

## CHAPTER 374

## H.B. No. 4

## AN ACT

relating to economic development and creation of the Texas Department of Commerce; providing for the issuance of bonds.

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

SECTION 1. CREATION OF DEPARTMENT; PROVIDING POWERS AND DUTIES. The Texas Department of Commerce Act is enacted to read as follows:

## ARTICLE 1. GENERAL PROVISIONS

Sec. 1.001. DEFINITIONS. In this Act:

- (1) "Board" means the governing board of the department.
- (2) "Bond" means an obligation issued under this Act, including a bond, note, draft, bill, warrant, debenture, certificate, or other evidence of indebtedness.
- (3) "Border region" means the counties of Brewster, Cameron, Culberson, Dimmit, El Paso, Hidalgo, Hudspeth, Jeff Davis, Kinney, La Salle, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, Willacy, Zapata, and Zavala.
- (4) "Department" means the Texas Department of Commerce.
- (5) "Person" means an individual, proprietorship, partnership, association, cooperative, corporation, organization, or governmental entity.

Sec. 1.002. DEPARTMENT. The Texas Department of Commerce is an agency of the state.

Sec. 1.003. APPLICATION OF SUNSET ACT. The Texas Department of Commerce is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the department is abolished and this Act expires September 1, 1999.

Sec. 1.004. GOVERNING BOARD. (a) The department is governed by a board composed of six members appointed by the governor with advice and consent of the senate. The members shall be appointed to give geographical representation on the board to all regions of the state.

(b) Members of the board serve for six-year terms with the term of one member expiring February 1 of each odd-numbered year.

(c) Before its first meeting following the regular appointment of a member, the governor shall select a chairman from the board's members.

Sec. 1.005. EXECUTIVE DIRECTOR; STAFF. The board shall employ an executive director who shall employ other employees necessary to carry out the board's duties.

Sec. 1.006. DIVISIONS. (a) The board shall establish the divisions within the department, which may include the following:

- (1) administrative division;

- (2) promotion and marketing division;
- (3) research, planning, and data services division;
- (4) domestic business development division;
- (5) international business development division;
- (6) job training division; and
- (7) tourism division.

(b) The executive director shall staff and assign duties to the divisions to carry out the department's functions.

Sec. 1.007. **ADVISORY BOARDS.** (a) The board may create advisory boards as it considers necessary.

(b) The board shall establish an advisory committee to study border region economic issues and problems and to submit proposals for border development to the department.

Sec. 1.008. **AUDIT REPORT.** The state auditor annually shall audit the financial transactions of the department. The auditor shall include in the audit report a list of any statutory provisions authorizing financial transactions by the department under which no transactions were made during the period covered by the audit.

Sec. 1.009. **REVIEW BOARD.** (a) The bond review board is composed of:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the state treasurer; and
- (5) the comptroller of public accounts.

(b) The governor is chairman of the review board.

(c) Bonds may not be issued under this Act, and proceeds of bonds issued under this Act may not be used to finance a project, unless the issuance or project, as applicable, has been reviewed and approved by the review board.

(d) The review board may adopt rules governing application for review, the review process, and reporting requirements.

(e) A member of the review board may not be held liable for damages resulting from the performance of the member's functions under this section.

## ARTICLE 2. GENERAL POWERS AND DUTIES OF DEPARTMENT

Sec. 2.001. **GENERAL POWERS OF DEPARTMENT.** (a) The department may:

- (1) adopt and enforce rules necessary to carry out this Act;
- (2) adopt and use an official seal;
- (3) accept gifts, grants, or loans from and contract with any entity;
- (4) sue and be sued;
- (5) acquire and convey property or an interest in property; and
- (6) exercise any other power necessary to carry out this Act.

(b) The department shall deposit contributions from private sources in a separate fund kept and held in escrow and in trust by the treasurer for and on behalf of the department as funds held outside the treasury pursuant to Section 3.051, Treasury Act (Article 4393-1, Vernon's Texas Civil Statutes), and the money contributed shall be used to carry out the purposes of the department and, to the extent possible, the purposes specified by the donors. Pending use, the treasurer may invest and reinvest the money in the fund in investments authorized by law for state funds that the treasurer considers appropriate.

Sec. 2.002. **GENERAL DUTIES OF DEPARTMENT.** (a) The department is responsible for planning, organizing, and implementing programs for:

- (1) attracting and locating new businesses in this state;

- (2) encouraging the growth and expansion of existing businesses, including tourism, in this state; and
- (3) working with local governments and organizations to improve their communities.
- (b) To carry out its responsibilities, the department shall:
  - (1) promote this state as a location for business activity and an attraction for tourism;
  - (2) prepare and administer a statewide business development program designed to create job opportunities and increase personal income throughout this state;
  - (3) prepare and administer a program of encouragement, support, and development of small and minority business ownership throughout this state;
  - (4) stimulate the expansion of international markets for products and services from this state and encourage foreign business development in this state;
  - (5) assist local governments with advisory and technical services in matters relating to community and economic development;
  - (6) provide financial aid to local governments for programs authorized by law to receive the assistance;
  - (7) act as an information center and referral agency for information of state and federal programs affecting business and local government;
  - (8) conduct research on problems related to community and economic development in this state;
  - (9) collect, publish, and disseminate information useful to local governments and businesses, including data on employment, housing, population characteristics, and land use patterns in the state;
  - (10) encourage cooperation between local governments, businesses, and the public, if appropriate;
  - (11) advise and inform the governor and the legislature concerning matters related to community and economic development and make recommendations for necessary action;
  - (12) coordinate the development of training programs between appropriate state agencies and educational institutions to prepare this state's labor force to meet changing economic circumstances;
  - (13) work with local governments, local economic development organizations, and small business development centers to develop a referral system to promote community and economic development throughout this state;
  - (14) plan and implement a concerted, targeted effort to more effectively address pressing economic problems and to maximize the potential of the border region for the benefit of the entire state;
  - (15) work with local community efforts to use federal funds to meet community needs, particularly in providing social and emergency services to residents of this state having low incomes; and
  - (16) encourage maquiladora projects.

Sec. 2.003. ADMINISTRATION OF OTHER STATUTES. (a) The department shall perform the administrative duties formerly assigned to the Texas Economic Development Commission including duties prescribed under the following:

- (1) Act for Development of Employment, Industrial and Health Resources of 1971 (Article 5190.1, Vernon's Texas Civil Statutes);
- (2) Texas Rural Industrial Development Act (Article 5190.2, Vernon's Texas Civil Statutes);
- (3) Chapter 696, Acts of the 69th Legislature, Regular Session, 1985 (Article 5190.4a, Vernon's Texas Civil Statutes), relating to industrial training programs; and
- (4) Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

(b) The department shall perform the administrative duties formerly assigned to the Texas Economic Development Commission and the Enterprise Zone Board under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

(c) The department shall perform the administrative duties formerly assigned to the Texas Department of Community Affairs under the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) and the community development block grant program.

(d) Any business or industry seeking employee training, retraining, or manpower development services at public expense may request assistance from the department. The department shall seek advice from the Coordinating Board, Texas College and University System, in identifying the appropriate institution of higher education to provide such services. The rules of the coordinating board concerning out-of-district and off-campus courses developed to assist industrial start-up and employee upgrading shall apply in providing such services. The department and the coordinating board shall ensure that appropriate rules are developed to apply to any entities involved in the delivery of education and training for industrial start-up and employee upgrading which are not currently covered.

Sec. 2.004. TEXAS ECONOMIC DEVELOPMENT CORPORATION. (a) The Texas Economic Development Corporation is created to act on behalf of the state to carry out the public purposes of Articles 3 and 4 of this Act. The creation of the corporation does not limit or impair the rights, powers, and duties of the department provided by those articles. The corporate existence of the Texas Economic Development Corporation begins on the issuance of a certificate of incorporation by the secretary of state. The members of the board shall serve ex officio as the board of directors of the corporation. The corporation has all of the powers and is subject to all of the limitations provided for the department by Articles 3 and 4 in carrying out the respective public purposes of those articles. The corporation may exercise all of the rights and powers given by the general laws of this state to nonprofit corporations incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) to the extent not inconsistent with this section. The corporation may contract with the department and with bond counsel, financial advisor, or underwriters as its board of directors considers necessary.

(b) The legislature finds and declares that the corporation will be engaged exclusively in the performance of charitable functions and is exempt from all taxation by this state, a municipal corporation, or a political subdivision of this state.

(c) The corporation shall be a nonprofit corporation, and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm, or corporation, except that if the board of directors determines that sufficient provision has been made for the full payment of the expenses, bonds, and other obligations of the corporation, any additional net earnings of the corporation shall be deposited to the general revenue fund of the state treasury.

(d) At any time the board of directors may alter the structure, organization, programs, or activities of the corporation or terminate and dissolve the corporation, subject only to any limitation provided by the constitution and laws of the state on the impairment of contracts entered into by the corporation. This alteration or dissolution shall be made by written resolution of the board of directors.

(e) If the board of directors of the corporation by resolution determines that the purposes for which the corporation was formed have been substantially complied with and that all bonds issued by the corporation have been fully paid, the members of the board of directors of the corporation shall dissolve the corporation. On dissolution the title to all funds and properties then owned by the corporation shall be transferred to the department.

### ARTICLE 3. WORLD TRADE

Sec. 3.001. LEGISLATIVE FINDINGS. The legislature finds that:

(1) the development and expansion of international trade and the export of products and services from this state to foreign purchasers are essential to the economic growth of the state and to the full employment, welfare, and prosperity of its citizens; and

(2) the means and measures authorized by this article and the assistance provided in this article, especially with respect to financing, are in the public interest and serve a public purpose of the state in promoting the welfare of the citizens of the state economically by stimulating the expansion of international markets for products and services from this state.

Sec. 3.002. DEFINITIONS. In this article:

(1) "Export business" means a person engaged in the export of a Texas product.

(2) "Lender" means a lending institution, including a bank, trust company, banking association, savings and loan association, mortgage company, investment bank, credit union, life insurance company, governmental agency that customarily provides financing, or an affiliate of any of those entities.

(3) "Texas product" means:

(A) a manufactured good or a service at least 25 percent of the total value of which is represented by Texas source components, labor, or intellectual property; or

(B) the export or preexport preparation of a Texas agricultural product or livestock.

Sec. 3.003. GENERAL POWERS AND DUTIES RELATING TO WORLD TRADE.

(a) The department shall:

(1) assist, promote, encourage, develop, and advance economic prosperity and employment throughout this state by fostering the expansion of exports of manufactured goods and services to foreign purchasers;

(2) cooperate and act in conjunction with other organizations, public and private, to promote and advance export trade activities in this state;

(3) design and implement programs to provide financial assistance, particularly to small and medium-sized businesses, to support export development;

(4) formulate and develop programs to stimulate and encourage increased international trade along the entire border region; and

(5) provide financial counseling to potential and existing exporters.

(b) In carrying out its duties, the department may:

(1) conduct research and analysis relating to:

(A) foreign commerce;

(B) the manner in which business is conducted in foreign marketplaces;

(C) methods of stimulating reverse investment;

(D) international tourism; and

(E) governmental incentives and disincentives to foreign trade activity in this state;

(2) accept inquiries from foreign businesses and governments and introduce the inquiring businesses or governments to the appropriate association or state businesses;

(3) cooperate with other persons in developing marketing programs and disseminating information about the state economy and the opportunities for and advantages of doing business in this state;

(4) represent the interests of state businesses engaged in foreign trade and aid others representing those interests through trade delegations, missions, marts, seminars, and other appropriate promotional methods;

(5) recruit foreign capital investment and encourage foreign business development in the state;

(6) encourage travel from foreign countries;

(7) seek funding of the department programs and activities from federal, state, local, and private sources;

(8) periodically study and report to the legislature on the effect of state tax laws on international trade activity in this state;

(9) encourage the development of programs by which experienced executives from private businesses volunteer their services to the state to aid the development of foreign commerce;

(10) collect and distribute to foreign commercial libraries directories, catalogs, brochures, and other information of value to foreign businesses considering doing business in this state;

(11) provide speakers bureau services for civic organizations and other private groups in the state;

(12) develop programs of mutual assistance between banks, shipping agents, combination export managers, freight forwarders, international consultants, ports, and other trade intermediaries of this state;

(13) encourage and assist expansion of international trade activities of chambers of commerce, development commissions, trade associations, ports, and similar organizations in the state;

(14) establish an export finance awareness program to provide information to banking organizations about methods used by banks to provide financing for businesses engaged in exporting and about other state and federal programs to promote and expedite export financing;

(15) provide businesses with counseling and management programs, technical assistance, advice, and information relating to development of export opportunities and programs;

(16) promote export trading companies;

(17) provide, in cooperation with trade associations, chambers of commerce, or other appropriate private entities, for the establishment of state offices in Asia, Europe, and Central and South America to identify export markets for Texas services and products, identify sources of investment capital, and otherwise represent the interests of the state; and

(18) impose reasonable fees for its programs, services, and publications.

(c) In carrying out its duties and powers, the department shall give emphasis and priority to matters relating to trade with Mexico.

Sec. 3.004. POWERS AND DUTIES RELATED TO FINANCING. (a) The department shall design and implement programs to provide financial assistance to enable export businesses to finance or refinance costs incurred in connection with the international export or preexport of Texas products, including programs for:

(1) making or acquiring loans to export businesses;

(2) making or acquiring loans to lenders to enable the lenders to make loans to export businesses;

(3) guaranteeing, in whole or in part, loans to export businesses;

(4) insuring, coinsuring, and reinsuring, in whole or in part, loans to export businesses; and

(5) administering or participating in programs established by another entity to provide financial assistance to export businesses.

(b) The department has the powers that are necessary and convenient to accomplish the purposes of this article, including the power to:

(1) borrow money and otherwise incur debt and to issue bonds, and provide for the rights of the owners of the bonds, in the manner and to the extent permitted by this Act and the Texas Constitution, and to purchase, hold, cancel, or resell or otherwise dispose of its bonds, subject to any restrictions in any resolution authorizing the issuance of its bonds;

(2) purchase, discount, sell, and negotiate, with or without guaranty, notes, bonds, debentures, and other evidences of indebtedness of export businesses, or portions or portfolios of or participations in those evidences of indebtedness;

(3) sell securities as the department considers necessary and advisable to accomplish any of the purposes of this article;

(4) procure and pay premiums on insurance of any type, in amounts and from insurers that the department considers necessary and advisable to accomplish any of the purposes of this article;

(5) provide financial counseling services to export businesses;

(6) make secured or unsecured loans for the purpose of providing financing or refinancing for export businesses for the costs incurred in connection with the international export or preexport of Texas products authorized by this article, including the refunding of outstanding obligations, mortgages, or advances issued for those purposes, and charge and collect interest on those loans for loan payments and on terms and conditions that the board considers advisable and not in conflict with this article;

(7) secure the payment by the state or the department on guarantees and pay claims from money in the department's funds under any guarantee or insurance program implemented by the department; and

(8) acquire, hold, invest, use, and dispose of the receipts, funds, and money, subject only to the provisions of the Texas Constitution, this article, and any covenants relating to the department's bonds in classes of investments that the board determines.

Sec. 3.005. **POWERS TO BE INTERPRETED BROADLY.** The powers of the department enumerated in this article shall be interpreted broadly to effect the purposes of this article and may not be construed as a limitation of powers.

Sec. 3.006. **HONORARY COMMERCIAL ATTACHE PROGRAM.** The department may develop a network of foreign nationals to serve as contacts between state and foreign businesses and investors.

Sec. 3.007. **CONFIDENTIALITY.** Information collected by the department concerning the identity, background, finance, marketing plans, trade secrets, or other commercially sensitive information of a lender or export business is confidential, unless the lender or export business consents to disclosure of the information.

Sec. 3.008. **PROGRAM RULES.** (a) The department shall adopt rules to establish criteria for determining which export businesses may participate in programs established by the department. The department's rules must state that the policy of the department is to provide programs for providing to export businesses financial assistance that otherwise would not be made, that the board considers to present a reasonable risk and have a sufficient likelihood of repayment, and that will create or maintain employment in the state. The department shall adopt collateral or security requirements to ensure the full repayment of financial assistance and the solvency of any program implemented under this article. The board shall approve all financial assistance under this article, except that the board may delegate this approval authority to the executive director.

(b) The department shall adopt rules to establish criteria for lenders that may participate in the programs established under this article. As a condition to participation, a lender must agree to make investigation as it considers necessary to determine the export business's viability, the economic benefits to be derived, the prospects for repayment, and other facts that it considers necessary to determine whether participation by the export business is consistent with the purposes of this article.

(c) Export businesses or lenders participating in the programs established under this article shall pay the costs of applying for, participating in, administering, and servicing the program, in amounts that the department considers reasonable and necessary.

(d) The department shall establish a procedure to ensure prompt review of applications for financial assistance and shall establish conditions under which review and approval of these transactions may be delegated to participating lenders or to insurers or guarantors of the department's bonds, programs, or loans.

Sec. 3.009. TAX EXEMPTION; EXEMPT SECURITIES. (a) The department is exempt from franchise, corporate, business, and all other taxes levied by this state, except that this section does not exempt from any taxes an export business participating in a program implemented under this article.

(b) Any bonds issued by the department under this article and coupons, if any, representing interest on the bonds, are exempt securities under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes). If, however, any bonds issued by the department under this article are secured by an agreement by a person to pay amounts sufficient to pay the principal of, redemption premium, if any, and interest on those bonds, notwithstanding that the bonds are exempt securities, such an agreement is considered to be a separate security issued by the person, and not by the department, to the purchasers of the bonds for purposes of The Securities Act and are exempt from the provisions of that Act only if:

(1) the security is an exempt security under the terms of that Act; or

(2) the bonds or the payments to be made under the agreement are guaranteed by any person and the guarantee is an exempt security under the terms of that Act.

(c) The department may do all things necessary to qualify the bonds for offer and sale under the securities laws and regulations of the United States and of the states and other jurisdictions in the United States as the board determines.

