary patient is entitled to leave an inpatient mental health facility within 96 hours after the time a written request for release is filed with the facility administrator or the administrator's designee. The request must be signed by the patient or a person responsible for the patient's admission.

(e) If extremely hazardous weather conditions exist or a disaster occurs, the facility administrator may request the judge of a court that has jurisdiction over proceedings brought under Chapter 574 to extend the period during which the patient may be detained. The judge or a magistrate appointed by the judge may by written order made each day extend the period during which the patient may be detained until 4 p.m. on the first succeeding business day. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

SECTION 6.47. Subchapter A, Chapter 574, Health and Safety Code, is amended to conform to Section 1, Chapter 619, Acts of the 72nd Legislature, Regular Session, 1991, by adding Section 574.0085 to read as follows:

Sec. 574.0085. *MASTERS.* (a) The county judge may appoint a full-time or a part-time master to preside over the proceedings for court-ordered mental health services if the

commissioners court of a county in which the court has jurisdiction authorizes the employment of a master.

(b) To be eligible for appointment as a master, a person must be a resident of this state and have been licensed to practice law in this state for at least four years.

(c) A master shall be paid as determined by the commissioners court of the county in which the master serves. If a master serves in more than one county, the master shall be paid as determined by agreement of the commissioners courts of the counties in which the master serves. The master may be paid from county funds available for payment of officers' salaries.

(d) A master who serves a single court serves at the will of the judge of that court. The services of a master who serves more than two courts may be terminated by a majority vote of all the judges of the courts the master serves. The services of a master who serves two courts may be terminated by either of the judges of the courts the master serves.

(e) To refer cases to a master, the referring court must issue an order of referral. The order of referral may limit the power or duties of a master.

(f) Except as limited by an order of referral, masters appointed under this section have all the powers and duties set forth in Section 54.007, Government Code.

(g) A bailiff may attend a hearing held by a master if directed by the referring court.

(h) A witness appearing before a master is subject to the penalties for perjury provided by law. A referring court may issue attachment against and may fine or imprison a witness whose failure to appear before a master after being summoned or whose refusal to answer questions has been certified to the court.

(i) At the conclusion of any hearing conducted by a master and on the preparation of a master's report, the master shall transmit to the referring court all papers relating to the case, with the master's signed and dated report. After the master's report has been signed, the master shall give to the parties participating in the hearing notice of the substance of the report. The master's report may contain the master's findings, conclusions, or recommendations. The master's report must be in writing in a form as the referring court may direct. The form may be a notation on the referring court's docket sheet. After the master's report is filed, the referring court may adopt, approve, or reject the master's report, hear further evidence, or recommit the matter for further proceedings as the referring court considers proper and necessary in the particular circumstances of the case.

(j) If a jury trial is demanded or required, the master shall refer the entire matter back to the referring court for trial.

(k) A master appointed under this section has the judicial immunity of a county judge.

(l) A master appointed in accordance with this section shall comply with the Code of Judicial Conduct in the same manner as the county judge.

SECTION 6.48. Section 574.009(d), Health and Safety Code, is amended to conform to Section 6, Chapter 567, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(d) If the certificates required under this section are not on file at the time set for the hearing on the application, the judge shall dismiss the application and order the immediate release of the proposed patient if that person is not at liberty. *If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may by written order made each day extend the period during which the two certificates of medical examination for mental illness may be filed, and the person may be detained until 4 p.m. on the first succeeding business day. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.*

SECTION 6.49. Section 574.034(d), Health and Safety Code, is amended to conform to Section 7, Chapter 567, Acts of the 72nd Legislature, Regular Session, 1991, and to conform more closely to the source law from which it was derived to read as follows:

(d) The proposed patient *and* ~~or~~ the proposed patient's attorney, by a written document filed with the court, may waive the right to cross-examine witnesses, and, if that right is waived, the court may admit, as evidence, the certificates of medical examination for mental

illness. The certificates admitted under this subsection constitute competent medical or psychiatric testimony, and the court may make its findings solely from the certificates. *If the proposed patient and the proposed patient's attorney do not waive in writing the right to cross-examine witnesses, the court shall proceed to hear testimony. The testimony must include competent medical or psychiatric testimony. In addition, the court may consider the testimony of a nonphysician mental health professional as provided by Section 574.031(f).*

SECTION 6.50. Section 574.044, Health and Safety Code, is amended to correct a reference to read as follows:

Sec. 574.044. COMMITMENT TO FACILITY OF THE INSTITUTIONAL DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE. The court shall commit an inmate patient to an inpatient mental health facility of the institutional division of the Texas Department of Criminal Justice if the court enters an order requiring temporary mental health services for the inmate patient under an application filed by a psychiatrist for the institutional division under Section 501.057 [500.057], Government Code.

