

AN ACT

relating to the Texas military; imposing criminal penalties;
authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. TEXAS MILITARY

SECTION 1.01. Subtitle C, Title 4, Government Code, is
amended by adding Chapter 437 to read as follows:

CHAPTER 437. TEXAS MILITARY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 437.001. DEFINITIONS. In this chapter:

(1) "Active military service" means state active duty service, federally funded state active duty service, or federal active duty service. The term does not include service performed exclusively for training, such as basic combat training, advanced individual training, annual training, inactive duty training, and special training periodically made available to service members.

(2) "Adjutant general" means the military commander of the Texas military forces.

(3) "Department" means the Texas Military Department.

(4) "Employee" has the meaning assigned by Section 21.002, Labor Code.

(5) "Employer" has the meaning assigned by Section 21.002, Labor Code.

(6) "Executive director" means the administrative

1 head of the department who is responsible for managing the
2 department.

3 (7) "Military duty" means any activity of a service
4 member performing a duty under a lawful military order, including
5 training.

6 (8) "Service member" means a member or former member
7 of the state military forces or a component of the United States
8 armed forces, including a reserve component.

9 (9) "State active duty" means the performance of
10 military or emergency service for this state at the call of the
11 governor or the governor's designee.

12 (10) "State military forces" means the Texas military
13 forces.

14 (11) "State training and other duty" means the service
15 and training typically performed by service members in preparation
16 for state active duty. The term includes training for man-made and
17 natural disaster response and maintenance of equipment and
18 property.

19 (12) "Temporary state employee" means a service member
20 who is not a full-time or part-time state employee and who is on
21 state active duty.

22 (13) "Texas Military Department" means the state
23 agency charged with administrative activities in support of the
24 Texas military forces.

25 (14) "Texas military forces" means the Texas National
26 Guard, the Texas State Guard, and any other military force
27 organized under state law.

1 (15) "Texas National Guard" means the Texas Army
2 National Guard and the Texas Air National Guard.

3 (16) "Texas State Guard" means the volunteer military
4 forces that provide community service and emergency response
5 activities for this state, as organized under the Second Amendment
6 to the United States Constitution, and operating as a defense force
7 authorized under 32 U.S.C. Section 109.

8 (17) "Unit" means any organized group of the Texas
9 military forces that has a designated commander.

10 (18) "Unit fund" means:

11 (A) money held by a military unit to support the
12 service members in the military unit while serving in the Texas
13 military forces;

14 (B) the state post exchange services account; or

15 (C) the billeting account.

16 Sec. 437.0011. REFERENCE IN OTHER LAW. A reference in other
17 law to the adjutant general's department means the Texas Military
18 Department.

19 Sec. 437.002. COMMANDER-IN-CHIEF. (a) The governor is the
20 commander-in-chief of the Texas military forces, except any portion
21 of those forces in the service of the United States. The governor
22 has full control and authority over all matters relating to the
23 Texas military forces, including organization, equipment, and
24 discipline.

25 (b) If the governor is unable to perform the duties of
26 commander-in-chief, the adjutant general shall command the Texas
27 military forces, unless the state constitution or other state law

1 requires the lieutenant governor or the president of the senate to
2 perform the duties of governor.

3 Sec. 437.003. GOVERNOR'S MILITARY APPOINTMENTS. (a) The
4 governor, with the advice and consent of the senate, shall appoint
5 an adjutant general to a two-year term expiring February 1 of each
6 even-numbered year. The adjutant general is responsible for
7 leading and managing the Texas military forces. The adjutant
8 general is subordinate only to the governor in matters pertaining
9 to the Texas military forces. The adjutant general's rank is
10 assigned at the discretion of the governor and may not exceed
11 lieutenant general. Federal recognition is at the rank authorized
12 by the National Guard Bureau. The adjutant general may be referred
13 to as the commanding general of the Texas military forces.

14 (b) On recommendation of the adjutant general, the governor
15 shall appoint a deputy adjutant general for army, a deputy adjutant
16 general for air, and the commander of the Texas State Guard. The
17 deputy adjutants general and commander serve until replaced. To be
18 qualified for appointment as a deputy adjutant general, a service
19 member must have the qualifications required for appointment as
20 adjutant general.

21 (c) The governor shall appoint, commission, and assign the
22 Texas State Guard general officers. The governor may remove or
23 reassign an officer. To be eligible for appointment as a general
24 officer, a service member must have:

25 (1) been a federally recognized officer of not less
26 than field grade of the Texas National Guard or a regular or reserve
27 component of the United States military or served at least 15 years

1 of combined service as a commissioned officer in the Texas military
2 forces or a regular or reserve component of the United States
3 military; and

4 (2) served at least three years as a commissioned
5 officer in the Texas State Guard.

6 (d) The governor may delegate the powers granted by
7 Subsection (c) to the adjutant general.