Sec. 3.010. CONFLICTS OF INTEREST. (a) A member of the board, agent, or employee of the department, in his or her own name or in the name of a nominee, may not hold an ownership interest of more than 7-½ percent or in excess of \$50,000 of the fair market value of an association, trust, corporation, partnership, or other entity that is, in its own name or in the name of a nominee, a party to a contract or agreement under this article on which the member of the board, agent, or employee may be called on to act or vote.

(b) With respect to a direct or indirect interest, other than an interest prohibited by Subsection (a) of this section, in a contract or agreement under this article on which the member of the board, agent, or employee may be called on to act or vote, the member of the board, agent, or employee shall disclose the interest to the secretary of the department before the taking of final action by the department concerning the contract or agreement, and shall disclose the nature and extent of the interest and his or her acquisition of it. This disclosure shall be publicly acknowledged by the department and entered in its minutes. A member of the board, agent, or employee who holds such an interest may not be officially involved in regard to the contract or agreement, may not vote on a matter relating to the contract or agreement, and may not communicate with other members, agents, or employees concerning the contract or agreement. Notwithstanding any other provision of law, a contract or agreement entered into in conformity with this subsection is not void or invalid because of an interest described by this subsection, nor is a person who complies with this subsection guilty of an offense, and the person may not be removed from office or be subjected to other penalty because of the interest.

(c) A contract or agreement made in violation of this section is void and does not create an action against the department.

Sec. 3.011. PERSONAL LIABILITY OF MEMBERS OR PERSONS ACTING ON BEHALF OF DEPARTMENT. (a) A member of the board or other person acting on behalf of the department in executing a contract, commitment, or agreement under this article is not personally liable on the contract, commitment, or agreement.

(b) A member of the board or other person acting on behalf of the department is not personally liable for damage or injury resulting from the performance of duties under this article.

Sec. 3.012. BONDS. (a) The department may issue, sell, and provide for the retirement of bonds to provide funds to implement the financial assistance programs authorized by this article. The bonds shall be special obligations of the department, the principal of and interest on which shall be payable solely from the revenues derived by the department. The bonds may not constitute an indebtedness of this state or the department



within the meaning of any state constitutional provision or statutory limitation, but the bonds shall be an indebtedness payable solely from a revenue-producing source or from a special source that does not include revenues from a tax or license. The bonds may not constitute or give rise to a pecuniary liability of the state or the department or a charge against the general credit of the department or the state or taxing powers of the state. These limitations shall be plainly stated on the face of each bond. The bonds may be executed and delivered at any time as a single issue or from time to time as several issues; may be in any denomination and form, including registered uncertificated obligations not represented by written instruments and commonly known as book-entry obligations, the registration of ownership and transfer of which shall be provided for by the department under a system of books and records maintained by a bank serving as trustee, paying agent, or bond registrar; may be of a tenor; may be in coupon or registered form; may be payable in installments and at a time or times not exceeding five years from their date; may be subject to terms of redemption; may be payable at a place or places; may bear no interest or may bear interest at any rate or rates, fixed, variable, floating, or otherwise determined by the department or determined under a contractual arrangement approved by the board, except that the maximum net effective interest rate, calculated in accordance with Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), on the bonds may not exceed a rate equal to the maximum annual interest rate established for business loans of \$250,000 or more in this state, payable at the place or places and evidenced in the manner; and may contain provisions not inconsistent with this article, as provided by the resolution of the department authorizing the bonds. The bonds may be sold at public or private sale at a price and in a manner and from time to time as the board's resolutions authorizing issuance of the bonds shall provide. The department may pay from the proceeds of the bonds expenses, premiums, and insurance premiums that the department considers necessary or advantageous in connection with the authorization, sale, and issuance of the bonds. In connection with the issuance of its bonds, the department may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent not inconsistent with this article.

(b) The resolution under which the bonds are authorized to be issued or a security agreement, including a related indenture or trust indenture, may contain any agreements and provisions customarily contained in instruments securing bonds, including provisions respecting the fixing and collection of obligations, the creation and maintenance of special funds, and the rights and remedies available, in the event of default, to the bondholders or to the trustee under the security agreement, all as the department considers advisable and consistent with this article. However, in making such an agreement or provision, the department may not incur a pecuniary liability or a charge on the general credit of the department or this state or against the taxing powers of this state. The resolution of the department authorizing the bonds and a security agreement securing the bonds may provide that, in the event of default in payment of the principal of or interest on the bonds or in the performance of an agreement contained in the proceedings or security agreement, the payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect obligations and to apply revenues pledged according to the proceedings or the provisions of the security agreement. A security agreement may provide that in the event of default in payment or the violation of an agreement contained in the security agreement it may be foreclosed by proceedings at law or in equity, and that a trustee under the security agreement or the holder of a bond it secures may become the purchaser at a foreclosure sale, if the trustee or holder is the highest bidder. A breach of the agreement does not impose pecuniary liability on the state or the department or any charge on the general credit of the department or the state or against the taxing power of the state. The trustee or trustees under a security agreement, or a depository specified by the security agreement, may be any persons that the department designates, regardless of whether they are residents of this state or incorporated under the laws of the United States or any state.

(c) The bonds may be refunded by the department, by the issuance of its refunding bonds in the amount that the department considers necessary to refund the principal of the bonds to be refunded, together with any unpaid interest, premiums, expenses, and commissions required to be paid in connection with the bonds. Refunding may be effected whether the bonds to be refunded have matured or are to mature later, either by sale of the refunding bonds or by exchange of the refunding bonds for the bonds to be refunded. The holders of bonds to be refunded may not be compelled without their consent to surrender their bonds for payment or exchange before the date on which the bonds are payable, or, if the bonds are called for redemption, before the date on which they are by their terms subject to redemption. Refunding bonds having a final maturity not to exceed that permitted for other bonds issued under this article may be issued under the same terms and conditions as are provided by this article for the issuance of bonds, or may be issued in the manner provided by any other applicable statute, including Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes).

(d) The proceeds from the sale of bonds issued under this section shall be applied only for the purpose for which the bonds were issued, except that any premium or secured interest received in the sale shall be applied to the payment of the principal of or interest on the bonds sold and, if a portion of the proceeds is not needed for the purpose for which the bonds were issued, that portion shall be applied to the payment of the principal of or interest on the bonds.

(e) The department shall establish and maintain a separate fund into which the proceeds from the sale of the bonds shall be deposited. All other money received by the department under this article shall also be deposited in this fund. The board may provide for the establishment and maintenance of separate accounts within the fund, including interest and sinking accounts, reserve accounts, program accounts, and other accounts, all of which shall be kept and held in escrow and in trust by the treasurer for and on behalf of the department and the owners of the bonds as funds outside the treasury pursuant to Section 3.051, Treasury Act (Article 4393-1, Vernon's Texas Civil Statutes), and shall be used only as provided in this article. Pending use, the treasurer may invest and reinvest the money in the fund in investments authorized by law for state funds that the treasurer, with the approval of the board and consistent with its resolutions authorizing the bonds, considers appropriate. Earnings on these investments shall be added to the fund. The department is authorized to use money deposited in the fund for the purposes specified in and according to the procedures established by this article, and the state shall take no action with respect to the fund other than as specified in this article and in the resolutions of the board.

(f) All bonds issued by the department are subject to review and approval by the attorney general in the same manner and with the same effect as is provided by Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(g) The state pledges to and agrees with the owners of any bonds issued in accordance with this article that the state will not limit or alter the rights vested in the department to fulfill the terms of any agreements made with an owner or in any way impair the rights and remedies of an owner until the bonds, together with any premium and the interest on the bonds, with interest on any unpaid premium or installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the owners, are fully met and discharged. The department may include this pledge and agreement of the state in any agreement with the owners of bonds.

Sec. 3.013. TAX EXEMPTION. The bonds and the income from the bonds are exempt from taxation in this state, except for inheritance, estate, or transfer taxes.

Sec. 3.014. OBLIGATIONS AS LEGAL INVESTMENTS FOR FIDUCIARIES. Bonds, debentures, notes, or other evidences of indebtedness of the department are securities in which public officers and bodies of this state; municipalities; municipal subdivisions; insurance companies, associations, and other persons carrying on an insurance business; banks, bankers, trust companies, savings and loan associations, investment

companies, and other persons carrying on a banking business; all administrators, guardians, executors, trustees, and other fiduciaries; and all other persons authorized to invest in bonds or other obligations of the state may invest funds, including capital, in their control or belonging to them. Notwithstanding any other provision of law, the bonds, debentures, notes, or other evidences of indebtedness of the department are also securities that may be deposited with and received by public officers and bodies of the state and municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state are authorized.

#### ARTICLE 4. DOMESTIC BUSINESS DEVELOPMENT

Sec. 4.001. LEGISLATIVE FINDING. The legislature finds that:

(1) the development and expansion of business, commerce, and industry are essential to the economic growth of the state and to the full employment, welfare, and prosperity of its citizens; and

(2) the means and measures authorized by this article and the assistance provided by this article, especially with respect to financing, are in the public interest and serve a public purpose of the state economically by the securing and retaining of private business enterprises and the resulting maintenance of a higher level of employment, economic activity, and stability.

Sec. 4.002. DEFINITIONS. In this article:

(1) "Cost" has the meaning assigned that term by the Development Corporation Act.

(2) "Development Corporation Act" means the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

(3) "Project" has the meaning assigned that term by the Development Corporation Act.

(4) "User" means an individual, partnership, corporation, or any other private entity, whether organized for profit or not for profit, or a city, county, district, or any other political subdivision or public entity of the state.

Sec. 4.003. POWERS AND DUTIES RELATING TO FINANCING. (a) The department shall act on behalf of the state to carry out the public purposes of this article and of the Development Corporation Act. The department may issue bonds to finance the cost of projects. The bonds may be secured as provided by Section 25(e) of the Development Corporation Act.

(b) The board has the powers that are necessary to accomplish the purposes of this article, including the powers granted to industrial development corporations by Section 23 of the Development Corporation Act, except those provided by Subsections (a)(7), (8), (9), and (10) of that section, and Sections 26, 27, and 29 of the Development Corporation Act, but is otherwise governed by this Act.

(c) The department also has the power to:

(1) purchase, discount, sell, assign, negotiate, and otherwise dispose of notes, bonds, and other evidences of indebtedness incurred to finance or refinance projects, whether secured or unsecured;

(2) administer or participate in programs established by another person to finance or refinance projects; and

(3) acquire, hold, invest, use, and dispose of the department's revenues, funds, and money received from any source under this article and the proceedings authorizing the bonds issued under this article, subject only to the provisions of the Texas Constitution, this article, and any covenants relating to the department's bonds in classes of investments that the board determines.

Sec. 4.004. BONDS. Sections 3.005, 3.007, 3.009, 3.010, 3.011, 3.012, 3.013, and 3.014 of this Act apply to the department's bonds issued under this article to the extent not inconsistent with this article. However, bonds issued under this article may mature serially or otherwise not more than 40 years after their date.

Sec. 4.005. PROGRAM RULES. (a) The department shall adopt rules to establish criteria for determining which users may participate in programs established by the department under this article. The department shall adopt collateral or security requirements to ensure the full repayment of any loan, lease, or installment sale and the solvency of any program implemented under this article. The board must approve all leases and sale and loan agreements made under this article, except that the board may delegate this approval authority to the executive director.

(b) Users participating in the programs established under this article shall pay the costs of applying for, participating in, and administering and servicing the program, in amounts that the department considers reasonable and necessary.

#### ARTICLE 5. SMALL BUSINESS ASSISTANCE

Sec. 5.001. DEFINITIONS. In this article:

(1) "Disadvantaged business" means a business enterprise more than 50 percent of which is owned or controlled by one or more socially and economically disadvantaged persons who are socially disadvantaged because of their identification as members of certain groups that have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control, such as women, black Americans, Hispanic Americans, Asian Pacific Americans, American Indians, and Mexican Americans.

(2) "Office" means the Office of Small Business Assistance.

(3) "Small business" means a corporation, partnership, sole proprietorship, or other legal entity that:

(A) is formed for the purpose of making a profit;

(B) is independently owned and operated; and

(C) has fewer than 100 employees or less than \$1 million in annual gross receipts.

Sec. 5.002. OFFICE OF SMALL BUSINESS ASSISTANCE. The Office of Small Business Assistance is an office within the department.

Sec. 5.003. DUTIES AND RESPONSIBILITIES. (a) The office shall:

(1) examine the role of small businesses in the state's economy and the contribution of small businesses in generating economic activity, expanding employment opportunities, promoting exports, stimulating innovation and entrepreneurship, and bringing new and untested products and services to the marketplace;

(2) serve as the principal advocate in the state on behalf of small businesses and provide advice in the consideration of administrative requirements and legislation that affect small businesses;

(3) evaluate the effectiveness of efforts of state agencies and other entities to assist small businesses and make appropriate recommendations to assist the development and strengthening of small business enterprise;

(4) identify specific instances in which regulations inhibit small business development and to the extent possible identify conflicting state policy goals;

(5) determine the availability of financial and other resources to small businesses and recommend methods for:

(A) increasing the availability of equity capital and other forms of financial assistance to small businesses;

(B) generating markets for the goods and services of small businesses;

(C) providing more effective education, training, and management and technical assistance to small businesses; and

(D) providing assistance to small businesses in complying with federal, state, and local laws;

(6) describe the reasons for small business successes and failures, ascertain the related factors that are particularly important in Texas, and recommend actions for increasing the success rate of small businesses;

- (7) serve as a focal point for receiving complaints and suggestions concerning state government policies and activities that affect small businesses;
- (8) assist with the resolution of problems between state agencies and small businesses;
- (9) develop and advocate proposals for changes in state policies and activities that adversely affect small businesses;
- (10) provide to legislative committees and state agencies information on the effects of proposed policies or actions that affect small businesses;
- (11) enlist the assistance of public and private agencies, businesses, and other organizations in disseminating information about state programs and services that benefit small businesses and information regarding means by which small businesses can use those programs and services;
- (12) provide information and assistance relating to establishing, operating, or expanding small businesses;
- (13) establish and operate a statewide toll-free telephone service providing small businesses with ready access to the services offered by the office;
- (14) identify sources of financial assistance for small businesses, match small businesses with sources of financial assistance, and assist small businesses with the preparation of applications for loans from governmental or private sources;
- (15) sponsor meetings, to the extent practicable in cooperation with public and private educational institutions, to provide training and disseminate information beneficial to small businesses;
- (16) assist small businesses in their dealings with federal, state, and local governmental agencies and provide information regarding governmental requirements affecting small businesses;
- (17) perform research, studies, and analyses of matters affecting the interests of small businesses;
- (18) develop and implement programs to encourage governmental agencies, public sector business associations, and other organizations to provide useful services to small businesses;
- (19) use available resources within the state, such as small business development centers, educational institutions, and nonprofit associations, to coordinate the provision of management and technical assistance to small businesses in a systematic manner;
- (20) publish newsletters, brochures, and other documents containing information useful to small businesses;
- (21) identify successful small business assistance programs provided by other states and determine the feasibility of adapting those programs for implementation in Texas;
- (22) establish an outreach program to make the existence of the office known to small businesses and potential clients throughout the state;
- (23) adopt rules necessary to carry out this article;
- (24) identify potential business opportunities for small businesses in the border region and develop programs to maximize those opportunities; and
- (25) perform any other functions necessary to carry out the purposes of this article.

(b) The office may provide community-based services to carry out its duties and responsibilities under this article, except that services provided by the office at locations outside Austin must be performed by staff from the Austin office or by private individuals or by entities created to provide local or regional assistance on a contract basis, and the staff may not operate local branches to provide those services.

Sec. 5.004. RULES AFFECTING SMALL BUSINESSES. (a) On receiving notice of a proposed state agency rule affecting small businesses, the office shall notify affected small businesses of the proposed rule through business or trade organizations. The notice must include the substance of the proposed rule and the time, place, and manner in which interested parties may present their views and comments on the proposed rule.

(b) The office may coordinate with agencies to consolidate and simplify rules, compliance requirements, and reporting requirements that affect small businesses.

(c) The office may recommend the elimination, consolidation, or amendment of existing rules or laws that have a disproportionately adverse effect on small businesses.

Sec. 5.005. PROCUREMENT ASSISTANCE. The office shall foster participation of small businesses in the procurement activities of the state by:

(1) providing a guide for small businesses on the purchasing procedures and practices of state agencies and taking steps to ensure the inclusion of small businesses on state agency master bid lists;

(2) informing small businesses of state procurement opportunities;

(3) assisting small businesses in complying with the procedures for bidding on state contracts;

(4) working with state and federal agencies and with private organizations in disseminating information on state procurement procedures and the opportunities for small businesses to participate in state contracts;

(5) assisting state agencies with the development of a comprehensive list of small businesses capable of providing materials, supplies, equipment, or services to the state; and

(6) making recommendations to state agencies for simplification of specifications and terms to increase the opportunities for small business participation.

Sec. 5.006. ASSISTANCE FROM OTHER AGENCIES. The office shall obtain from the agencies of this state appropriate information needed by the office to carry out its duties and responsibilities under this article, and those agencies shall assist the office in furthering the purposes of this article.

Sec. 5.007. CONTRACTS AWARDED TO SMALL OR DISADVANTAGED BUSINESSES. Each state agency shall keep statistical data and other records on the number of contracts awarded by the agency to small or disadvantaged businesses.

#### ARTICLE 6. BUSINESS PERMIT OFFICE

Sec. 6.001. DEFINITIONS. In this article:

(1) "Applicant" means a person acting for himself or authorized to act on behalf of another person to obtain a permit.

(2) "Office" means the department's business permit office.

(3) "Permit" means any license, certificate, registration, permit, or other form of authorization, required by law or by state agency rules, that must be obtained by a person in order to engage in a particular business, but does not include a permit or license issued in connection with any form of gaming or gambling.

Sec. 6.002. CREATION. The business permit office is an office within the department.