SECTION 6.51. Section 576.008, Health and Safety Code, is amended to conform more closely to the source law from which it was derived to read as follows:

Sec. 576.008. NOTIFICATION OF PROTECTION AND ADVOCACY SYSTEM. A patient shall be informed in writing, at the time of admission *and* [or] discharge, of the existence, purpose, telephone number, and address of the protection and advocacy system established in this state under the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. Sec. 10801, et seq.).

SECTION 6.52. Sections 614.001(4)–(8), Health and Safety Code, are amended to conform to Section 1, Chapter 566, Acts of the 72nd Legislature, Regular Session, 1991, to read as follows:

(4) "Developmental disability" means a ~~condition of~~ severe, chronic disability that:

(A) is attributable to a mental or physical impairment *or a combination of physical and mental impairments*;

(B) is manifested before the person reaches 22 years of age;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the following areas of major life activity:

(i) self-care;

(ii) self-direction;

(iii) learning;

(iv) *receptive and expressive* language;

(v) mobility;

(vi) capacity for independent living; or

(vii) economic self-sufficiency; and

(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services of extended or lifelong duration that are individually planned and coordinated.

(5) "Mental illness" *has the meaning assigned by Section 571.003* [~~means an illness, disease, or condition that~~];

~~[(A) substantially impairs a person's thought, perception of reality, emotional process, or judgment; or~~

~~[(B) grossly impairs a person's behavior, as shown by recent disturbed behavior].~~

(6) "Mental retardation" *has the meaning assigned by Section 591.003* [~~means significantly subaverage intellectual functioning that originated during the developmental period and exists concurrently with deficits in adaptive behavior~~].

(7) "Offender with a mental impairment" means a *juvenile or adult* [person] with mental illness, mental retardation, or a developmental disability who is arrested or charged with a criminal offense.

(8) "Person with mental retardation" means a *juvenile or adult* [person] with mental retardation that is not a mental disorder who, because of the mental deficit, requires special training, education, supervision, treatment, care, or control in the person's home or community or in a private or state school for persons with mental retardation.

SECTION 6.53. (a) Sections 614.002, 614.005, 614.007, and 614.008, Health and Safety Code, are amended to conform to Section 1, Chapter 566, Acts of the 72nd Legislature, Regular Session, 1991, and Section 1.03, Chapter 10, Acts of the 72nd Legislature, 2nd Called Session, 1991, to read as follows:

Sec. 614.002. COMPOSITION OF COUNCIL. (a) The Texas Council on Offenders with Mental Impairments is composed of 29 [28] members.

(b) The governor shall appoint, *with the advice and consent of the senate*: [~~nine at-large members to serve on the council.~~]

(1) *four at-large members who have expertise in mental health, mental retardation, or developmental disabilities, one of whom must be a psychiatrist;*

(2) *one at-large member who is the judge of a court with criminal jurisdiction;*

(3) *one at-large member who is a prosecuting attorney;*

(4) *one at-large member who is a criminal defense attorney;*

(5) *one at-large member from an established pretrial services agency; and*

(6) *one at-large member who has expertise in the criminal justice system.*

(c) The executive head of each of the following agencies, divisions of agencies, or associations, or that person's designated representative, shall serve as a member of the council:

(1) the institutional division of the Texas Department of Criminal Justice;

(2) the Texas Department of Mental Health and Mental Retardation;

(3) the pardons and paroles division of the Texas Department of Criminal Justice;

(4) the community justice assistance division of the Texas Department of Criminal Justice;

(5) the Texas Juvenile Probation Commission;

(6) the Texas Youth Commission;

(7) the Texas Rehabilitation Commission;

(8) the Central Education Agency;

(9) the Criminal Justice Policy Council;

(10) the Mental Health Association in Texas;

(11) the Texas Commission on Alcohol and Drug Abuse;

(12) the Commission on Law Enforcement Officer Standards and Education;

(13) the Texas Council of Community Mental Health and Mental Retardation Centers;

(14) the Commission on Jail Standards;

(15) the Texas Planning Council for Developmental Disabilities;

(16) the Texas Association for Retarded Citizens;

(17) the Texas Alliance for the Mentally Ill;

(18) the Parent Association for the Retarded of Texas, Inc.; [and]

(19) the Texas Department of Human Services; *and*

(20) *the Texas Department on Aging.*

(d) *In making the appointments under Subsection (b), the governor shall attempt to reflect the geographic and economic diversity of the state.*

(e) *It is a ground for removal if an at-large member:*

(1) is not eligible for appointment at the time of appointment as provided by Subsections (b) and (g);

(2) is absent from more than half of the regularly scheduled council meetings that the member is eligible to attend during each calendar year; or

(3) is absent from more than two consecutive regularly scheduled council meetings that the member is eligible to attend.