8 Sec. 437.004. REGULATING TEXAS MILITARY FORCES. (a) The
9 governor shall make and publish regulations, according to existing
10 federal and state law, to govern the Texas military forces. The
11 regulations must address general orders and forms for the
12 performance of duties of service members on military duty,
13 including provisions governing courts-martial.

14 (b) The governor may reorganize and provide regulations
15 relating to the organization of any portion of the Texas National
16 Guard, Texas State Guard, emergency militia, or other military
17 force organized under state law.

18 (c) The governor may obtain from the United States
19 government the arms, equipment, munitions, or other military
20 supplies to which the state is entitled for use by the Texas
21 military forces.

22 (d) The governor, as the governor determines to be in this
23 state's best interest, shall designate the locations for storage of
24 arms, equipment, munitions, or other military property owned by or
25 under the control of this state.

26 (e) The governor may delegate the powers granted by this
27 section to the adjutant general.

1 Sec. 437.005. AUTHORITY FOR STATE ACTIVE DUTY, STATE
2 TRAINING, AND OTHER DUTY. (a) The governor may activate all or
3 part of the Texas military forces to state active duty or for state
4 training and other duty. The governor may delegate all or part of
5 the authority granted by this section to the adjutant general.

6 (b) On delegation of the authority by the governor, the
7 adjutant general may order all or part of the Texas military forces
8 to state training and other duty if funding has been provided in the
9 General Appropriations Act or volunteer resources are available.

10 (c) On delegation of the authority by the governor, the
11 adjutant general may order all or part of the Texas military forces
12 to state training and other duty if requested by a federal, state,
13 or local governmental entity and the entity authorizes
14 reimbursement of the costs to this state.

15 (d) A service member called to state active duty or to state
16 training and other duty has the rights, privileges, duties,
17 functions, and authorities conferred or imposed by state law.

18 Sec. 437.006. OFFICERS. (a) The governor shall appoint
19 and commission officers of the Texas National Guard. To be eligible
20 for appointment, a service member must be qualified under United
21 States law and regulations.

22 (b) The adjutant general shall appoint and commission
23 officers, other than a general officer, in the Texas State Guard.
24 To be eligible for appointment, a service member must be qualified
25 under state guard regulations and be recommended for appointment by
26 the commander of the state guard.

27 (c) An officer appointed under this section shall take and

1 subscribe the official oath.

2 Sec. 437.007. ENLISTMENT AND APPOINTMENT. (a) Federal law
3 prescribes the terms and the qualifications and requirements for
4 enlistment and appointment in the Texas National Guard. The
5 governor and legislature may prescribe additional terms,
6 qualifications, and requirements that do not conflict with federal
7 law.

8 (b) Enlistment in the Texas State Guard is prescribed by
9 Subchapter G.

10 Sec. 437.008. MILITARY FACILITIES PROJECTS: MATCHING
11 FEDERAL FUNDS. If the governor, after consulting with the adjutant
12 general, determines that the state is eligible for federal matching
13 funds for projects at military facilities in this state, the
14 governor may direct that money appropriated for another purpose be
15 used to obtain the federal matching funds if the appropriation
16 authorizes the money to be used for that purpose.

17 SUBCHAPTER B. TEXAS MILITARY DEPARTMENT

18 Sec. 437.051. SUNSET PROVISION. The department is subject
19 to Chapter 325 (Texas Sunset Act). Unless continued in existence as
20 provided by that chapter, the department is abolished and this
21 subchapter expires September 1, 2019.

22 Sec. 437.052. ADJUTANT GENERAL: JURISDICTION, DIVISION OF
23 RESPONSIBILITIES, AND QUALIFICATIONS. (a) The adjutant general
24 exercises the jurisdiction and powers conferred by this subtitle.
25 The adjutant general is the governing officer, policy maker, and
26 head of the department.

27 (b) The adjutant general shall adopt and implement

1 regulations or policies that clearly separate the adjutant
2 general's responsibilities from the administrative
3 responsibilities of the department's executive director and staff.

4 (c) To be eligible for appointment as adjutant general, a
5 service member must:

6 (1) at the time of appointment, be serving as a
7 federally recognized officer of not less than colonel in the Texas
8 National Guard;

9 (2) have previously served on active duty or active
10 duty for training with the United States Army or Air Force;

11 (3) meet for the year the appointment is made the
12 submission requirements of the General Officer Federal Recognition
13 Board or its successor; and

14 (4) have completed at least 15 years of service as a
15 federally recognized reserve or active duty commissioned officer
16 with an active unit of the United States Army or Air Force, the
17 National Guard, or the Texas National Guard, including at least
18 five years with the Texas National Guard.

19 (d) The appointment of the adjutant general shall be made
20 without regard to the race, color, disability, sex, religion, age,
21 or national origin of the appointee.