Sec. 6.003. DUTIES. The office shall:

(1) provide comprehensive information on permits required for business enterprises in the state and make this information available to applicants and other persons;

(2) assist applicants in obtaining timely and efficient permit review and in resolving issues arising from the review;

(3) facilitate contacts between applicants and state agencies responsible for processing and reviewing permit applications;

(4) assist applicants in the resolution of outstanding issues identified by state agencies, including delays experienced in permit review;

(5) develop comprehensive application procedures to expedite the permitting process;

(6) compile a comprehensive list of all permits required of a person desiring to establish, operate, or expand a business enterprise in the state;

- (7) encourage and facilitate the participation of federal and local government agencies in permit coordination;
- (8) make recommendations for eliminating, consolidating, simplifying, expediting, or otherwise improving permit procedures affecting business enterprises;
- (9) develop and implement an outreach program to publicize and make small business entrepreneurs and others aware of services provided by the office; and
- (10) adopt rules, procedures, instructions, and forms required to carry out the functions, powers, and duties of the office under this article.

Sec. 6.004. COMPREHENSIVE APPLICATION PROCEDURE. (a) The office shall develop and implement a comprehensive application procedure to expedite the identification and processing of permits. A comprehensive application shall be made on a form prescribed by the office. The office shall consult with affected agencies in designing the form to ensure that the form provides the necessary information to allow agencies to identify which permits may be needed by the applicant. The form must be designed primarily for the convenience of applicants who require multiple permits and must provide for concise and specific information necessary to determine which permits are or may be required for the particular applicant.

(b) Use of the comprehensive application procedure by the applicant is optional. On request the office shall assist an applicant in preparing a comprehensive application, describe the procedures involved, and provide other appropriate information from the comprehensive permit information file.

(c) On receipt of a comprehensive application from an applicant, the office shall immediately notify in writing each state agency having a possible interest in the proposed business undertaking, project, or activity with respect to permits that are or may be required.

(d) Within 25 days after the date of receipt of the notice, the state agency shall advise the office whether one or more permits under its jurisdiction are or may be required for the business undertaking, project, or activity described in the comprehensive application. The agency shall specify the permits that it believes are or may be required, if any, and shall indicate the fees to be charged.

(e) If a notified state agency responds that it does not have an interest in the permit requirements of the business undertaking, project, or activity described in the comprehensive application, or does not respond within the period specified in Subsection (d) of this section, no permit under the jurisdiction of the agency is required for the undertaking, project, or activity described in the comprehensive application. This subsection does not apply if the comprehensive application contained false, misleading, or deceptive information or failed to include pertinent information, the lack of which could reasonably lead a state agency to misjudge whether permits under its jurisdiction are required.

(f) The office shall promptly provide the applicant with application forms and related information for all permits specified by the interested state agencies and shall advise the person that all the forms are to be completed and submitted to the appropriate state agencies.

(g) An applicant may withdraw a comprehensive application at any time without forfeiture of any permit approval applied for or obtained under the comprehensive application procedures.

(h) The office shall provide by rule for the implementation of the comprehensive application procedure and shall specify the permits to which the comprehensive application procedure applies. Before adoption of a rule relating to the inclusion, exclusion, or addition of permits to which the comprehensive application procedure applies, the office shall give notice of the rule and hold a public hearing on the rule.

(i) Each state agency having jurisdiction over a permit to which the comprehensive application procedure applies shall designate an officer or employee to act as permit liaison officer to cooperate with the office in carrying out this article.

(j) This section does not apply to a permit or license issued under Title 2, Tax Code, and does not exempt any person from liability for a tax under that title.

Sec. 6.005. PERMIT HANDBOOK. (a) The office shall compile a comprehensive list of all state permits required of any person desiring to operate a business enterprise in the state.

(b) The office shall publish the list in a comprehensive handbook and make it available to persons interested in establishing a business enterprise. To the extent possible, the office shall organize the list according to the types of businesses affected.

(c) The following information must be included for each state agency referred to in the handbook:

- (1) the name of the agency;
- (2) the address to which license, permit, or registration materials should be sent; and
- (3) the phone number of the agency.

(d) The office shall periodically update the handbook to keep it current. The office shall make the handbook available to public libraries, educational institutions, and the state agencies listed in the handbook.

Sec. 6.006. ASSISTANCE OF OTHER STATE AGENCIES. Each state agency, on request of the office, shall provide assistance, services, facilities, and data to enable the office to carry out its duties and responsibilities except that the agency is not required to provide information made confidential by a constitution, statute, or judicial decision.

Sec. 6.007. COMPREHENSIVE PERMIT INFORMATION. (a) Each state agency required to review, approve, or grant permits for business undertakings, projects, or activities shall report to the office, in a form prescribed by the office, on each type of review, approval, or permit administered by the agency. Each agency's report shall include application forms, applicable agency rules, and the estimated period necessary to process permit applications.

(b) The office shall prepare an information file on state agency permit requirements and shall develop methods for maintenance, revision, update, and ready access. The office shall provide comprehensive permit information based on this file. The office may prepare and distribute publications, guides, and other materials to serve the convenience of permit applicants and explain permit requirements affecting business, including requirements involving multiple permits or regulation by more than one state agency.

Sec. 6.008. NO CHARGES FOR SERVICES. The office shall provide its services without charge.

#### ARTICLE 7. STATE AND LOCAL PERMITS

Sec. 7.001. LEGISLATIVE FINDING AND INTENT. The legislature finds that:

- (1) current administrative practices often result in unnecessary governmental regulatory delays that inhibit the economic development of the state; and
- (2) the legislature desires to establish requirements relative to the processing and issuance of permits and approvals by governmental regulatory agencies in order to alleviate bureaucratic obstacles to economic development.

Sec. 7.002. DEFINITIONS. In this article:

- (1) "Political subdivision" means a political subdivision of the state, including a county, school district, or a municipality.
- (2) "Permit" means a license, certificate, approval, registration, consent, permit, or other form of authorization required by law, rule, regulation, or ordinance that must be obtained by a person in order to perform an action or initiate a project for which the permit is sought.
- (3) "Person" means an individual, proprietorship, partnership, association, cooperative, corporation, nonprofit corporation, or any other organization required to obtain one or more permits.
- (4) "Project" means an endeavor over which a regulatory agency exerts its jurisdiction and for which a permit is required before initiation of the endeavor.



(5) "Regulatory agency" means an agency, bureau, department, division, commission of the state, or any department or other agency of a political subdivision which processes and issues permits.

Sec. 7.003. UNIFORMITY OF REQUIREMENTS. (a) The approval, disapproval, or conditional approval of an application for a permit shall be considered by each regulatory agency solely on the basis of any orders, regulations, ordinances, or other duly adopted requirements in effect at the time the original application for the permit is filed. If a series of permits is required for a project, the orders, regulations, ordinances, or other requirements in effect at the time the original application for the first permit in that series is filed, shall be the sole basis for consideration of all subsequent permits required for the completion of the project.

(b) This section does not apply to:

- (1) permits or licenses issued in connection with any form of gaming or gambling; or
- (2) permits or licenses issued under Title 2, Tax Code.

#### ARTICLE 8. MUSIC

Sec. 8.001. PROMOTION OF MUSIC INDUSTRY. The department shall promote the development of the music industry in the state by informing members of that industry and the general public about the resources available in the state for music production.

Sec. 8.002. GIFTS AND GRANTS. The department may accept gifts, grants, and other funds specifically designated by the donor or grantor for use in developing the music industry of this state.

Sec. 8.003. MUSIC FUND. The music fund is a special fund in the state treasury. All gifts, grants, and other funds received by the department under this article shall be deposited to the credit of the fund and may be used only for the purposes of this article.

#### ARTICLE 9. FILM, TELEVISION, AND MULTIMEDIA INDUSTRY

Sec. 9.001. DUTIES. (a) The department shall promote the development of the film, television, and multimedia industry in this state by informing members of that industry and the general public of the resources available in this state for film, television, and multimedia production.

(b) Other state agencies and political subdivisions of this state shall cooperate with the department to the greatest extent possible to fully implement the goal of promoting the development of the film, television, and multimedia industry in this state.

Sec. 9.002. ADVISORS. The department may appoint advisors to assist in the administration of this article. An advisor serves without compensation but is entitled to necessary and actual expenses incurred in performing duties under this article.

#### ARTICLE 10. TOURISM

Sec. 10.001. LEGISLATIVE FINDINGS. The legislature finds that:

(1) tourism development and the marketing of Texas as a travel destination is essential to the economic well-being and growth of this state and to the full employment, welfare, and prosperity of its citizens; and

(2) the means and measures authorized by this article in promoting tourism are in the public interest and serve a public purpose of the state in promoting the welfare of the citizens of this state economically.

Sec. 10.002. DUTIES. The department shall:

(1) promote and advertise, by radio, television, newspaper, and other means considered appropriate, tourism to this state by non-Texans, including persons from foreign countries;

(2) promote travel by Texans to this state's scenic, historical, natural, agricultural, educational, recreational, and other attractions;

- (3) coordinate and stimulate orderly and accelerated development of tourist attractions throughout this state;
- (4) conduct a public relations campaign to create a responsible and accurate national and international image of this state;
- (5) cooperate fully with the Parks and Wildlife Department in all matters relating to promotion of tourism;
- (6) cooperate with the State Highway and Public Transportation Commission in the administration of the commission's collateral program of highway map distribution and operation of travel information bureaus and other tourist-related functions of the commission; and
- (7) encourage communities, organizations, and individuals in this state to cooperate with its program by their activities and use of their own funds and shall collaborate with these organizations and other governmental entities in the pursuit of the objectives of this article.

Sec. 10.003. NAME AND PICTURE OF LIVING STATE OFFICIAL. The name or the picture of a living state official may not be used for advertising purposes under this article.

#### ARTICLE 11. DATA DEPOSITORY

Sec. 11.001. DEFINITION. In this article "state agency" means:

- (1) a department, commission, board, or other agency that is created by the state constitution or a state statute and is part of any branch of state government; and
- (2) a governing board and an institution of higher education, as defined by Section 61.003, Education Code.

Sec. 11.002. DUTIES AND RESPONSIBILITIES. The department shall:

- (1) establish and maintain a central depository of information, including computer retrievable files, concerning the significant characteristics of the state and its people, economy, land, and physical characteristics, including information concerning employment opportunities in the state;
- (2) analyze the information collected under Subdivision (1) of this section as well as other information and disseminate the information and analyses to state, federal, and local agencies and the general public;
- (3) serve as the official cognizant administrator of the United States Bureau of Census federal-state cooperative;
- (4) collect information and compile data on the border region for the preparation of specific plans and programs for the border region;
- (5) adopt procedures to ensure the greatest use by and exchange among state agencies of data bases and statistical and analytical models created by or belonging to the state;
- (6) develop an electronic data base to compile international trade information lists, research, and information about opportunities, and connect this data base with appropriate worldwide communications networks;
- (7) assist institutions of elementary, secondary, and higher education to develop and expand programs of education in international commerce, geography, and language;
- (8) establish and operate a comprehensive clearinghouse of information relating to small businesses; and
- (9) develop and maintain a master file of information on small business assistance programs provided by federal, state, and local agencies, educational institutions, chambers of commerce, civic organizations, community development groups, private industry associations, and other organizations, and provide comprehensive, timely information to persons seeking this information from the office.

Sec. 11.003. AGENCY COOPERATION. Each state agency that provides, collects, analyzes, or disseminates information of any type shall execute a written agreement with

the department providing for coordination of those activities with the department's activities under this article. However, an agency is not required to supply information made confidential or the distribution of which is otherwise restricted by state law.

Sec. 11.004. FEE. The department shall charge fees for services provided under this article. Each fee must be in the amount necessary to cover the cost of providing the service.

#### ARTICLE 12. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Sec. 12.001. ADMINISTRATION OF PROGRAM. The department shall, pursuant to the federal Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35) and 24 CFR, Part 570, Subpart I, administer the state's allocation of federal funds provided under the community development block grant nonentitlement program authorized by Title I of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.). This Act does not affect a contract entered into by the Texas Department of Community Affairs before July 1, 1988.

Sec. 12.002. ALLOCATION RULES. Program funds shall be allocated to eligible counties and municipalities according to department rules. Allocation rules in effect on July 1, 1988, continue in effect and govern the allocations made by the department until amended or modified by the department in compliance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

#### ARTICLE 13. MAIN STREET PROGRAM

Sec. 13.001. AGREEMENT WITH HISTORICAL COMMISSION. The Texas Historical Commission shall execute a written agreement with the department providing for coordination and planning of and giving priority to loans made under the commission's Main Street program.

#### ARTICLE 14. GRANTS-IN-AID TO LIBRARIES

Sec. 14.001. AGREEMENT WITH LIBRARY AND ARCHIVES COMMISSION. The Texas State Library and Archives Commission shall execute a written agreement with the department providing for coordination and planning of and giving priority to grants made under Chapter E, Library Systems Act (Article 5446a, Vernon's Texas Civil Statutes).

#### ARTICLE 15. DEVELOPMENT OF PRODUCTS

Sec. 15.001. DEFINITIONS. In this article:

(1) "Executive director" means the executive director of the department or the executive director's designee.

(2) "Product" means an invention, product, device, technique, or process, without regard to whether a patent has or could be granted, that is or may be exploitable commercially; the term does not refer to pure research but includes products, devices, techniques, or processes that have advanced beyond the theoretical stage and have or are readily capable of having a practical application.

(3) "Venture financing" means revolving loans, loan guarantees, or equity investment from the Texas product development fund to a person for use in the development of new or improved products.

Sec. 15.002. TEXAS PRODUCT DEVELOPMENT FUND; VENTURE FINANCING. (a) The Texas product development fund is a fund in the state treasury. The fund consists of proceeds of bonds issued under this article, loan repayments, guarantee fees, royalty receipts, dividend income, and other amounts received by the state from loans, loan guarantees, and equity investments made under this article, and money acquired from federal grants or other sources and required by resolution of the board to be deposited in the fund. The fund contains a program account, an interest and sinking account and other accounts that the board authorizes to be created and maintained. Money in the fund is available for use by the department under this article.

(b) Money in the program account, minus the costs of issuance of bonds under this article, may be used only to provide venture financing to aid in the development of new or improved products. The department may provide venture financing from the fund for the purposes of designing and constructing new facilities, rehabilitating existing facilities, acquiring any interest in real or personal property, and providing initial working capital to pay the cost of salaries, rent, supplies, inventory, mortgage payments, legal services, utilities, telephone, travel, and other incidental costs normally classified as working capital according to standard accounting principles. The department shall provide venture financing from the fund on the terms and conditions that the department determines to be reasonable, appropriate, and consistent with the purposes and objectives of the fund and this article for the purpose of financing a new or improved product that is or may be exploitable commercially. The department may provide venture financing only if financing for the product is not otherwise available on reasonable terms.

(c) Before approving the provision of venture financing to any person, the department shall enter into an agreement with the person under which the department will obtain royalties, patent rights, equitable interests, or a combination of these royalties, rights, and interests, from or in the product or proceeds of the product for which venture financing is requested. Contracts executed under this article must include agreements to ensure proper use of funds and the receipt of royalties, patent rights, or equity interest, as appropriate.

Sec. 15.003. POWERS AND DUTIES OF DEPARTMENT. (a) The department shall:

- (1) administer this article; and
  - (2) consider and approve or deny applications for venture financing from persons proposing the development of new or improved products.
- (b) The department may:
- (1) provide venture financing to acquire, construct, enlarge, improve, equip, sell, lease, exchange, and otherwise dispose of property, structures, equipment, and facilities within the state;
  - (2) enter into venture agreements with persons, on terms and conditions consistent with the purposes of this article, for the advancement of venture financing to the persons for the development of specific products;
  - (3) enter into agreements necessary or incidental to the performance of its duties and the execution of its powers under this article;
  - (4) hold patents, copyrights, trademarks, or other evidences of protection or exclusivity issued under the laws of the United States, any state, or any nation;
  - (5) receive, hold, sell, and transfer shares of corporate stock in a corporation formed for the purpose of marketing, producing, manufacturing, or promoting a product for which the fund has provided venture financing;
  - (6) consent to termination, modification, forgiveness, or other change of a term of a contractual right, payment, royalty, contract, or agreement to which the department is a party;
  - (7) accept funds from any source to carry out the purposes of this article;
  - (8) assist persons with obtaining alternative forms of governmental or commercial financing for development of new or improved products;
  - (9) encourage financial institutions to participate in consortiums for investment in the development of new or improved products;
  - (10) provide and pay for advisory and technical assistance consistent with the purposes of this article;
  - (11) engage in special programs to enhance the development of new or improved products; and
  - (12) perform other functions to carry out the purposes and requirements of this article.

Sec. 15.004. APPLICATION. (a) An application for venture financing must be delivered, together with a reasonable application fee prescribed by the department, to the

executive director, who shall conduct an investigation and prepare a report concerning the advisability of approving the application and concerning other factors considered relevant by the department. The executive director's report must include:

(1) information regarding the history and financial condition of the applicant, including the applicant's income statement, information about the applicant's present markets and market prospects and about the integrity of the applicant's management; and

(2) a statement of the feasibility of the product for which financing is requested, including the state of development of the product and the likelihood of its commercialization.

(b) The executive director shall also determine the following with respect to each application for venture financing:

(1) whether the product for which financing is requested is economically sound, and whether there is a reasonable expectation that the product will be successful;

(2) whether the product will create or preserve jobs and otherwise benefit the economy of the state;

(3) whether the applicant lacks the financial resources to complete the project, and whether venture financing is necessary because financing is unavailable in traditional capital markets or credit has been offered on terms that would preclude the success of the project; and

(4) whether there is reasonable assurance that the potential revenues to be derived from the sale of the product will be sufficient to repay any venture financing approved by the department, and whether, with respect to patents, copyrights, and other ownership rights relative to the product, there is reasonable assurance that the product will be used to the maximum extent possible in facilities located in Texas.

(c) The executive director shall submit the report to the department. After considering the report, together with other information that the department considers appropriate, the department shall approve or deny the application for venture financing, and promptly notify the applicant of its decision.

Sec. 15.005. **INFORMATION CONFIDENTIAL.** Information relating to a product and the application or use of a product, and technological and scientific information, including computer programs, developed in whole or part by an applicant for or recipient of venture financing, is confidential and is not subject to disclosure under state law or otherwise, regardless of whether the product is patentable or capable of being registered under copyright or trademark laws, or has a potential for being sold, traded, or licensed for a fee.