(f) A representative designated by the executive head of a state agency must be an officer or employee of the agency when designated and while serving on the council, except the representative designated by the director of the Criminal Justice Policy Council must be an employee of that council.

(g) ~~Members who are not associated with a state agency or division [(e) At-large members of the council and members representing associations]~~ must have expertise in the rehabilitation of persons with mental illness, mental retardation, or a developmental disability when appointed or designated and while serving on the council.

Sec. 614.005. OFFICERS; MEETINGS. (a) The council shall elect a *presiding officer* [chairman] from its members at the first meeting of each calendar year.

(b) The council shall meet at least four times each year and may meet at other times at the call of the *presiding officer* [chairman] or as provided by council rule.

Sec. 614.007. POWERS AND DUTIES. The council shall:

(1) determine the status of offenders with mental impairments in the state criminal justice system;

(2) identify needed services for offenders with mental impairments;

(3) develop a plan for meeting the treatment, rehabilitative, and educational needs of offenders with mental impairments that includes a case management system and the development of community-based alternatives to incarceration;

(4) cooperate in coordinating procedures of represented agencies for the orderly provision of services for offenders with mental impairments;

(5) evaluate programs in this state and outside this state for offenders with mental impairments and recommend to the directors of state programs methods of improving the programs;

(6) collect and disseminate information about available programs to judicial officers, *law enforcement officers*, probation and parole officers, *providers of social services or treatment*, and the public;

(7) provide technical assistance to represented agencies and organizations in the development of appropriate training programs;

(8) apply for and receive money made available by the federal or state government or by any other public or private source to be used by the council to perform its duties;

(9) distribute to political subdivisions, private organizations, or other persons money appropriated by the legislature to be used for the development, operation, or evaluation of programs for offenders with mental impairments;

(10) develop and implement pilot projects to demonstrate a cooperative program to identify, evaluate, and manage outside of incarceration offenders with mental impairments who do not have an instant offense that is an offense described in Section 3g, Article 42.12, Code of Criminal Procedure; and

(11) assess the need for demonstration projects and provide management for approved projects.

Sec. 614.008. PILOT PROGRAM. (a) The council shall establish a pilot program in a county selected by the council to implement a cooperative community-based alternative system to divert [~~nonviolent mentally or emotionally impaired offenders~~] from the state criminal justice system *offenders with mental impairments who do not have an instant offense that is an offense described in Section 3g, Article 42.12, Code of Criminal Procedure*, and to rehabilitate those offenders.

(b) The program must conform to the report and recommendations made by the Texas Department of Mental Health and Mental Retardation and the Texas Department of Corrections to the 70th Legislature as directed by S.C.R. No. 128, 69th Legislature, Regular Session, 1985.

(c) The council may *contract for or* employ and train a case management team to carry out the purposes of the program and to coordinate the joint efforts of agencies represented on the council.

(d) The agencies represented on the council shall perform duties and offer services as required by the council to further the purposes of the pilot program *and the council*.

(b) Section 614.010, Health and Safety Code, is repealed.

SECTION 6.54. The following provisions of the Acts of the 72nd Legislature, Regular Session, 1991, are repealed:

- (1) Chapter 248;
- (2) Chapter 379;
- (3) Chapter 566;
- (4) Sections 1-7, Chapter 567;
- (5) Chapter 569;
- (6) Chapter 596;
- (7) Section 24, Chapter 599;
- (8) Chapter 619; and
- (9) Section 6, Chapter 627.

ARTICLE 7. CHANGES RELATING TO HUMAN RESOURCES CODE

SECTION 7.01. (a) Title 9, Human Resources Code, is amended to codify Section 5.04, Chapter 15, Acts of the 72nd Legislature, 1st Called Session, 1991 (Article 4413(701), Revised Statutes), by adding Chapter 131 to read as follows:

CHAPTER 131. HEALTH AND HUMAN SERVICES TRANSPORTATION AND PLANNING OFFICE

Sec. 131.001. OFFICE. The Health and Human Services Transportation and Planning Office is in the governor's office.