Sec. 15.006. **BONDS.** (a) The board may issue up to \$15 million of general obligation bonds and may use the proceeds of the bonds to provide venture financing under this article. The board shall deposit the proceeds of the bonds in the Texas product development fund and apply them in accordance with the resolution authorizing the bonds. The Texas product development fund and any accounts established in the fund shall be held in trust by the state treasurer for and on behalf of the department and the owners of the general obligation bonds issued in accordance with this section, and may be used only as provided by this section. Pending use, the treasurer may invest and reinvest money in the product development fund in investments authorized by law for state funds that the treasurer, consistent with the board's resolutions authorizing the bonds, considers appropriate. Repayments of financial assistance provided under this article, together with earnings received on investments of the product development fund, shall be deposited, first, in the interest and sinking account as prescribed by the board's resolutions authorizing bonds under this article, and, second, in any reserve account established by the board until that account is fully funded as prescribed by the board's resolutions. If, during the time any general obligation bonds are payable from the interest and sinking account, the board determines that there will not be sufficient money in the interest and sinking account during the following fiscal year to pay the principal of or interest on the general obligation bonds or both the principal and interest that are to come due during the following fiscal year, the comptroller of public accounts shall transfer to the fund the

first money coming into the state treasury not otherwise appropriated by the constitution in an amount sufficient to pay the obligations.

(b) The bonds may be issued from time to time in one or more series or issues, in bearer, registered, or any other form, which may include registered uncertificated obligations not represented by written instruments and commonly known as book-entry obligations, the registration of ownership and transfer of which shall be provided for by the board under a system of books and records maintained by the department or by an agent appointed by the board in a resolution providing for issuance of its bonds. Bonds may mature serially or otherwise not more than 40 years from their date. Bonds may bear no interest or may bear interest at any rate or rates, fixed, variable, floating, or otherwise, determined by the board or determined pursuant to any contractual arrangements approved by the board, not to exceed the maximum net effective interest rate allowed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on the bonds may be payable at any time and the rate of interest on the bonds may be adjusted at any time determined by the board pursuant to the resolutions authorizing the bonds or determined pursuant to any contractual arrangement approved by the board. In connection with the issuance of its bonds, the board may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent not inconsistent with this section. The bonds may be issued in the form and denominations and executed in the manner and under the terms, conditions, and details determined by the board in the resolution authorizing their issuance. If any officer whose manual or facsimile signature appears on the bonds ceases to be an officer, the signature remains valid and sufficient for all purposes as if the officer had remained in office.

(c) All bonds issued by the board under this section are subject to review and approval by the attorney general in the same manner and with the same effect as is provided by Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(d) The bonds are a legal and authorized investment for a bank, trust company, savings and loan association, insurance company, fiduciary, trustee, or guardian or a sinking fund of a municipality, county, school district, or political subdivision of the state. The bonds may secure deposits of public funds of the state, a municipality, a county, a school district, or another political corporation or subdivision of the state. The board may issue bonds to refund all or part of its outstanding bonds, including accrued but unpaid interest. The bonds, a transaction relating to the bonds, or a profit made in the sale of the bonds is exempt from taxation by the state, an agency or subdivision of the state, a municipality, or a special district.

(e) This section is contingent on the adoption of the constitutional amendment proposed by H.J.R. 4, Acts of the 70th Legislature, Regular Session, 1987. If that proposed constitutional amendment is not approved by the voters, this section has no effect.

#### ARTICLE 16. SMALL BUSINESS INCUBATORS

Sec. 16.001. DEFINITIONS. In this article:

(1) "Educational institution" means a junior college, an institution of higher education as defined by Section 61.003, Education Code, or a private college or university.

(2) "Local sponsor" means an organization or entity, including a municipality, an educational institution, a development corporation created pursuant to state law, or a private organization, that enters into a written agreement with the department to establish, operate, and administer a small business incubator, or that contracts with another organization or entity to operate or administer a small business incubator.

(3) "Program" means the Small Business Incubator Program.

(4) "Small business" means a corporation, partnership, sole proprietorship, or other legal entity that is domiciled in Texas, formed for the purpose of making a profit, and independently owned and operated, and that employs fewer than 25 full-time employees.

(5) "Small business incubator" means a facility within which small businesses share common space, equipment, and support personnel, and have access to professional consultants for advice related to the technical and management aspects of conducting a commercial enterprise.

(6) "Tenant" means a small business other than a nonprofit, retail, or wholesale enterprise that leases space in a small business incubator.

Sec. 16.002. CREATION OF PROGRAM. The Small Business Incubator Program is established to foster and stimulate the development of new small businesses by providing low-interest loans and grants to local sponsors for the establishment and operation of small business incubators.

Sec. 16.003. POWERS AND DUTIES OF DEPARTMENT. (a) The department shall:

- (1) adopt rules to carry out the purposes of this article, including rules governing loan procedures, repayment terms, security requirements, and default and remedy provisions;
- (2) make loans and grants to small business incubators and local sponsors;
- (3) ensure that local sponsors comply with the requirements of this article; and
- (4) receive and evaluate annual reports from each local sponsor, including a financial statement for the small business incubator operated by the sponsor, evidence that all tenants in the facility are eligible under this article, and a list of the tenants located in the small business incubator.

(b) The department, if it finds that a local sponsor of a small business incubator is not complying with this article, may withdraw financial support from the incubator.

(c) The department staff shall work closely with designated small business incubators, offer advice and assistance, and promote, through advertising and other appropriate means, the concept, benefits, and availability of small business incubators.

Sec. 16.004. DUTIES OF SPONSOR. Each sponsor shall:

- (1) pay, from funds other than loans or grants provided through the small business incubator fund, not less than 50 percent of the cost of purchasing, leasing, or renovating the small business incubator, and not less than 50 percent of the cost of operating and maintaining the small business incubator;
- (2) secure title on the small business incubator or execute a lease with the intent of securing title to the small business incubator;
- (3) market the small business incubator and secure eligible tenants;
- (4) establish policies governing the acceptance of tenants into the small business incubator and the termination of occupancy of tenants;
- (5) establish rental and service fees;
- (6) manage the physical development of the small business incubator;
- (7) provide physical space for tenants and furnish and equip the small business incubator to provide business development services to the tenants;
- (8) provide or arrange for the provision to tenants of bookkeeping, accounting, or other consulting services; legal services; assistance with product development, commercialization, and marketing; assistance in gaining access to private financial markets; and other business development and management services;
- (9) provide professional counseling services and information relating to governmental regulations applicable to small businesses, basic management skills, advertising, promotion, marketing, sales, inventory controls, personnel administration, and labor relations, and provide financial counseling in areas such as venture capital, risk management, and taxes;
- (10) provide or arrange for the provision of facility services within the small business incubator, including secretarial services, cleaning, building security, conference, laboratory, and library facilities, and duplicating machines, computers, and other electronic equipment;
- (11) encourage the sharing of information and ideas among tenants, and otherwise aid tenants while they are in the small business incubator; and

(12) establish a local advisory committee to assist in the performance of the duties and responsibilities provided by this section.

Sec. 16.005. APPLICATION FOR LOAN OR GRANT. (a) A local sponsor may submit an application to the department to obtain a loan or grant to establish and operate a small business incubator. The application must include:

- (1) a description of the location, size, and other physical characteristics of the building to be used as the small business incubator;
- (2) the cost of leasing or purchasing the building;
- (3) a detailed itemization of all estimated annual operating and maintenance costs for the small business incubator;
- (4) the amount of the loan or grant requested for the small business incubator;
- (5) an estimate of the annual income that will be generated by the small business incubator from tenant fees and other sources;
- (6) the value of cash contributions and services to be provided by the local sponsor and other sources;
- (7) a demonstration, through a market study or other means, of the prospects for attracting suitable businesses to the small business incubator, and the potential for sustained use of the small business incubator by eligible tenants;
- (8) a demonstration of the ability of the local sponsor to comply with the requirements of Section 16.004 of this article;
- (9) a demonstration that the small business incubator will generate a significant number of new jobs;
- (10) a demonstration that establishment of the small business incubator is supported by local representatives of business, labor, educational, and governmental entities; and
- (11) other information the department requires.

(b) The department shall review and approve or deny applications by local sponsors for loans or grants based on:

- (1) the ability of the local sponsor to carry out the requirements and purposes of this article;
- (2) the potential economic effect of the small business incubator on the state and on the community in which the small business incubator would be located;
- (3) whether the small business incubator proposal conforms with existing areawide and local economic development plans;
- (4) the location of the small business incubator, in order to encourage geographic distribution of small business incubators across the state; and
- (5) other criteria established by the department.

Sec. 16.006. APPLICATION TO BECOME TENANT. (a) On department approval of a small business incubator, the local sponsor may begin accepting applications from persons desiring to locate a small business in the small business incubator. An application must be submitted in a form approved by the department and must include:

- (1) a description of the type of business the applicant wishes to establish or expand;
- (2) an estimate of the number of employees the applicant will need to establish or expand the business, and a two-year projection of future employment needs;
- (3) a description of the skill and educational level of the employees the applicant plans to hire and the ability of the applicant to establish and operate a successful business;
- (4) a general statement of the reason the applicant wishes to be accepted into the small business incubator; and
- (5) a signed acknowledgment by the applicant that the applicant understands and accepts the obligations imposed by Section 16.007 of this article.

(b) The local sponsor shall conduct an evaluation of each applicant based on, but not limited to, the following:



- (1) the likelihood that the business will be profitable;
- (2) whether the product to be manufactured or the service to be rendered would be new or improved;
- (3) whether the potential market for the product or service is regional, statewide, or national;
- (4) the likelihood that the business will generate a significant number of new jobs, and not eliminate existing jobs in the community or area of the small business incubator;
- (5) certification that the business is a new plant start-up or new venture opportunity and is not an area or regional relocation of an existing business, or that it is a relocation that will result in substantial growth of the business; and
- (6) the likelihood that the business will be substantially aided by its location in the small business incubator.

(c) The local sponsor shall notify each person or entity that has agreed to contribute money or other property to the small business incubator, and each applicant for small business incubator space whose application it accepts, of its decision and whether space for the applicant in the small business incubator exists. The local sponsor shall notify each applicant it rejects and shall provide the reasons for the rejection.

Sec. 16.007. DUTIES OF TENANT. A tenant within a designated small business incubator shall:

- (1) pay rent determined by the local sponsor, who may agree to defer payment of rent for a predetermined number of months until a date by which the business is expected to have received committed starting capital;
- (2) pay utilities and other costs determined by the local sponsor; and
- (3) relocate to a permanent location not later than 24 months after the date of entering the small business incubator, except that a tenant may request suspension of this requirement for one or more periods not exceeding six months and the local sponsor may grant such a request on a determination that the tenant still requires the services of the small business incubator.

Sec. 16.008. LOANS AND GRANTS. Loans or grants provided to local sponsors may be used only for the acquisition and leasing of land and existing buildings, the rehabilitation of buildings or other facilities, or the purchase of equipment and furnishings necessary for the establishment and operation of the small business incubator. Loans and grants to local sponsors may not exceed the lesser of \$250,000 or 50 percent of total eligible project costs. All loans must be adequately secured by liens on collateral of the local sponsor or guaranteed by a financial institution in a manner that adequately secures the loan. A loan or grant for a small business incubator in a facility that is currently leased shall only be made if the local sponsor intends to buy the facility. Payment of interest and principal on loans may be deferred at the discretion of the department. Interest on all loans made under this article shall be at a rate or rates determined by the board. Money may be loaned for not more than the greater of 10 years or the useful life of the property, as determined in the manner established by the United States Department of Treasury.

Sec. 16.009. CHALLENGE GRANTS. (a) The department may award challenge grants for the purpose of providing seed capital to a tenant of a small business incubator to assist development of the business. Each application for a challenge grant must:

- (1) describe the purposes of the proposed grant, including a detailed description of businesses that would be assisted by the grant;
- (2) explain the need for the challenge grant in attracting private investment to the business;
- (3) present a detailed plan for use of the grant, including the amount of private investment sought, and the strategy for obtaining those investments; and
- (4) describe private investment commitments already obtained.

(b) The department may not deliver funds awarded as a challenge grant unless it finds that at least \$3 of private investment has been committed for each \$1 of the grant. If a

recipient of a challenge grant cannot demonstrate the commitment of those funds, before a deadline established by the department, the department shall rescind the grant or the portions of the grant for which adequate commitment has not been demonstrated.

Sec. 16.010. **CONFIDENTIAL INFORMATION.** A local sponsor, the department, or any other person or entity may not disclose matters of a proprietary nature submitted by a person or business under this article, such as commercial or financial information, trade secrets, or confidential personal information, without the consent of the person or business submitting the information.

Sec. 16.011. **DEPARTMENT REPORT.** (a) On or before January 1 of each year, the department shall submit to the governor and legislature a report showing:

- (1) the number of applications for small business incubators submitted to the department;
- (2) the number of applications for small business incubators approved by the department;
- (3) the number of small business incubators created under this article;
- (4) the number of tenants occupying each small business incubator;
- (5) the number of jobs provided by each small business incubator and by each tenant;
- (6) the occupancy rate of each small business incubator;
- (7) the number of businesses that have left small business incubators and are still operating in the state, and the number of jobs those businesses have provided;
- (8) the amount of funds awarded as challenge grants;
- (9) the amount of private investment committed as required by Section 16.009 of this article; and
- (10) the number, types, and amounts of investments in small businesses made with funds under Section 16.009 of this article.

(b) The department in its report under this section shall attempt to identify the reasons why any businesses have left the state after starting in a small business incubator.

Sec. 16.012. **SMALL BUSINESS INCUBATOR FUND.** The small business incubator fund is a fund in the state treasury. Money appropriated to the department, proceeds of bonds issued under this article, loan repayments and other amounts received by the state for loans or grants made under this article, and any other money received by the department under this article and required by resolution of the board to be deposited in the fund shall be deposited to the credit of the fund. The fund shall operate as a revolving fund the contents of which may be applied and reapplied to the purposes of this article, subject to the requirements of Section 16.014(a).

Sec. 16.013. **NONPROFIT STATUS.** An approved small business incubator shall be a nonprofit entity, and no part of its net earnings remaining after payment of its expenses shall benefit any individual, firm, or corporation, except that if the local sponsor determines that sufficient provision has been made for the full payment of the debts and other obligations of the small business incubator, any additional net earnings of the small business incubator shall be paid to its local sponsor.

Sec. 16.014. **BONDS.** (a) The board may issue up to \$10 million of general obligation bonds and may use the proceeds, less the costs of issuance of the bonds, to carry out the small business incubator program in accordance with the resolution authorizing the bonds. The board shall deposit the proceeds of the bonds in the small business incubator fund and apply them in accordance with the resolution authorizing the bonds. Not more than \$5 million of the bond proceeds may be used for challenge grants. The small business incubator fund and any accounts established in the fund shall be held in trust by the state treasurer for and on behalf of the department and the owners of the general obligation bonds issued in accordance with this section, and may be used only as provided by this article. Pending use, the treasurer may invest and reinvest money in the small business incubator fund in investments authorized by law for state funds that the treasurer, consistent with the board's resolutions authorizing the bonds, considers appro-

appropriate. Repayments of financial assistance provided under this article, together with earnings received on investments of the small business incubator fund, shall be deposited, first, in the interest and sinking account as prescribed by the board's resolutions authorizing bonds under this article, and, second, in any reserve account established by the board until that account is fully funded as prescribed by the board's resolutions. If, during the time any general obligation bonds are payable from the interest and sinking account, the board determines that there will not be sufficient money in the interest and sinking account during the following fiscal year to pay the principal of or interest on the general obligation bonds or both the principal and interest that are to come due during the following fiscal year, the comptroller of public accounts shall transfer to the fund the first money coming into the state treasury not otherwise appropriated by the constitution in an amount sufficient to pay the obligations.

(b) The bonds may be issued from time to time in one or more series or issues, in bearer, registered, or any other form, which may include registered uncertificated obligations not represented by written instruments and commonly known as book-entry obligations, the registration of ownership and transfer of which shall be provided for by the board under a system of books and records maintained by the department or by an agent appointed by the board in a resolution providing for issuance of its bonds. Bonds may mature serially or otherwise not more than 40 years from their date. Bonds may bear no interest or may bear interest at any rate or rates, fixed, variable, floating, or otherwise, determined by the board or determined pursuant to any contractual arrangements approved by the board, not to exceed the maximum net effective interest rate allowed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on the bonds may be payable at any time and the rate of interest on the bonds may be adjusted at any time determined by the board pursuant to the resolutions authorizing the bonds or determined pursuant to any contractual arrangement approved by the board. In connection with the issuance of its bonds, the board may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent not inconsistent with this section. The bonds may be issued in the form and denominations and executed in the manner and under the terms, conditions, and details determined by the board in the resolution authorizing their issuance. If any officer whose manual or facsimile signature appears on the bonds ceases to be an officer, the signature remains valid and sufficient for all purposes as if the officer had remained in office.

(c) All bonds issued by the board under this section are subject to review and approval by the attorney general in the same manner and with the same effect as is provided by Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(d) The bonds are a legal and authorized investment for a bank, trust company, savings and loan association, insurance company, fiduciary, trustee, or guardian or a sinking fund of a municipality, county, school district, or political subdivision of the state. The bonds may secure deposits of public funds of the state, a municipality, a county, a school district, or another political corporation or subdivision of the state. The department may issue bonds to refund all or part of its outstanding bonds, including accrued but unpaid interest. The bonds, a transaction relating to the bonds, or a profit made in the sale of the bonds is exempt from taxation by the state, an agency or subdivision of the state, a municipality, or a special district.

(e) This section is contingent on the adoption of the constitutional amendment proposed by H.J.R. 4, Acts of the 70th Legislature, Regular Session, 1987. If that proposed constitutional amendment is not approved by the voters, this section has no effect.

#### ARTICLE 17. LOCAL PROJECTS

Sec. 17.001. DEFINITIONS. In this article:

(1) "Cost" means the cost of acquisition, construction, repair, renovation, and equipping by a local government of a public facility, including the costs of acquisition of land or interests in land, site preparation, planning and design, financing fees and charges, and

interest before and during construction and after construction for the period approved by the department, administrative and other expenses incident to the acquisition, construction, repair, renovation, or equipping of a public facility, and the financing or refinancing of any public facility.

(2) "Local government" means a municipality, school district, county, any district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, or a combination of those entities.

(3) "Local government obligation" means any evidence of indebtedness of a local government, including any bond, note, draft, bill, warrant, or certificate of obligation under The Certificate of Obligation Act of 1971 (Article 2368a.1, Vernon's Texas Civil Statutes), issued to finance the cost of a public facility.

(4) "Public facility" means land, a building, equipment, a facility, a structure, or an improvement owned by a local government, or jointly owned by two or more local governments, and operated for the benefit and use of the general public, including a park, airport, jail, bridge, port, convention or civic center, auditorium, or museum, but excluding any water supply project, treatment works, or flood control measure eligible for financial assistance under Chapter 17, Water Code.

Sec. 17.002. LOANS. (a) The department may use money in the funds established from the proceeds of bonds authorized by this article to make loans to local governments to finance the cost of public facilities through the purchase of local government obligations.

(b) Loans under this article shall bear interest at rates established by the board. The board shall set the rates to provide a margin over the rate paid on the bonds issued under this article. Lending rates may be affected by the payment of premiums or the deduction of discounts as necessary. The board may make a loan by acquiring a local government obligation on which:

(1) interest is paid from proceeds of the local government obligation for a period not to exceed two years from the date of issue; or

(2) the first interest payment on the local government obligation is not payable until the end of the second year after the date of issue.

(c) The department may make loans under this article having a final maturity of two years or less to provide interim financing for public facilities. The principal of the loans, plus accrued and unpaid interest, may be repaid from the proceeds of other loans made by the department under this article.

(d) An application for a loan under this section may not be submitted after September 1, 1991.

Sec. 17.003. CHALLENGE GRANTS. (a) The department may use money in the local project fund to make grants to local governments to pay costs of preliminary planning and design of public facilities. The department may not make more than \$5 million of grants during a single state fiscal year. The amount of any grant may not exceed 50 percent of the costs of preliminary planning and design that are expected to be incurred by the local government in the two-year period following the receipt of the grant.

(b) If construction is not begun on the public facility for which a grant under this section is made before the end of the second year after the date of the grant, the local government receiving the grant shall repay the amount of the grant, plus interest on that amount from the date of the grant, to the department according to terms determined by the department. However, if the board determines that delays are caused by factors beyond the control of the local government, the department may extend the deadline for not more than six months.

(c) A grant under this section may not be made after September 1, 1989.

Sec. 17.004. SECURITY FOR LOCAL GOVERNMENT OBLIGATIONS. (a) Local government obligations purchased by the department must be supported by:

(1) all or part of the net revenue from the operation of the public facility;

(2) taxes levied by the local government for the purpose; or

(3) a combination of taxes and net revenues, and revenue from other available sources.

(b) The department may require that the local government obligations be supported both by taxes and by net revenue from the operation of the public facility in any ratio the department considers necessary to fully secure the investment. The department shall establish other conditions and requirements it considers to be consistent with sound investment practices and in the public interest.

(c) The department may purchase local government obligations that are secondary or subordinate to other obligations issued by the local government to finance the same public facility. The department may purchase outstanding prior lien bonds previously issued by the local government if this will avoid or reduce the necessity for issuing junior lien bonds for subsequent sale to the department. However, the security for both prior lien and junior lien bonds shall be pledged from substantially the same sources of revenue.

(d) For the purposes of this section, "net revenue" means gross revenue less the amount necessary to provide for principal, interest, and reserve requirements of local government obligations superior to those purchased by the department and the amount necessary to pay the cost of maintaining and operating the public facility.

Sec. 17.005. **DEFAULT.** In the event of a default in payment of the principal or interest on local government obligations purchased by the department or any other default as defined in the proceedings or indentures authorizing the issuance of the local government obligations, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the local government or its officers, agents, and employees to cure the default by performing duties that they are legally obligated to perform. Those proceedings shall be brought and venue shall be in a district court of Travis County.

Sec. 17.006. **PROGRAM RULES.** (a) The department shall adopt rules to establish criteria for determining which public facilities are eligible for financial assistance under this article. The department shall adopt collateral or security requirements to ensure the full repayment of loans and, to the extent provided by Section 17.003(b) of this Act, grants, and the solvency of any program implemented under this article. The department may make binding commitments to provide financial assistance for any public facility in accordance with this article, conditioned on the future availability of money in the funds established for those purposes. The department shall approve any commitment of financial assistance under this article.

(b) In determining which public facilities are provided financial assistance under this article, the department shall give first preference to applications that enable local governments to finance public facilities required to reduce the community impact created by the location of a superconducting super collider research facility, sponsored by the federal government, in that region of the state. If there is insufficient money to provide financial assistance to all local governments making applications under this article, the department shall give preference to applications received from local governments that the department finds cannot reasonably finance the public facility without assistance from the state.

(c) Local governments participating in the programs authorized by this article shall pay the costs of applying for, participating in, administering, and servicing the program, in amounts the board considers reasonable and necessary.

Sec. 17.007. **OBTAINING FINANCIAL ASSISTANCE.** (a) To obtain financial assistance under this article, a local government may authorize and issue local government obligations maturing serially or otherwise not more than 50 years after their date, for the purpose of financing the cost of public facilities and sell those bonds to the department in amounts as determined by the governing body of the local government and approved by the board. A local government may issue and sell the local government obligations to the department for cash without the necessity of notice or competitive bids.

(b) Notwithstanding Article 1112, Revised Statutes, or any other general or special law or charter provisions to the contrary, a local government may authorize, issue, and sell its revenue bonds as provided by this section and create any encumbrance in

connection with those bonds by a majority vote of the governing body of the local government without the necessity of an election.

Sec. 17.008. SALE OF LOCAL GOVERNMENT OBLIGATIONS. The department may sell any local government obligations acquired under this article at the price and under the terms that the board determines to be reasonable. The department may sell local government obligations without making a previous offer to local governments and without advertising, soliciting, or receiving bids for the sale. Proceeds from the sale of local government obligations shall be deposited in the local project fund, or other department fund that originally acquired the local government obligations, and shall be applied in accordance with this article and the resolutions of the department.

Sec. 17.009. CONTRACTS WITH OTHER AGENCIES. The department may enter into contracts with one or more state agencies as necessary to administer the programs provided by this article.

Sec. 17.010. GENERAL OBLIGATION BONDS. The board by resolution from time to time may issue, sell, and deliver general obligation bonds of the state in an amount not to exceed \$400 million and may use the proceeds to carry out the purposes of this article. Not more than \$10 million of the bond proceeds may be used for challenge grants. The board may issue bonds in one or several installments. The bonds shall be on a parity. The board shall deposit the proceeds of the bonds in the local project fund and apply them in accordance with the resolution authorizing the bonds:

(1) to provide financial assistance to local governments to pay the costs of public facilities;

(2) to pay the costs of issuance of the bonds; and

(3) together with any other available money in the local project fund, to pay principal of or interest on or to discharge or redeem, in whole or part, any outstanding general obligation bonds issued under this article.

Sec. 17.011. LOCAL PROJECT FUND. (a) The local project fund is a fund in the state treasury.

(b) The board may provide for the establishment and maintenance of separate accounts within the local project fund, including program accounts as prescribed by the board, an interest and sinking account, a reserve account, and other accounts provided for by the board in its resolutions. Repayments of financial assistance under any program funded in whole or part with the proceeds of general obligation bonds, together with earnings received on investments of the local project fund, shall be deposited first in the interest and sinking account as prescribed by the board's resolutions authorizing general obligation bonds, and second in the reserve account until that account is fully funded as prescribed by the board's resolutions. The local project fund and all accounts within it shall be held in trust by the state treasurer for and on behalf of the department and the owners of the general obligation bonds issued in accordance with this article, and may be used only as provided by this article. Pending its use, money in the local project fund shall be invested by the treasurer, consistent with the resolutions of the board authorizing the issuance of the bonds. The treasurer shall invest the local project fund in obligations of cities, counties, and other political subdivisions of any state in the United States, except local government obligations issued to finance a public facility pursuant to a program authorized by this article, or in investments authorized by law for state deposits. The board may sell investments owned in the local project fund at the governing market price.

(c) To the extent the board determines that any money credited to the local project fund from repayments of financial assistance is not required by Subdivision (b) and the resolutions of the board to be held in the interest and sinking account or the reserve account to provide for the payment of the principal of and interest on the outstanding general obligation bonds issued by the board, that money may be used by the board, first, to pay expenses of administering the programs authorized by this article, to the extent money is not otherwise available for the purpose, and, second, to pay the principal of and interest on revenue bonds issued by the board in accordance with this article and the board's resolutions authorizing general obligation bonds.

(d) If, during the time any general obligation bonds are payable from the interest and sinking account, the board determines that there will not be sufficient money in the interest and sinking account during the following fiscal year to pay the principal of or interest on the general obligation bonds or both the principal and interest that are to come due during the following fiscal year, the comptroller of public accounts shall transfer to the local project fund the first money coming into the state treasury not otherwise appropriated by the constitution in an amount sufficient to pay the obligations.

Sec. 17.012. REVENUE BONDS. (a) The board may issue revenue bonds to carry out the purposes of this article. Proceeds of revenue bonds shall be applied in accordance with the resolution authorizing those bonds:

(1) to provide financial assistance to local governments to pay the costs of public facilities;

(2) to pay the costs of issuance of the bonds; and

(3) together with any other available funds, to pay principal of or interest on or to discharge or redeem, in whole or part, any outstanding bonds issued under this article.

(b) Revenue bonds issued under this article are not a debt or pledge of the faith and credit or the taxing power of the state but are payable solely from revenues arising under this article that are pledged to the repayment of the revenue bonds. Each revenue bond must contain on its face a statement to the effect that:

(1) neither the state nor an agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the bonds except as provided by this subsection; and

(2) neither the faith and credit nor the taxing power of the state or any agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the bonds.

(c) The board may make additional covenants with respect to the revenue bonds and the pledged revenues and may provide for the flow of funds and the establishment and maintenance and investment of funds, which may include interest and sinking funds, reserve funds, and other funds. Those funds, and the income from their investment, shall be kept and maintained in escrow and in trust by the state treasurer for and on behalf of the department and the owners of its revenue bonds, in funds held outside the treasury pursuant to Section 3.051, Treasury Act (Article 4393-1, Vernon's Texas Civil Statutes). Those funds shall be used only as provided by this article and pending their use shall be invested by the treasurer, consistent with the resolutions of the board authorizing the issuance of the bonds. The state treasurer shall invest the funds in obligations of cities, counties, and other political subdivisions of any state of the United States, except local government obligations issued to finance the costs of a public facility pursuant to a program authorized by this article, or in investments authorized by law for state deposits. The treasurer, as custodian, shall administer those funds strictly and only as provided by this article and in the resolutions of the board. The state shall take no action with respect to those funds other than that specified in this article and in the resolutions of the board. The board may provide in the resolution authorizing any revenue bonds for the issuance of additional bonds to be equally and ratably secured by a lien on the revenues and receipts, or for the issuance of subordinate lien bonds.

Sec. 17.013. GENERAL PROVISIONS RELATING TO BONDS. (a) The bonds may be issued from time to time in one or more series or issues, in bearer, registered, or any other form, which may include registered uncertificated obligations not represented by written instruments and commonly known as book-entry obligations, the registration of ownership and transfer of which shall be provided for by the board under a system of books and records maintained by the department or by an agent appointed by the board in a resolution providing for issuance of its bonds. Bonds may mature serially or otherwise not more than 50 years from their date. Bonds may bear no interest or may bear interest at any rate or rates, fixed, variable, floating, or otherwise, determined by the board or determined pursuant to any contractual arrangements approved by the board, not to exceed the maximum net effective interest rate allowed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes).

Interest on the bonds may be payable at any time and the rate of interest on the bonds may be adjusted at any time determined by the board pursuant to the resolutions authorizing the bonds or determined pursuant to any contractual arrangement approved by the board, except that proceeds of an issue of bonds shall be used to provide for payment of debt service on those bonds for a period of not less than two years from the date of issue, to the extent of any deficiency of other moneys available for those purposes in the interest and sinking account or interest and sinking fund, as appropriate. In connection with the issuance of its bonds, the board may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent not inconsistent with this section. The bonds may be issued in the form and denominations and executed in the manner and under the terms, conditions, and details determined by the board in the resolution authorizing their issuance. The bonds shall be signed on behalf of the state by the governor, have the seal of the state impressed on them, and be attested by the secretary of state. If any officer whose manual or facsimile signature appears on the bonds ceases to be an officer, the signature remains valid and sufficient for all purposes as if the officer had remained in office.

(b) All bonds issued by the board under this section are subject to review and approval by the attorney general in the same manner and with the same effect as is provided by Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(c) The bonds may be secured additionally by a trust indenture, under which the trustee may be a financial institution, domiciled inside or outside the state, that has trust powers.

(d) The state pledges and agrees with the owners of any bonds issued in accordance with this section that the state will not limit or alter the rights vested in the board to fulfill the terms of any agreements made with the owners of the bonds or in any way impair the rights and remedies of those owners until those bonds, together with any premium and the interest on the bonds and all costs and expenses in connection with any action or proceeding by or on behalf of those owners, are fully met and discharged. The board may include this pledge and agreement of the state in any agreement with the owners of those bonds. Payment of the bonds and performance by the board of its functions and duties under this section and the Texas Constitution may be enforced in the state supreme court by mandamus or other appropriate proceeding.

Sec. 17.014. **AUTHORIZED INVESTMENTS; SECURITY FOR PUBLIC FUNDS.** (a) Bonds issued under this article are a legal and authorized investment for a bank, trust company, savings and loan association, insurance company, fiduciary, trustee, or guardian or a sinking fund of a municipality, county, school district, or political subdivision of the state.

(b) The bonds may secure deposits of public funds of the state, a municipality, a county, a school district, or another political corporation or subdivision of the state.

Sec. 17.015. **REFUNDING BONDS.** The department may issue bonds to refund all or part of its outstanding bonds, including accrued but unpaid interest, in the manner provided by any other applicable statute, including Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes).

Sec. 17.016. **TAX EXEMPTION.** Bonds issued under this article, a transaction relating to the bonds, or a profit made in the sale of the bonds is exempt from taxation by the state, an agency or subdivision of the state, a municipality, or a special district.

Sec. 17.017. **CONTINGENT EFFECT.** The effect of this article is contingent on the adoption of the constitutional amendment proposed by S.J.R. 55, Acts of the 70th Legislature, Regular Session, 1987. If that amendment is not approved by the voters, this article has no effect.



SECTION 2. CONFORMING AMENDMENTS. (a) The purpose of the amendments made by this section is to transfer the duties of the Texas Department of Community Affairs in administering the Texas Job-Training Partnership Act to the Texas Department of Commerce.

(b) Section 5(b), Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The *Texas Department of Commerce* [~~Texas Department of Community Affairs~~] shall:

(1) have primary responsibility for implementation and management of the job-training program; and

(2) perform such other functions and duties relating to the job-training program as may be required by law or assigned by the governor.

(c) Section 9A(a), Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The *Texas Department of Commerce* [~~Texas Department of Community Affairs~~] is authorized to enter into contracts with private, nonprofit organizations that conduct model or exemplary youth programs that meet the unique educational needs of student dropouts to provide educational services to student dropouts. A contract under this section must be made in accordance with the same procedure by which a state agency contracts with a private consultant under Chapter 454, Acts of the 65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes).

SECTION 3. CONFORMING AMENDMENTS. (a) The purpose of the amendments made by this section is to transfer the administration of the Act for Development of Employment, Industrial and Health Resources of 1971 (Article 5190.1, Vernon's Texas Civil Statutes) from the Texas Economic Development Commission to the Texas Department of Commerce.

(b) Section 2(b), Act for Development of Employment, Industrial and Health Resources of 1971 (Article 5190.1, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) "*Department*" means the *Texas Department of Commerce* [~~"Commission" means the Texas Industrial Commission~~].

(c) Section 5, Act for Development of Employment, Industrial and Health Resources of 1971 (Article 5190.1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. No issuer shall institute proceedings to authorize bonds under the provisions of Section 6(a) or 6(c) until the *department* [~~Commission~~] has given tentative approval to the suggested contents of the lease agreement, and if a lessee is permitted to sublease, the *department* [~~Commission~~] has also tentatively approved the financial responsibility of the ultimate lessee.

The *department* [~~Commission~~] shall prescribe rules and regulations setting forth minimum standards for lease agreements and guidelines with respect to financial responsibilities of the lessee and ultimate lessee, if any, but in no event shall the *department* [~~Commission~~] give final approval to any agreement unless it affirmatively finds the lessee and ultimate lessee have the business experience, financial resources and responsibility to provide reasonable assurance that all bonds and interest thereon to be paid from or by reason of such agreement will be paid as the same become due.

Appeal from any adverse ruling or decision of the *department* [~~Commission~~] under this section may be made by an issuer to the District Court of Travis County. The substantial evidence rule shall apply.

Rules, regulations and guidelines promulgated by the *department* [~~Commission~~], and amendments thereto, shall be effective only after they have been filed with the Secretary of State.

(d) Section 6(d), Act for Development of Employment, Industrial and Health Resources of 1971 (Article 5190.1, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) Bonds shall be issued and delivered within three years of the tentative approval of the *department* [~~Commission~~], or within three years of the final judgment in any litigation affecting the validity of the bonds or the provision made for their payment, whichever date is later. Nothing herein shall be construed as prohibiting the *department* [~~Commission~~] from conditioning its approval of the project or medical project upon the completion of the financing thereof within a lesser period of time.

(e) Sections 12, 13, and 18, Act for Development of Employment, Industrial and Health Resources of 1971 (Article 5190.1, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 12. Except as limited by the provisions of this law or as limited by the rules, regulations and guidelines of the *department* [~~Commission~~], each governing body shall have full and complete authority with respect to bonds, lease agreements and the provisions thereof.

No bonds shall be approved by the Attorney General until the *department* [~~Commission~~] has given final approval to the lease agreement, nor shall such bonds be approved if any authorizing proceedings or provisions for security and payment of lease payments are not in conformity with this law.