Sec. 131.002. POWERS AND DUTIES. The office shall:

- (1) collect data on health and human services client transportation needs, services, and expenditures;*
- (2) create a statewide coordination plan regarding a system of transportation for clients of health and human services agencies, including the designation of local transportation coordinators;*
- (3) establish standards of reporting and accounting methods for all agencies providing health and human services client transportation;*
- (4) maximize federal funds for client transportation through the use of available state funds for matching purposes and the possible use of oil overcharge money and planning funds available through the federal department of transportation;*
- (5) evaluate the effectiveness of pooling client transportation resources for capital acquisition and the joint purchase of liability insurance;*
- (6) assist state agencies in coordinating transportation resources;*
- (7) ensure coordination between the office and the Texas Department of Transportation with regard to the use of funds received by the department under 49 U.S.C. Section 1612(b)(1);*
- (8) examine the feasibility of consolidating all funding for health and human services client transportation and creating a transportation system through which clients of a state*

or local agency or program could be matched with the most cost-effective and appropriate transportation services for their needs; and

(9) evaluate the use of existing computer software for use at the local level in client transportation services.

Sec. 131.003. **OFFICE STAFF.** *The governor shall employ staff needed to carry out the duties of the office.*

(b) Article 4413(701), Revised Statutes, is repealed.

ARTICLE 8. CHANGES RELATING TO LOCAL GOVERNMENT CODE

SECTION 8.01. (a) Subtitle B, Title 7, Local Government Code, is amended to codify Section 1, Chapter 881, Acts of the 72nd Legislature, Regular Session, 1991 (Article 2372dd-2, Revised Statutes), by adding Chapter 238 to read as follows:

CHAPTER 238. COUNTY REGULATION OF CERTAIN OUTDOOR BUSINESSES

Sec. 238.001. **DEFINITIONS.** *In this chapter:*

(1) "Automotive wrecking and salvage yard" means a business that stores three or more wrecked vehicles outdoors for the purpose of dismantling or otherwise wrecking the vehicles to remove parts for sale or for use in an automotive repair or rebuilding business.

(2) "Demolition business" means a business that demolishes structures, including houses and other buildings, in order to salvage building materials and that stores those materials before disposing of them.

(3) "Flea market" means an outdoor market for selling secondhand articles or antiques.

(4) "Junkyard" means a business that stores, buys, or sells materials that have been discarded or sold at a nominal price by a previous owner and that keeps all or part of the materials outdoors until disposing of them.

(5) "Outdoor resale business" means a business that sells used merchandise, other than automobiles, logging equipment, or other agricultural equipment, and stores or displays the merchandise outdoors.

(6) "Recycling business" means a business that is primarily engaged in:

(A) converting ferrous or nonferrous metals or other materials into raw material products having prepared grades and having an existing or potential economic value;

(B) using raw material products of that kind in the production of new products; or

(C) obtaining or storing ferrous or nonferrous metals or other materials for a purpose described by Paragraph (A) or (B).

Sec. 238.002. **AUTHORITY TO REGULATE; ADOPTION OF RULE.** (a) *The commissioners court of a county by order may establish visual aesthetic standards for automotive wrecking and salvage yards, junkyards, recycling businesses, flea markets, demolition businesses, and outdoor resale businesses in the unincorporated area of the county.*

(b) *The commissioners court may not include in an order adopted under this section a screening requirement for an automotive wrecking and salvage yard or a junkyard that is less restrictive than the screening requirement under Chapter 953, Acts of the 70th Legislature, Regular Session, 1987 (Article 2372dd-1, Vernon's Texas Civil Statutes).*

(c) *An order adopted under this section must provide a reasonable period of time not to exceed 12 months for a business operating on the effective date of the order to comply with the visual aesthetic standards.*

Sec. 238.003. **EXCEPTIONS.** (a) *A commissioners court may not regulate under this chapter farm machinery owned or operated by the person on whose property the machinery is located and kept on that property for purposes other than sale.*

(b) *A business subject to a screening requirement under Chapter 886, Acts of the 68th Legislature, Regular Session, 1983 (Article 2372dd, Vernon's Texas Civil Statutes), Chapter 953, Acts of the 70th Legislature, Regular Session, 1987 (Article 2372dd-1, Vernon's Texas Civil Statutes), or Section 4.08, Chapter 741, Acts of the 67th Legislature, Regular Session,*

1981 (Article 4477-9a, Vernon's Texas Civil Statutes), that was in compliance with that screening requirement on August 26, 1991, is exempt from a screening requirement adopted under this chapter.

Sec. 238.004. **CIVIL PENALTY.** (a) *The appropriate attorney representing the county in civil cases may file a civil action to recover a civil penalty from a business that violates a visual aesthetic standard established under this chapter. The penalty may not exceed \$50 each day for the first 10 days of the violation, \$100 each day for the next 10 days, \$250 each day for the next 10 days, and \$1,000 for each day thereafter. In determining the amount of the penalty, the court shall consider the seriousness of the violation.*

(b) *A penalty recovered under this section shall be deposited in the general fund of the county.*

(b) Article 2372dd-2, Revised Statutes, is repealed.