Sec. 13. All contracts for construction or purchases involving the expenditure of more than \$2,000 may be made only after advertising in the manner provided by Chapter 163, Acts of the 62nd Legislature, Regular Session, 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes). The provisions of Article 5160, Revised Civil Statutes of Texas, 1925, as amended, relating to performance and payment bonds, shall apply to construction contracts let by the issuer.

Bonds shall not be issued to acquire existing facilities for the purpose of again leasing the same to the same industrial concern or one controlled by such industrial concern and it shall be the duty of the *department* [~~Commission~~] to investigate such matters before giving its tentative approval of any project or medical project.

Sec. 18. It is hereby found, determined and declared:

(a) that the present and prospective health, safety, right to gainful employment and general welfare of the people of this State requires as a public purpose the promotion and development of new and expanded industrial manufacturing, medical and research enterprises;

(b) that community industrial development corporations in Texas have themselves invested substantial funds in successful industrial development projects and experience difficulty in undertaking additional such projects by reason of the partial inadequacy of their own funds or funds potentially available from local subscription sources and by reason of limitations of local financial institutions in providing additional and sufficiently sizable first mortgage loans;

(c) that communities in this State are at a critical disadvantage in competing with communities in other states for the location or expansion of such enterprises by virtue of the availability and prevalent use in all other states of financing and other special incentives, therefore, the issuance of revenue bonds by political subdivisions of the State as hereinafter provided for the promotion of industrial development, employment, public health and research is hereby declared to be in the public interest and a public purpose.

This law shall be effective without the necessity of a constitutional amendment to the full extent permitted by present provisions of the Texas Constitution. With respect to the powers granted herein, any provision of this law which may be effective only as the result of a change in the Texas Constitution shall become effective upon the adoption of the amendment proposed by Senate Joint Resolution No. 33 in the 62nd Legislature, the Legislature recognizing such constitutional amendment may be required to enable districts to proceed under this law. In no event shall any appropriation be made by the Legislature to pay all or any part of the obligation of any issuer under the provisions of this Act, and any expenses incurred by the *department* [~~Commission~~] shall be paid out of funds appropriated to that agency.

SECTION 4. CONFORMING AMENDMENTS. (a) The purpose of the amendments made by this section is to transfer the administration of the Texas Rural Industrial

Development Act (Article 5190.2, Vernon's Texas Civil Statutes) from the Texas Economic Development Commission to the Texas Department of Commerce.

(b) Sections 2(a), (e), (f), (g), and (h), Texas Rural Industrial Development Act (Article 5190.2, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) "*Department*" means the Texas Department of Commerce [~~Commission~~ means the Texas Industrial Commission].

(e) "Project" means the land, buildings, equipment, facilities and improvements (one or more) found by the *department* [~~Commission~~] to be required or suitable for the promotion of industrial development and for use by manufacturing or industrial enterprise, irrespective of whether in existence or required to be acquired or constructed after the making of such finding by the *department* [~~Commission~~]. A project must be located in a rural area, and more than one project may be located in the same rural area.

(f) "Responsible buyer" shall mean any person, partnership, or corporation found by the *department* [~~Commission~~] to be financially responsible to assume the obligation prescribed by an industrial development agency in connection with the acquisition and operation of a project.

(g) "Responsible tenant" shall mean any person, partnership, or corporation found by the *department* [~~Commission~~] to be financially responsible to assume all rental and all other obligations prescribed by an industrial development agency in connection with the leasing and operation of a project.

(h) "Rural area" means an area which is predominately rural in character, being one which the *department* [~~Commission~~] after public hearing defines and declares to be a rural area in that it (1) sustained out-migration of population between the then last two federal censuses or (2) an area that sustained a gain in population less than the average for standard State statistical metropolitan areas between the then last two federal censuses, or (3) an area in which manufacturing employment is less than the average for standard State statistical metropolitan areas according to the then preceding federal census, or (4) an incorporated city with a population of less than 20,000 according to the then preceding federal census; provided, however, no area of the State shall be included in more than one rural area, nor shall any one rural area contain territory in more than four counties. Rural areas may be defined and redefined by the *department* [~~Commission~~] from time to time, after public hearing.

(c) Sections 3, 4, 5, 6, and 7, Texas Rural Industrial Development Act (Article 5190.2, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 3. When it has been determined by the *department* [~~Commission~~] (upon application of an industrial development agency and hearing thereon) that the establishment of a particular project of such industrial development agency has accomplished or will accomplish the public purposes of this Act, the *department* [~~Commission~~] may contract to loan such industrial development agency an amount not in excess of a percentage of the cost of such project, as established or to be established as hereinafter set forth, subject, however, to the following conditions:

The *department* [~~Commission~~] may contract to loan the industrial development agency an amount not in excess of 40% of the cost of such project if it has determined that the industrial development agency holds funds or property in an amount or value equal to not less than 10% of the cost of the project, which funds or property are then available for and are pledged to be applied to the establishment of such project.

Prior to the making of any loan the *department* [~~Commission~~] shall have determined that the industrial development agency has obtained from other independent and responsible financial sources a firm commitment for all other funds, over and above the loan of the *department* [~~Commission~~] and such funds or property as the industrial development agency may hold necessary for payment of all of the cost of establishing the project, and that the sum of all these funds, together with the machinery and equipment to be provided by the responsible tenant or responsible buyer, is adequate for the completion and operation of the industrial development project.

Any such loan of the *department* [~~Commission~~] shall be for such period of time and shall bear interest at such rate as shall be determined by the *department* [~~Commission~~]

and shall be secured by bond or note of the industrial development agency and by mortgages on the project for which such loan was made, such mortgage to be second and subordinate only to the mortgage securing the first lien obligation entered to secure the commitment of funds from the aforesaid independent and responsible sources and used in the financing of the project.

In those instances where a federal agency participates in the financing of a project through a loan or a grant such participation shall be considered an independent and responsible source to the extent of the obligation of the federal agency to so participate under a loan or grant or similar agreement, and in such instance the *department* [~~Commission~~] may accept a bond or note of the industrial agency and a mortgage on the project inferior to all first and second lien obligations, provided (a) the participation of the federal agency exceeds the loan by the *department* [~~Commission~~] and (b) the federal agency's participation is conditioned upon its participation being secured by a lien superior to that of the *department* [~~Commission~~].

Money loaned by the *department* [~~Commission~~] to the industrial development agencies shall be withdrawn from the Industrial Development Fund and paid over to the industrial development agency in such manner as shall be provided and prescribed by the rules and regulations of the *department* [~~Commission~~].

All payments of interest on said loans and installments of principal shall be deposited by the *department* [~~Commission~~] as received in the Industrial Development Fund.

Sec. 4. No loan shall be made by the *department* [~~Commission~~] except upon application by an industrial development agency, (in such form as may be required by the *department* [~~Commission~~]) which shall include the following:

(a) A general description of the industrial development project and a general description of the industrial or manufacturing enterprise for which the project has been or is to be established.

(b) A legal description of all real estate necessary for the project.

(c) Such plans and other documents as may be required to show type, structure and general character of the project.

(d) A general description of the type, classes and number of employees employed or to be employed in the operation of the industrial development project.

(e) Cost or estimates of cost of establishing the project.

(f) A general description and statement of value of any property, real or personal, of the industrial development agency applied or to be applied to the establishment of the project;

(g) A statement of cash funds previously applied, or then held by the industrial development agency which are available for and are to be applied to the establishment of the project;

(h) Evidence of the arrangement made by the industrial development agency for the financing of all cost of the project over and above the participation of the industrial development agency;

(i) Information on the responsible tenant to which the industrial development agency has leased or will lease the project or of the responsible buyer to which the industrial development agency has sold or will sell the project.

(j) A copy of the lease or sales agreement entered into or to be entered into by and between the industrial development agency and its responsible tenant or responsible buyer.

The *department* [~~Commission~~] shall hold such hearings and examinations as to each loan application received as shall be necessary to determine whether the public purposes of this Act will be accomplished by the granting of a loan.

Sec. 5. In addition to other powers conferred upon the *department* [~~Commission~~] by the provisions hereof the *department* [~~Commission~~] through its staff shall:

(a) cooperate with industrial development agencies in their efforts to promote the expansion of industrial, manufacturing and development activity in rural areas;

(b) determine, upon proper application of industrial development agencies, whether the declared public purpose of this Act has been accomplished or will be accomplished by the establishment by such industrial development agencies of an industrial development project in rural areas;

(c) conduct examinations and investigations and hear testimony and take proof, under oath or affirmation, at public hearings, on any matter material for its information and necessary to the determination and designation of rural areas and the establishment of industrial development projects therein;

(d) make, upon proper application of industrial development agencies, loans to such industrial development agencies of money held in the Industrial Development Fund for projects in rural areas and to provide for the repayment and redeposit of such allocation and loans in its manner hereinafter provided;

(e) accept grants from and enter into contracts with any federal agency in the accomplishment of the purposes of this Act;

(f) take title by foreclosure to any project where such acquisition is necessary to protect any loan previously made therefor by the *department* [~~Commission~~] and to pay all costs arising out of such foreclosure and acquisition from moneys held in the Industrial Development Fund and sell, transfer and convey any such project to any responsible buyer; in the event such sale, transfer and conveyance cannot be effected with reasonable promptness, the *department* [~~Commission~~] may, in order to minimize financial losses and sustain employment, lease such projects to a responsible tenant or tenants;

(g) purchase first mortgages and make payments on first mortgages on any industrial development project where such purchase or payment is necessary to protect any loan previously made therefor by the *department* [~~Commission~~] and sell, transfer, convey and assign any such first mortgage. Moneys so used in the purchase of any first mortgages or any payments thereon, shall be withdrawn from the Industrial Development Fund, and any moneys derived from the sale of any first mortgages shall be deposited in the Industrial Development Fund.

The *department* [~~Texas Industrial Commission~~] shall provide staff services for the program herein provided, including liaison between the *department* [~~Commission~~] and industrial development agencies and related organizations, and between the *department* [~~Commission~~] and other agencies of the State whose facilities and services may be useful to the *department* [~~Commission~~] in its work. The *department* [~~Commission~~] may employ counsel, engineering, financial or other consultants as required in the carrying out of its duties and responsibilities hereunder. The *department* [~~Commission~~] may obtain such professional services in cooperation with other State agencies or may retain persons or firms that may or may not be employed full, part-time, or as consultants for other agencies.

The *department* [~~Commission~~] shall have no power at any time to borrow money, incur pecuniary obligations, or in any manner to pledge the credit or taxing power of the State of Texas or any of its municipalities or political subdivisions.

Sec. 6. When the *department* [~~Commission~~] makes a loan to an industrial development agency, it shall be provided in the instruments evidencing such loan that in the event of default in the payment of the principal or of the interest on such obligation or in the performance of any agreement contained in such proceedings, mortgage, or instrument, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents and to apply the revenues from the project in accordance with such mortgage or instrument.

In instances where the *department* [~~Commission~~] makes a loan, all contracts for construction of a project involving the expenditure of more than \$2,000 may be made only after advertising in the manner provided by Chapter 163, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes). The provisions of Article 5160, Revised Civil Statutes of Texas, 1925, as amended, relating to performance and payment bonds, shall apply to construction contracts.

No loan shall be made to acquire existing facilities for the purpose of again leasing the same to the same industrial concern or one controlled by such industrial concern.

The *department* [~~Commission~~] shall not approve any loan unless it finds that the benefit to the rural area in which the project is situated will exceed the financial commitment of the *department* [~~Commission~~] and that the approval of the particular project will aid in the alleviation of unemployment within the State or assist in the industrial development of the State and that such project will be of benefit to the State and its taxpayers.

Sec. 7. In those instances where the *department* [~~Commission~~] is required to make a determination or ruling, the same shall only be made after a public hearing. Notice of such hearing shall be given to the Secretary of State, Austin, Texas, at least 12 hours before the hearing is scheduled to begin but any hearing may be recessed from time to time (without the giving of additional notice) as the regulations of the *department* [~~Commission~~] may provide.

Rules, regulations and guidelines promulgated by the *department* [~~Commission~~], and amendments thereto, shall be effective only after they have been filed with the Secretary of State.

Appeal from any adverse ruling or decision of the *department* [~~Commission~~] under this section may be made by an issuer to the District Court of Travis County. The substantial evidence rule shall apply.

SECTION 5. CONFORMING AMENDMENTS. (a) The purpose of the amendments made by this section is to transfer certain duties relating to state industrial training from the Texas Economic Development Commission to the Texas Department of Commerce.

(b) Section 1(1), Chapter 696, Acts of the 69th Legislature, Regular Session, 1985 (Article 5190.4a, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "*Department*" [~~"Commission"~~] means the *Texas Department of Commerce* [~~Texas Economic Development Commission~~].

(c) Section 2(a), Chapter 696, Acts of the 69th Legislature, Regular Session, 1985 (Article 5190.4a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) After consultation with the Adult Education Advisory Committee of the State Board of Education and the *department* [~~commission~~], the agency shall develop an industrial training program to enhance employment opportunities in existing businesses and industries within this state and to encourage the location and development of new businesses and industries in the state. The program shall use existing educational facilities available through public school districts, public junior colleges, and public universities in developing and conducting the industrial training program.

(d) Section 3, Chapter 696, Acts of the 69th Legislature, Regular Session, 1985 (Article 5190.4a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. TRAINING CRITERIA. A public secondary school, junior college, or university may request the *department* [~~commission~~] to recommend that the agency establish industrial training courses at that educational institution that are designed to meet the employee training needs of employers, including United States military reservations, that are located in the geographic area of the institution. The agency may exercise its discretion in determining whether to establish such a training course. In order for an educational institution to qualify for the creation of such a training course, the institution must reasonably foresee a hiring requirement in the specific skill to be taught at the institution.

SECTION 6. CONFORMING AMENDMENTS. (a) The purpose of the amendments made by this section is to transfer the administration of the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) from the Texas Economic Development Commission to the Texas Department of Commerce and to amend or add certain definitions and the powers of the Texas Small Business Industrial Development Corporation and other industrial development corporations under that Act.

(b) Sections 2(2), (4), and (10), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), are amended to read as follows:

(2) "*Department*" [~~"Commission"~~] shall mean the *Texas Department of Commerce* [~~Texas Industrial Commission~~].

(4) "Cost" as applied to a project shall mean and embrace the cost of acquisition, construction, reconstruction, improvement, and expansion, including the cost of the acquisition of all land, rights-of-way, property rights, easements, and interests, the cost of all machinery and equipment, financing charges, *inventory, raw materials and other supplies, research and development costs*, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds, cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving, and expanding any such project, administrative expense and such other expense as may be necessary or incident to the acquisition, construction, reconstruction, improvement, and expansion thereof, the placing of the same in operation, and the financing or refinancing of any such project, including the refunding of any outstanding obligations, mortgages, or advances issued, made or given by any person for any of the aforementioned costs.

(10) "Project" shall mean the land, buildings, equipment, facilities, and improvements (one or more) found by the board of directors to be required or suitable for the promotion of development and expansion of manufacturing and industrial facilities, transportation facilities (including but not limited to airports, ports, mass commuting facilities, and parking facilities), sewage or solid waste disposal facilities, air or water pollution control facilities, facilities for the furnishing of water to the general public, distribution centers, small warehouse facilities capable of serving as decentralized storage and distribution centers, and facilities which are related to any of the foregoing, and in furtherance of the public purposes of this Act, all as defined in the rules of the *department [commission]*, irrespective of whether in existence or required to be *identified*, acquired, or constructed thereafter. As used in this Act, the term "development areas" shall mean any area or areas of a city that the city finds and determines, after a public hearing, should be developed in order to meet the development objectives of the city. In addition, in blighted or economically depressed areas, development areas or federally assisted new communities located within a home-rule city or a federally designated economically depressed county of less than 50,000 persons according to the last federal decennial census, a project may include the land, buildings, equipment, facilities, and improvements (one or more) found by the board of directors to be required or suitable for the promotion of commercial development and expansion and in furtherance of the public purposes of this Act, or for use by commercial enterprises, all as defined in the rules of the *department [commission]*, irrespective of whether in existence or required to be acquired or constructed thereafter. As used in this Act, the term blighted or economically depressed areas shall mean those areas and areas immediately adjacent thereto within a city which by reason of the presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures, or which suffer from a high relative rate of unemployment, or which have been designated and included in a tax incremental district created under Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes), or any combination of the foregoing, the city finds and determines, after a hearing, substantially impair or arrest the sound growth of the city, or constitute an economic or social liability and are a menace to the public health, safety, or welfare in their present condition and use. The *department [commission]* shall adopt guidelines that describe the kinds of areas that may be considered to be blighted or economically depressed. The city shall consider these guidelines in making its findings and determinations. Notice of the hearing at which the city considers establishment of a development area or an economically depressed or blighted area shall be posted at the city hall before the hearing.

"Federally assisted new communities" shall mean those federally assisted areas which have received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act and a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974, as amended.

(c) Section 2, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subdivision (14) to read as follows:

(14) "User" means an individual, partnership, corporation, or any other private entity, whether organized for profit or not for profit, or a city, county, district, or any other political subdivision or public entity of the state.

(d) Section 3, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. It is hereby found, determined, and declared:

(1) that the present and prospective right to gainful employment and general welfare of the people of this state require as a public purpose the promotion and development of new and expanded *business* [~~industrial and manufacturing~~] enterprises;

(2) that the existence, development, and expansion of *business, commerce, and industry* are essential to the economic growth of the state and to the full employment, welfare, and prosperity of its citizens;

(3) that the means and measures authorized by this Act and the assistance provided in this Act, especially with respect to financing, are in the public interest and serve a public purpose of the state in promoting the welfare of the citizens of the state economically by the securing and retaining of *business* [~~private industrial and manufacturing~~] enterprises and the resulting maintenance of a higher level of employment, economic activity, and stability;

(4) that community industrial development corporations in Texas have themselves invested substantial funds in successful industrial development projects and have experienced difficulty in undertaking such additional projects by reason of the partial inadequacy of their own funds or funds potentially available from local subscription sources and by reason of limitations of local financial institutions in providing additional and sufficiently sizable first mortgage loans; and

(5) that communities in this state are at a critical disadvantage in competing with communities in other states for the location or expansion of such enterprises by virtue of the availability and prevalent use in all other states of financing and other special incentives; therefore, the issuance of revenue bonds by corporations on behalf of political subdivisions of the state as hereinafter provided for the promotion and development of new and expanded *business* [~~industrial and manufacturing~~] enterprises to provide and encourage employment and the public welfare is hereby declared to be in the public interest and a public purpose.

This Act shall be liberally construed in conformity with the intention of the legislature herein expressed.

(e) Section 4(b), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) There is hereby created the Texas Small Business Industrial Development Corporation which shall act on behalf of the state to carry out the public purposes of this Act. The Texas Small Business Industrial Development Corporation shall be considered to be a corporation within the meaning of this Act, shall be organized and governed in accordance with the provisions of this Act, and shall have all of the powers, and shall be subject to all of the limitations, provided for corporations by this Act, *except as otherwise provided by this section*. For purposes of this Act, the state shall be considered to be the unit under whose auspices the Texas Small Business Industrial Development Corporation is created and the *department* [~~commission~~] shall be considered to be the governing body. [~~The articles of incorporation of the Texas Small Business Industrial Development Corporation shall be signed by at least three members of the commission, shall set forth the information requested by Subdivisions (1) through (9), Section (6), of this Act, and shall be approved by the commission, as governing body. The corporate existence of the Texas Small Business Industrial Development Corporation shall begin upon the issuance of a certificate of incorporation by the secretary of state.~~] To the extent that the provisions of this section are inconsistent with other provisions of this Act, the provisions of this section shall control as to the *existence, powers, limitations* [~~creation~~], organization, administration, operation, and affairs of the Texas Small Business Industrial Development Corporation.



(f) Section 4, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subsections (c)-(j) to read as follows:

(c) *All bonds issued and delivered by the Texas Small Business Industrial Development Corporation before September 1, 1987, and all proceedings authorizing those bonds are validated, ratified, confirmed, and approved in all respects, and they are incontestable.*

(d) *The members of the board of the department shall serve ex officio as the board of directors of the Texas Small Business Industrial Development Corporation.*

(e) *A director, officer, employee, or member of the department acting on behalf of the Texas Small Business Industrial Development Corporation is not personally liable for damage, loss, or injury resulting from the performance of the person's duties under this Act or on any contract, commitment, or agreement executed on behalf of the Texas Small Business Industrial Development Corporation under this Act.*

(f) *All programs and expenditures of the Texas Small Business Industrial Development Corporation must be approved on behalf of the state by the department. Expenses incurred by the Texas Small Business Industrial Development Corporation in the operation and administration of its programs and affairs, including expenditures for employees and program assistance or development, shall be paid out of fees collected or revenues generated under this Act.*

(g) *The revenues and funds of the Texas Small Business Industrial Development Corporation shall be deposited with one or more financial institutions chosen for that purpose by the board of directors. Funds of the Texas Small Business Industrial Development Corporation may not be used or made available for use by the department except to reimburse the department for expenses it incurs in its official capacity on behalf of the Texas Small Business Industrial Development Corporation.*

(h) *In addition to the powers provided for corporations by this Act, the Texas Small Business Industrial Development Corporation may:*

(A) *make loans through the purchase of or participation in, and pledge, hypothecate, negotiate, and sell, bonds, notes, and other evidences of indebtedness incurred by users to finance projects that represent a direct loan, grant, or loan participation, or the repayment of which is totally or partially insured or otherwise guaranteed, by the United States of America, by the state, or by any agency, department, or instrumentality of either; and*

(B) *otherwise provide financing for users, either directly or indirectly, in the manner that the Texas Small Business Industrial Development Corporation determines to be necessary or convenient for the performance of its public purposes, functions, and duties under this Act.*

(i) *Notwithstanding any other provision of this Act, "project" includes any use of amounts financed through the purchase by the Texas Small Business Industrial Development Corporation of bonds, notes, or other evidences of indebtedness of users under this subsection if the uses are found by the board of directors of the Texas Small Business Industrial Development Corporation to be required or suitable for the promotion of economic development in the state. Those findings may be based solely on a review by the board of directors of the Texas Small Business Industrial Development Corporation of the criteria used to determine eligibility of a user for obtaining a direct loan, grant, loan participation, insurance, or any other guarantee from the United States of America, the state, or any agency or instrumentality of either. Proceeds of bonds issued before September 1, 1987, may be used to pay all or part of the costs of a project regardless of whether the costs or project were within the definition of those terms under the Texas Department of Commerce Act before that date, or for any other purposes authorized by this Act.*

(j) *The Texas Small Business Industrial Development Corporation may not issue bonds for any purpose after September 1, 1987.*

(g) Section 23, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 23. (a) The corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of this state to nonprofit corporations incorporated under the Texas Non-Profit Corporation Act, as amended (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); but to the extent that the provisions of the general laws are in conflict or inconsistent with this Act, this Act prevails. In addition, the corporation shall have the following powers with respect to projects together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

(1) to acquire, whether by construction, devise, purchase, gift, lease, or otherwise or any one or more of such methods and to construct, improve, maintain, equip, and furnish one or more projects located within the state or within the coastal waters of the state and within or partially within the limits of the unit under whose auspices the corporation was created or within the limits of a different unit where the governing body thereof requests the corporation to exercise its powers therein;

(2) to lease to a *user* [~~lessee~~] all or any part of any project for such rentals and upon such terms and conditions as its board of directors may deem advisable and not in conflict with the provisions of this Act;

(3) to sell by installment payments or otherwise and convey all or any part of any project to a *user* for such purchase price and upon such terms and conditions as its board of directors may deem advisable and not in conflict with the provisions of this Act;

(4) to make secured or unsecured loans to a *user* for the purpose of providing temporary or permanent financing or refinancing of all or part of the cost of any project, including the refunding of any outstanding obligations, mortgages, or advances issued, made, or given by any person for the cost of a project; and to charge and collect interest on such loans for such loan payments and upon such terms and conditions as its board of directors may deem advisable and not in conflict with the provisions of this Act;

(5) to issue bonds for the purpose of defraying all or part of the cost of any project, *whether or not the bonds are exempt in whole or part from federal income taxation*, to secure the payment of such bonds as provided in this Act, and to sell bonds at a price or prices determined by the board of directors or to exchange bonds for property, labor, services, material, or equipment comprising a project or incidental to the acquisition of a project, and those bonds may bear interest at any rate or rates determined by the board of directors, subject to the limitations set forth in this Act;

(6) as security for the payment of the principal of and interest on any bonds issued and any agreements made in connection therewith, to mortgage and pledge any or all of its projects or any part or parts thereof, whether then owned or thereafter acquired, and to assign any mortgage and repledge any security conveyed to the corporation to secure any loan made by the corporation and to pledge the revenues and receipts therefrom;

(7) to sue and be sued, complain and defend, in its corporate name;

(8) to have a corporate seal and to use the same by causing it or a facsimile thereof to be impressed on, affixed to, or in any manner reproduced upon instruments of any nature required to be executed by its proper officers;

(9) to make and alter bylaws not inconsistent with its articles of incorporation or with the laws of this state with the approval of the unit under whose auspices the corporation was created by resolution of the governing body for the administration and regulation of the affairs of the corporation;

(10) to cease its corporate activities and terminate its existence by voluntary dissolution as provided herein; and

(11) whether included in the foregoing or not, to have and exercise all powers necessary or appropriate to effect any or all of the purposes for which the corporation is organized which powers shall be subject at all times to the control of the governing body of the unit under whose auspices the corporation was created.

(b) The corporation shall not have the power to own or operate any project as a business other than as lessor, seller, or lender or pursuant to the requirements of any trust agreement securing the credit transaction. Accordingly, the *user* [~~lessee, purchas-~~

~~er, or borrower~~] pursuant to any lease, sale, or loan agreement relating to a project shall be considered to be the owner of the project for the purposes of the application of any ad valorem, sales, and use taxes or any other taxes levied or imposed by this state or any political subdivision of this state. The purchase and holding of mortgages, deeds of trust, or other security interests and contracting for any servicing thereof shall not be deemed the operation of a project.

(h) Sections 24(a), (b), (c), (e), and (f), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The *department* [~~commission~~] shall approve the contents of any lease, sale, or loan agreement made under this Act. The *department* [~~commission~~] shall prescribe rules and regulations setting forth minimum standards for project eligibility and for lease, sale, and loan agreements and guidelines with respect to the business experience, financial resources, and responsibilities of the lessee, purchaser, or borrower under any such agreement, but in no event shall the *department* [~~commission~~] approve any agreement unless it affirmatively finds that the project sought to be financed is in furtherance of the public purposes of this Act. Appeal from any adverse ruling or decision of the *department* [~~commission~~] under this subsection may be made by the corporation to the District Court of Travis County. The substantial evidence rule shall apply. Rules, regulations, and guidelines promulgated by the *department* [~~commission~~] and amendments thereto shall be effective only after they have been filed with the secretary of state.

(b) The corporation may submit a transcript of proceedings in connection with the issuance of the bonds to the *department* [~~commission~~] and request that the *department* [~~commission~~] approve the bonds. On filing a request for the *department's* [~~commission's~~] approval of issuance of the bonds, the corporation shall pay to the *department* [~~commission~~] a nonrefundable filing fee. The *department* [~~commission~~] shall set the amount of the fee equal to one-tenth of one percent of the face amount of each bond issue, but not less than \$500. If the *department* [~~commission~~] refuses to approve the bond issue solely on the basis of law, the corporation may seek a writ of mandamus from the Supreme Court, and for this purpose the chair of the *department* [~~commission~~] shall be considered a state officer as provided in Section 22.002, Government Code [~~Article 1733, Revised Civil Statutes of Texas, 1925~~].

(c) The *department* [~~commission~~] may delegate to the executive director of the *department* [~~commission~~] the authority to approve a lease, sale, or loan agreement made under this Act or bonds issued by a corporation or any documents submitted as provided herein.

(e) The *department* [~~commission~~] by rule shall require corporations to file fee schedules and bond procedures. Bond counsel and financial advisors participating in an issue shall be mutually acceptable to the corporation and the user.

(f) The *department* [~~commission~~] shall adopt rules and regulations governing programs for small businesses receiving loans guaranteed in whole or in part by the Small Business Administration or other federal agencies. The *department* [~~commission~~] may also adopt rules and regulations governing the terms and conditions of loans by a corporation to banks or other lending institutions the proceeds of which are reloaned as permanent or temporary financing of a project.

(i) Section 30, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 30. Except as limited by the provisions of this Act or as limited by the rules, regulations, and guidelines of the *department* [~~commission~~], each corporation shall have full and complete authority with respect to bonds, lease, sale, or loan agreements and the provisions thereof.

SECTION 7. CONFORMING AMENDMENTS. (a) The purpose of the amendments made by this section is to transfer the administration of the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) from the Texas Economic Development Commission and the Enterprise Zone Board to the Texas Department of Commerce.

(b) Section 3, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

## Sec. 3. DEFINITIONS. In this Act:

(1) "Administrative authority" means a board, commission, or committee appointed by a governing body to administer this Act in a local enterprise zone.

(2) "~~Department~~" means the ~~State Department of Commerce~~ ["~~Board~~" means the ~~Enterprise Zone Board~~]; ~~and the Enterprise Zone Act.~~

~~[(3) "Department" means the Industrial Commission].~~

(3) [(4)] "Depressed area" means an urban or rural area that is within the jurisdiction of a county or municipality designated by ordinance or resolution and that meets the criteria set by this Act.

(4) [(5)] "Economically disadvantaged individual" means an individual who for at least the entire year before obtaining employment with a qualified business:

- (A) was unemployed, or
- (B) received public assistance benefits, such as welfare payments and food stamp payments, based on need and intended to alleviate poverty.

(5) [(6)] "Enterprise zone" means an area of the state declared by the ~~department~~ [board] to be eligible for the benefits of this Act.

(6) [(7)] "Governing body" means the governing body of a city, town, or county that has applied to have an area within its jurisdiction designated as an enterprise zone.

(7) [(8)] "Neighborhood enterprise association" means a private sector neighborhood organization within an enterprise zone that meets the criteria set by this Act.

(8) [(9)] "Qualified business" means a person, corporation, or other entity that:

- (A) meets the criteria of a qualified business under a federal enterprise zone act;
- (B) is engaged in the active conduct of a trade or business:
  - (i) with at least 80 percent of its income attributed to trade or business within an enterprise zone; and
  - (ii) with individuals from one or more of the following two categories constituting at least 25 percent of the business's employees in the zone: residents of the enterprise zone; or economically disadvantaged individuals; or
- (C) has a business location that is already active within the enterprise zone at the time it is designated and that operates continuously after that time, if the business has hired residents of the zone or economically disadvantaged workers after the designation so as to make it eligible for tax benefits under federal enterprise zone laws.

(9) [(10)] "Qualified employee" means an employee who works for a qualified business and who performs at least 50 percent of his service for the business within the enterprise zone.

(10) [(11)] "Qualified property" means:

- (A) tangible personal property located in the zone that was acquired by a taxpayer after designation of the area as an enterprise zone and was used predominantly by the taxpayer in the active conduct of a trade or business;
- (B) real property located in a zone that:
  - (i) was acquired by the taxpayer after designation of the zone and used predominantly by the taxpayer in the active conduct of a trade or business; or
  - (ii) was the principal residence of the taxpayer on the date of the sale or exchange; or
- (C) interest in a corporation, partnership, or other entity if, for the most recent taxable year of the entity ending before the date of sale or exchange, the entity was a qualified business.

(11) [(12)] "Urban area" means an area located in whole or in part within the city limits of a city, with a population of 50,000 or more, according to the most recent federal census.

(12) [(13)] "Rural area" means an area that is not an urban area.

(c) Sections 4(b), (e), (f), and (j), Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) An area is an area of pervasive poverty, unemployment, and economic distress if it meets one or more of the following criteria:

(1) the average rate of unemployment in the area during the most recent 12-month period for which data is available was at least one and one-half times the state average for that period;

(2) the area was a low-income poverty area according to the most recent federal census;

(3) at least 70 percent of the residents of the area have an income below 80 percent of the median income of the residents of the county;

(4) the population of all census tracts in the area decreased by at least 10 percent between 1970 and 1980; or

(5) the nominating government establishes to the satisfaction of the *department* [board] that either:

(A) chronic abandonment or demolition of commercial or residential structures exists in the area; or

(B) substantial tax arrearages for commercial or residential structures exist in the area.

(e) A local enterprise zone is an area that:

(1) meets the criteria of Subsections (a)(1) through (a)(4) of this section; and

(2) has been designated as a local enterprise zone by the *department* [board].

(f) A state-federal enterprise zone is an area that:

(1) meets the criteria of Subsection (a) of this section;

(2) has been previously designated as a local enterprise zone by the *department* [board];

(3) has been designated as an enterprise zone by the federal agency responsible for administering a federal enterprise zone program; and

(4) has been designated as a state-federal enterprise zone by the *department* [board].

(j) The *department* [board] may remove the designation of any area as an enterprise zone if the area no longer meets the criteria for designation as set out in this Act or by rule adopted under this Act by the *department* [board].

(d) Section 5, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. NOMINATION BY COUNTIES AND MUNICIPALITIES. The legislative body of any city, town, county, or combination of these local governments may nominate by resolution any economically distressed area within its jurisdiction as a potential enterprise zone, if the area meets the criteria established in Section 4 of this Act. The city, town, county, or combination of these local governments, if it first has obtained the consent of any municipality in which all or part of the potential nominated area is located, may then make written application to the *department* [board] to have the area declared to be an enterprise zone.

(e) Section 6, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is repealed.

(f) Sections 7 and 8, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 7. POWERS AND DUTIES OF THE DEPARTMENT [BOARD]. (a) The *department* [board] shall administer this Act and shall:

(1) establish criteria and procedures for determining the qualified areas that shall be designated as enterprise zones;

(2) monitor the implementation of this Act and submit reports evaluating the effectiveness of the program and making suggestions for legislation to the governor and the legislature by October 1 of each year preceding a regular session of the legislature;

(3) conduct a continuing evaluation of the programs of enterprise zones;

(4) adopt all rules necessary to carry out the purposes of this Act;

(5) assist units of local government in obtaining status as a federal enterprise zone;

(6) assist qualified employers in obtaining the benefits of any incentive or inducement program provided by law and certify qualified employers to be eligible for the benefits of this Act;

(7) assist the governing body of an enterprise zone in obtaining assistance from any other agency of state government, including assistance in providing training and technical assistance to qualified businesses in a zone;

(8) review all state agency regulations and recommend to the appropriate state agencies the exemptions from regulations adopted by the agencies to contribute to the implementation of this Act; and

(9) designate and certify private sector neighborhood enterprise associations within a zone as defined in this Act.

(b) The *department* [board] shall provide information and appropriate assistance to persons desiring to locate and engage in business in an enterprise zone regarding state licenses, permits, certificates, approvals, registrations, charters, and any other forms of permission required by law to engage in business in the state.

(c) The *department* [board], with the cooperation of the appropriate state agencies, shall develop a uniform application form for the state tax exemptions offered under this Act. The uniform application form must be used by qualified businesses and qualified employees in enterprise zones instead of any other appropriate application form required by law or by agency rules.

Sec. 8. PROCEDURE FOR DESIGNATION OF ZONES BY DEPARTMENT [BOARD]. (a) A city, town, county, or combination of these local governments that has nominated a qualified economically distressed area within its jurisdiction as a potential enterprise zone shall make written application to the *department* [board], within an application period prescribed by the *department* [board], to have the area declared to be a local enterprise zone. The application shall include a description of the location of the area in question and other information as the *department* [board] may require.

(b) On receipt of an application from a city, town, county, or combination of these local governments, the *department* [board] or its designee shall review the application to determine if the area described in the application qualifies to be designated as an enterprise zone under the criteria of Section 4 of this Act. The *department* [board] shall provide an applicant at least two weeks to correct any omissions or clerical errors that may be present in the application and to resubmit the application to the *department* [board]. Following the close of the application period and the resubmission period, if any, the *department* [board] shall meet to review the applications that have qualified for consideration as enterprise zones.