SECTION 8.02. Section 332.004(c), Local Government Code, as added by Chapter 807, Acts of the 72nd Legislature, Regular Session, 1991, is renumbered as Section 445.022, Local Government Code, to relocate that law to a more appropriate chapter of the Local Government Code.

ARTICLE 9. REPEALER

SECTION 9.01. Section 9, Chapter 114, Acts of the 69th Legislature, Regular Session, 1985 (Article 326k-89, Vernon's Texas Civil Statutes), is repealed as duplicative of Section 46.005, Government Code, which applies to the Anderson County criminal district attorney.

SECTION 9.02. Chapter 1, page 328, General Laws, Acts of the 46th Legislature, 1939 (Article 3923a, Vernon's Texas Civil Statutes), is repealed as impliedly repealed by subsequent amendments to former Article 3923, Revised Statutes, codified as Section 51.005, Government Code.

ARTICLE 10. RENUMBERING

SECTION 10.01. The following provisions of enacted codes are renumbered or relettered and appropriate cross-references are changed in order to eliminate duplicate citations or to relocate misplaced provisions:

(1) Subsection (c), Section 11, Article 42.12, Code of Criminal Procedure, as added by Section 1, Chapter 285, Acts of the 72nd Legislature, Regular Session, 1991, is relettered as Subsection (d), Section 11, Article 42.12, Code of Criminal Procedure.

(2) Section 2.09a, Education Code, is renumbered as Section 2.091, Education Code.

(3) Subchapter N, Chapter 51, Education Code, as added by Chapter 772, Acts of the 70th Legislature, Regular Session, 1987, is relettered as Subchapter O, Chapter 51, Education Code.

(4) Subchapter N, Chapter 51, Education Code, as added by Chapter 44, Acts of the 70th Legislature, Regular Session, 1987, is relettered as Subchapter P, Chapter 51, Education Code.

(5) Subchapter O, Chapter 51, Education Code, as added by Chapter 1084, Acts of the 71st Legislature, Regular Session, 1989, is relettered as Subchapter Q, Chapter 51, Education Code.

(6) Subsection (i), Section 53.009, Government Code, as added by Section 5, Chapter 819, Acts of the 72nd Legislature, Regular Session, 1991, is relettered as Subsection (j), Section 53.009, Government Code.

(7) Subchapter L, Chapter 403, Government Code, as added by Section 3.061(a), Chapter 5, Acts of the 72nd Legislature, 1st Called Session, 1991, is relettered as Subchapter M, Chapter 403, Government Code.

(8) Section 825.507, Government Code, as added by Section 29, Chapter 13, Acts of the 72nd Legislature, 1st Called Session, 1991, is renumbered as Section 825.508, Government Code.

(9) Subchapter I, Chapter 161, Health and Safety Code, as added by Chapter 695, Acts of the 72nd Legislature, Regular Session, 1991, is relettered as Subchapter J, Chapter 161, Health and Safety Code.

(10) Section 91.110, Natural Resources Code, as added by Section 13, Chapter 603, Acts of the 72nd Legislature, Regular Session, 1991, is renumbered as Section 91.114, Natural Resources Code.

(11) Subchapter L, Chapter 43, Parks and Wildlife Code, as added by Chapter 640, Acts of the 69th Legislature, Regular Session, 1985, is relettered as Subchapter M, Chapter 43, Parks and Wildlife Code.

(12) Subchapter M, Chapter 43, Parks and Wildlife Code, is relettered as Subchapter N, Chapter 43, Parks and Wildlife Code.

(13) Subchapter N, Chapter 43, Parks and Wildlife Code, as added by Chapter 883, Acts of the 72nd Legislature, Regular Session, 1991, is relettered as Subchapter O, Chapter 43, Parks and Wildlife Code.

(14) Subchapter N, Chapter 43, Parks and Wildlife Code, as added by Chapter 586, Acts of the 72nd Legislature, Regular Session, 1991, is relettered as Subchapter P, Chapter 43, Parks and Wildlife Code.

SECTION 10.02. If the number, letter, or designation assigned by this article conflicts with a number, letter, or designation assigned by another Act of the 73rd Legislature, the other Act controls, and the number, letter, or designation assigned by this article has no effect.

ARTICLE 11. EMERGENCY

SECTION 11.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on March 18, 1993, by a non-record vote; passed by the Senate on April 28, 1993, by a viva-voce vote.

Approved May 10, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.