(c) Not later than the 60th day after the day the qualified applications have been selected, the *department* [board] or its designee shall request from the Comptroller a fiscal impact statement containing an estimate of revenue effects of the proposed nomination on the State of Texas and all affected political subdivisions. After receiving the fiscal impact statement the *department* [board] or its designee shall hold at least one public hearing in a central location within each of the qualifying areas on the question of whether the area nominated to be an enterprise zone should be so designated. Not later than the 15th day before the day of the hearing, the *department* [board] shall place a notice of the hearing in at least two newspapers circulated in the area of the nominated zone and shall notify public officials, community and neighborhood organizations, and public agencies located within the nominated zone of the public hearing.

(d) After the public hearing, the *department* [board] shall begin negotiations for agreements with the governing bodies filing the applications. A negotiated agreement

must designate the enterprise zone. A negotiated agreement must designate the administrative authority, if any, and its functions and duties. The *department* [board] shall complete the negotiations and sign the agreements not later than the 120th day after the day of the conclusion of the last public hearing. The *department* [board] may extend this deadline for an additional 30 days. If an agreement is not completed within the stated period, the *department* [board] shall provide the applicant with the specific areas of concern and a final proposal for the agreement. If the agreement is not signed before the 30th day after the day of the receipt by the applicant of the final proposal, the application is considered to be denied. The *department* [board] shall inform the governing body or bodies of the specific reasons for the denial.

(e) The governing body or bodies of an area that previously had been designated as a local enterprise zone by the *department* [board] may make written application to the *department* [board] for designation as a state-federal enterprise zone. The governing body or bodies and the *department* [board] must follow the procedures established by this section. The *department* [board] may only grant a state-federal enterprise zone designation to an area contingent on the area's designation as a federal enterprise zone by the federal agency responsible for administering the federal enterprise zone program.

(f) If the *department* [board] designates two or more areas of the state as local enterprise zones, at least two-fifths of the areas must be rural enterprise zones unless there are not enough qualified applications for designation as rural enterprise zones to permit the *department* [board] to comply with this requirement.

(g) In deciding the areas that should be designated as local or state-federal enterprise zones, the *department* [board] shall give preference to:

- (1) areas with the highest levels of poverty, and general distress;
- (2) areas located in cities or counties with an unemployment rate that exceeds the statewide unemployment rate by 50 percent or more;
- (3) areas that have the widest support from the government seeking designation and the community, residents, local businesses, and private organizations; and
- (4) areas for which the government seeking the designation has made or will make the greatest effort to encourage economic activity and remove impediments to job creation, including a reduction of tax rates or fees, the adoption of tax abatement or tax increment financing programs, the creation of foreign trade zones, an increase in the level or efficiency of local services, and a simplification or streamlining of governmental requirements on employers or employees, taking into account the resources available to the government to make the efforts.

(h) During any 12-month period, the *department* [board] may not designate more than five local enterprise zones nor more than three state-federal enterprise zones. The total number of local enterprise zones in existence at any one time may not exceed 20; the total number of state-federal enterprise zones in existence at any one time may not exceed 10.

(g) Section 15(c), Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Within an enterprise zone designated by the *department* [board], a local government may suspend local ordinances, rules, regulations, or standards relating to zoning, licensing, or building codes unless the ordinance, rule, regulation, or standard relates to one of the prescribed topics in Subsection (a) of this section.

(h) Section 18(b), Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) A commitment to dispose of real property by the methods described in this section gives preference to a proposed enterprise zone in the selection process by the *department* [board] as set forth in Section 4 of this Act.

(i) Sections 19(h), (k), (l), and (m), Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), are amended to read as follows:

(h) After granting its certification, the governing body shall forward the application to the *department* [board] for the *department's* [board's] final certification. The *depart-*

*ment* [board] may not grant its certification unless the *department* [board] determines that the association has complied with all requirements of this section. On granting certification, the *department* [board] shall place the association's articles of incorporation and bylaws in a public file. The *department* [board] may suspend the association's certification or any of the leases issued under Subsection (p) of this section if the association fails to continue to comply with the requirements of this section. The *department* [board] shall give technical assistance to enterprise zone residents attempting to start such an association.

(k) The association may carry out other projects or types of projects as approved by the governing body and the *department* [board]. The *department* [board] shall adopt rules regarding the projects. The rules may include types of activities that will be given automatic approval by the *department* [board]. In other cases, an application must be submitted by the association to the governing body and the *department* [board] that describes the nature and benefit of the project, specifically:

- (1) how it will contribute to the self-help efforts of the residents of the area involved;
- (2) how it will involve the residents of the area in project planning and implementation;
- (3) whether there are sufficient resources to complete the project and whether the association will be fiscally responsible for the project; and
- (4) how it will enhance the enterprise zone in one of the following ways:
  - (A) by creating permanent jobs;
  - (B) by physically improving the housing stock;
  - (C) by stimulating neighborhood business activity; or
  - (D) by preventing crime.

(l) If the governing body and the *department* [board] do not specifically disapprove of the project before the 45th day after the day of the receipt of the application, it shall be considered approved. If the governing body or the *department* [board] disapproves of the application, it shall specify its reasons for this decision and allow 60 days for the applicant to make amendments. The *department* [board] shall provide assistance upon request to applicants of such process.

(m) The neighborhood enterprise association shall furnish an annual statement to the governing body and the *department* [board] on the programmatic and financial status of any approved project and an audited financial statement of the project.

(j) Sections 20 and 21, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 20. ZONE ADMINISTRATION. The administration of an enterprise zone is under the jurisdiction of the appropriate unit of local government, either a city, town, or county, or any combination of these local governments consistent with its function as specified in the state constitution. The governing body may delegate its administrative duties to an administrative authority. The administrative authority, if any, must be composed of 3, 5, 7, 9, 11, or 15 members, and must include representatives of the governing body, local businesses, and enterprise zone residents. The functions and duties of an administrative authority must be specified in the agreement negotiated by the governing body and the *department* [board], or in amendments to the negotiated agreement.

Sec. 21. COORDINATION OF ENTERPRISE ZONE PROGRAMS WITH OTHER PROGRAMS OF THE FEDERAL AND STATE GOVERNMENT. The *department* [board] shall work together with the responsible federal and state agencies to promote the coordination of other relevant programs, including housing, community and economic development, small business, banking, financial assistance, and employment training programs that are carried out within an enterprise zone. It shall further work to expedite, to the greatest extent possible, the consideration of applications for the programs through the consolidation of forms or otherwise and shall work, whenever possible, for the consolidation of periodic reports required under the programs into one summary report.



SECTION 8. CONFORMING AMENDMENTS. (a) The purpose of the amendments made by this section is to conform the references to state agencies in the statutes to reflect the substantive changes by this Act.

(b) Section 11.18(e), Education Code, is amended to read as follows:

(e) Funds shall be appropriated to implement statewide adult basic education, adult bilingual education, high school equivalency, and high school credit programs to eliminate illiteracy in Texas and to implement and support a statewide program to meet the total range of adult needs for adult education, related skill training, and pilot programs to demonstrate the effectiveness of the community education concept. An additional sum of money may be appropriated to the *Texas Department of Commerce* for the purpose of skill training in direct support of industrial expansion and start-up, and those locations, industries, and occupations designated by the *Texas Department of Commerce* [~~Texas Economic Development Commission~~], when such training is also in support of the basic purposes of this section. To fulfill the basic purposes of this section, an additional sum of money may be appropriated for skill training that is conducted to support the expansion of civilian employment opportunities on United States military reservations. The Central Education Agency, in conjunction with the *Texas Department of Commerce* [~~Texas Economic Development Commission~~], may adopt rules to administer such skill training programs for which the *Central Education Agency* is responsible, and the *Texas Department of Commerce* may adopt rules to administer such skill training programs for which it is responsible.

(c) Section 182.012(a), Natural Resources Code, is amended to read as follows:

(a) The council consists of the following ex officio members:

(1) the executive director of the Texas Historical Commission;

(2) the director and librarian of the Texas State Library;

(3) the executive director of the *Texas Department of Commerce* [~~Texas Tourist Development Agency~~];

(4) the director of the Travel and Information Division of the State Department of Highways and Public Transportation;

(5) the director of the Park Services Division of the Parks and Wildlife Department; and

(6) the chairman of the State Antiquities Committee.

(d) Sections 182.017 and 182.041, Natural Resources Code, are amended to read as follows:

Sec. 182.017. USE AND PROVISION OF SERVICES OF CERTAIN AGENCIES. The council may use the services and facilities of the Texas Historical Commission, the Texas State Library and Historical Commission, the *Texas Department of Commerce* [~~Texas Tourist Development Agency~~], the State Department of Highways and Public Transportation, the Parks and Wildlife Department, and the State Antiquities Committee, and these services and facilities may be made available on request to the extent practicable without reimbursement for them.

Sec. 182.041. COMMUNICATION BETWEEN AGENCIES. The council shall establish communication between the Texas Historical Commission, the Texas State Library and Historical Commission, the *Texas Department of Commerce* [~~Texas Tourist Development Agency~~], the State Department of Highways and Public Transportation, the Parks and Wildlife Department, and the State Antiquities Committee in order to coordinate the efforts of these agencies to develop and publicize the historical resources of this state.

(e) Section 4, Chapter 791, Acts of the 66th Legislature, 1979 (Article 1581g-2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. COOPERATION WITH *TEXAS DEPARTMENT OF COMMERCE* [~~TEXAS INDUSTRIAL COMMISSION~~]. The commission shall cooperate with and utilize the services of the *Texas Department of Commerce* [~~Texas Industrial Commission~~].

(f) Section 8(b), Cultural Basin Act of 1973 (Article 4413(32d), Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Whenever possible, existing groups, such as [~~those proposed by The Texas Industrial Commission-Texas Office of Economic Opportunity Selective Economic Development Plan or the~~] local human resources councils, shall be used in local goal-setting. Information, studies, and proposed solutions to problems from citizen commissions, such as the Rural Development Commission, shall be utilized.

(g) Section 2(5)(A), Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), is amended to read as follows:

(A) "Appointed officer of a major state agency" means any of the following:

- (i) a member of the Public Utility Commission of Texas;
- (ii) a member of the *Texas Department of Commerce* [~~Texas Economic Development Commission~~];
- (iii) a member of the Texas Aeronautics Commission;
- (iv) a member of the Texas Air Control Board;
- (v) a member of the Texas Alcoholic Beverage Commission;
- (vi) a member of the Finance Commission of Texas;
- (vii) [~~a member of the State Building Commission;~~  
[~~viii~~]] a member of the State Purchasing and General Services Commission;
- (viii) [~~ix~~] a member of the Texas Board of Corrections;
- (ix) [~~x~~] a member of the Board of Trustees of the Employees Retirement System of Texas;
- (x) [~~xi~~] a member of the State Highway and Public Transportation Commission;
- (xi) [~~xii~~] a member of the Industrial Accident Board;
- (xii) [~~xiii~~] a member of the State Board of Insurance;
- (xiii) [~~xiv~~] a member of the Board of Pardons and Paroles;
- (xiv) [~~xv~~] a member of the Parks and Wildlife Commission;
- (xv) [~~xvi~~] a member of the Public Safety Commission;
- (xvi) [~~xvii~~] the Secretary of State;
- (xvii) [~~xviii~~] a member of the State Securities Board;
- (xviii) [~~xix~~] a member of the Texas Amusement Machine Commission;
- (xix) [~~xx~~] a member of the Texas Water Development Board;
- (xx) [~~xxi~~] a member of the Texas Water Commission;
- (xxi) [~~xxii~~] a member of the governing board of a state senior college or university as defined by Section 61.003, Education Code;
- (xxii) [~~xxiii~~] a member of the Coordinating Board, Texas College and University System;
- (xxiii) [~~xxiv~~] a member of the Texas Employment Commission;
- (xxiv) [~~xxv~~] a member of the State Banking Board;
- (xxv) [~~xxvi~~] a member of the board of trustees of the Teachers Retirement System of Texas;
- (xxvi) [~~xxvii~~] a member of the Credit Union Commission; or
- (xxvii) [~~xxviii~~] a member of the School Land Board.

(h) Section 5, Travel Regulations Act of 1959 (Article 6823a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. Any travel connected with official business of the state for which reimbursement for travel expenses incurred is claimed or for which an advance for travel expenses to be incurred is sought, with the exception of travel to, in, and from the several states, United States possessions, Mexico, and Canada, must have the advance written approval of the Governor. Blanket authority by the Governor may be given to the International Trade Development Division personnel of the *Texas Department of Commerce* [~~Texas~~

~~Industrial Commission~~] and to the Department of Public Safety to law enforcement personnel.

SECTION 9. PRIVATE ACTIVITY BONDS. The administration of the allocation of authority to issue "private activity bonds," as defined by Section 141, Internal Revenue Code of 1986, in the state is transferred from the Texas Economic Development Commission to the Texas Department of Commerce. The Texas Department of Commerce shall administer that allocation in accordance with any applicable executive order of the governor or statute.

SECTION 10. REPEALER. The following are repealed:

- (1) Articles 5183, 5183a, 5183b, 5184, 5185, 5185a, 5185b, 5185c, 5186, 5187, 5187a, 5188, 5189, 5190, 5190-½, and 5190.4, Revised Statutes;
- (2) Section 4A(b), Chapter 879, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4413(201), Vernon's Texas Civil Statutes);
- (3) Chapter 825, Acts of the 65th Legislature, Regular Session, 1977 (Article 5186a, Vernon's Texas Civil Statutes);
- (4) the Small Business Assistance Act of 1975 (Article 5190.3, Vernon's Texas Civil Statutes);
- (5) Chapter 503, Acts of the 66th Legislature, 1979 (Article 5190.5, Vernon's Texas Civil Statutes);
- (6) the Texas World Trade Development Act (Article 5190.8, Vernon's Texas Civil Statutes);
- (7) Chapter 452, Acts of the 69th Legislature, Regular Session, 1985 (Article 5190.9, Vernon's Texas Civil Statutes);
- (8) Section 4, Chapter 193, Acts of the 56th Legislature, Regular Session, 1959 (Article 6144e, Vernon's Texas Civil Statutes);
- (9) Chapter 137, Acts of the 58th Legislature, Regular Session, 1963 (Article 6144f, Vernon's Texas Civil Statutes); and
- (10) Chapter 286, Acts of the 69th Legislature, Regular Session, 1985 (Article 6144i, Vernon's Texas Civil Statutes).

SECTION 11. FUND TRANSFERS. (a) Any balance remaining in the economic development fund (also called the rural economic development fund) on the effective date of this Act shall be transferred to the rural industrial development fund on that date.

(b) Any balance remaining in the Music Commission Fund on the effective date of this Act shall be transferred to the music fund on that date.

SECTION 12. INITIAL HANDBOOK; INFORMATION; REPORT. (a) The Texas Department of Commerce shall prepare the initial handbook required by Section 6.005, Texas Department of Commerce Act, before September 1, 1988. Each state agency shall submit the information required by Section 6.006 of that Act before February 1, 1988.

(b) The Texas Department of Commerce shall conduct an analysis and report to the 71st Legislature on the effectiveness of the comprehensive application procedure developed and implemented under Section 6.004, Texas Department of Commerce Act.

SECTION 13. TRANSFER OF POWERS, DUTIES, RIGHTS, OBLIGATIONS, PROPERTY, AND RULES. (a) The Texas Economic Development Commission and all of its divisions, the Texas World Trade Development Authority, the Texas World Trade Council, the Enterprise Zone Board, the Technology Training Board, the Texas Tourist Development Agency, and the Texas Music Commission are abolished. All powers, duties, rights, and obligations of an agency or division abolished by this section are transferred to the Texas Department of Commerce. All records, supplies, and other property of an abolished agency or division shall be transferred to the department before January 1, 1988. Rules of an abolished agency continue in effect as rules of the department until amended or repealed by the department.

(b) All powers, duties, rights, obligations, audit responsibilities, and all past, present, and future liabilities, relating to the administration of the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) and the community development

block grant program by the Texas Department of Community Affairs are transferred to the department on July 1, 1988. The Texas Department of Commerce and the Texas Department of Community Affairs may enter a written agreement transferring all or part of those powers, duties, rights, obligations, audit responsibilities, or liabilities before July 1, 1988. All records, supplies, and other property relating to the administration of the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) and the community development block grant program by the Texas Department of Community Affairs shall be transferred to the department before January 1, 1989. The department shall provide funding to each unit of general local government with which the Texas Department of Community Affairs entered into a contract under the community development block grant program before July 1, 1988, at the level and for the activities and period provided by that contract. The department shall provide funding to each entity with which the Texas Department of Community Affairs entered into a contract under the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) before July 1, 1988, at the level and for the activities and period provided by that contract. The Final Statement submitted by the Texas Department of Community Affairs to the United States Department of Housing and Urban Development continues to govern the distribution by the department of the federal fiscal year 1988 community development block grant funds awarded to the state.

**SECTION 14. INITIAL APPOINTMENTS.** In making the initial appointments to the Texas Department of Commerce, the governor shall designate one member for a term expiring February 1, 1989, one member for a term expiring February 1, 1991, and one member for a term expiring February 1, 1992.

**SECTION 15. EFFECTIVE DATE.** (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1987.

(b) The following take effect July 1, 1988:

- (1) Section 2 of this Act;
- (2) Section 10(2) of this Act; and
- (3) Section 2.003(c) and Article 12, Texas Department of Commerce Act, as added by this Act.

**SECTION 16. EMERGENCY.** 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 April 8, 1987, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 4 on May 19, 1987, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 4 on May 27, 1987, by the following vote: Yeas 98, Nays 43. Passed by the Senate, with amendments, on May 14, 1987, by a viva-voce vote; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 4 on May 30, 1987, by a viva-voce vote.

Approved June 16, 1987.

Effective Sept. 1, 1987 except:

- a) Section 1, Art. 15, § 15.006 and Art. 16, § 16.014, effective upon adoption of H.J.R. No. 4;
- b) Section 1, Art. 17, effective upon adoption of S.J.R. No. 5; and
- c) As provided in § 15(b).