22 Sec. 437.053. ADJUTANT GENERAL: DUTIES. The adjutant
23 general shall:

24 (1) perform duties assigned by the governor relating
25 to the military affairs of this state;

26 (2) assume responsibility for the overall leadership,
27 management, accountability, and operations of the Texas military

- 1 forces, including the transportation of troops, munitions,
2 military equipment, and property in this state;
- 3 (3) oversee the preparation of returns and reports
4 required of this state by the United States;
- 5 (4) maintain a register of all officers of the Texas
6 military forces;
- 7 (5) publish at state expense, when necessary, state
8 military law and regulations;
- 9 (6) make available annual reports concerning the Texas
10 military forces;
- 11 (7) establish reasonable and necessary fees for the
12 administration of this subtitle;
- 13 (8) employ and arm, as the adjutant general determines
14 appropriate, persons licensed under Title 10, Occupations Code, to
15 protect property that is under the adjutant general's authority and
16 to satisfy applicable security requirements;
- 17 (9) define and prescribe the kind and amount of
18 supplies, including operational munitions for use in this state, to
19 be purchased for the Texas military forces;
- 20 (10) prescribe general regulations for the
21 maintenance of supplies and for the transportation and distribution
22 of supplies from the place of purchase to camps, stations,
23 companies, or other necessary places of safekeeping;
- 24 (11) have supplies, whether the property of the United
25 States or this state, properly cared for and kept in good order and
26 ready for use; and
- 27 (12) as the adjutant general determines appropriate,

1 sell or destroy property and supplies or exchange property and
2 supplies for other military property and supplies.

3 Sec. 437.0531. EQUAL EMPLOYMENT OPPORTUNITY POLICY
4 STATEMENT. The adjutant general shall adopt a written policy
5 statement to implement a program of equal employment opportunity
6 under which all personnel transactions are made without regard to
7 race, color, disability, sex, religion, age, or national origin.
8 The policy statement must include:

9 (1) personnel policies, including policies relating
10 to recruitment, evaluation, selection, appointment, training, and
11 promotion of personnel that comply with Chapter 21, Labor Code;

12 (2) a comprehensive analysis of the department's
13 workforce that meets federal and state laws, rules, and regulations
14 and instructions directly adopted from those laws, rules, and
15 regulations;

16 (3) procedures for determining the extent of underuse
17 in the department's workforce of persons for whom federal or state
18 laws, rules, and regulations and instructions directly adopted from
19 those laws, rules, and regulations encourage a more equitable
20 balance; and

21 (4) reasonable methods to appropriately address the
22 areas of underuse described in Subdivision (3).

23 Sec. 437.054. ADJUTANT GENERAL: GENERAL POWERS. (a) The
24 adjutant general is the decision-making authority on all matters
25 concerning the location and maintenance of military forces and
26 facilities in this state. The adjutant general may set priorities
27 for the construction, renovation, repair, and maintenance of Texas

1 military forces armories, facilities, and improvements owned or
2 leased by this state. The adjutant general in this capacity is a
3 public authority and a body politic and corporate and has all powers
4 necessary for the acquisition, construction, rental, control,
5 maintenance, operation, and disposition of Texas military forces
6 facilities and real property and all associated property and
7 equipment.

8 (b) The adjutant general may execute the cooperative
9 agreements with the National Guard Bureau and an interagency
10 military agreement with a federal, state, or local governmental or
11 quasi-governmental agency.

12 (c) The adjutant general may delegate the authority granted
13 under this section in whole or in part.

14 Sec. 437.055. SEAL. The seal of the adjutant general
15 consists of a five-pointed star with "Adjutant General, State of
16 Texas" around the margin.

17 Sec. 437.056. MANDATORY TRAINING FOR ADJUTANT GENERAL.

18 (a) Before the adjutant general may assume the duties of the
19 office and before the adjutant general may be confirmed by the
20 senate, the adjutant general must complete at least one course of
21 the training program established under this section.

22 (b) A training program established under this section must
23 provide information to the adjutant general regarding:

24 (1) this chapter;

25 (2) the federal and state programs operated by the
26 department;

27 (3) the federal and state roles and functions of the

1 department;

2 (4) the regulations of the department, with an
3 emphasis on disciplinary and investigatory authority regulations;

4 (5) the current budget for the department, with
5 emphasis on state and federal funds;

6 (6) the results of the most recent formal federal and
7 state audits of the department;

8 (7) the requirements of:

9 (A) Chapter 552; and

10 (B) the federal Freedom of Information Act (5
11 U.S.C. Section 552);

12 (8) the requirements of the conflict-of-interest laws
13 and other laws relating to public officials;

14 (9) any applicable ethics policies adopted by the
15 department or the Texas Ethics Commission; and

16 (10) the requirements and development of the Master
17 Cooperative Agreements between this state and the federal
18 government.

19 Sec. 437.057. DEPUTY ADJUTANTS GENERAL. (a) A deputy
20 adjutant general has the rank prescribed by the governor, not to
21 exceed the grade authorized for federal recognition in the
22 position. A deputy adjutant general may not be promoted to a rank
23 higher than that of the adjutant general. A deputy adjutant general
24 is entitled to the rights, privileges, amenities, and immunities
25 granted officers of that rank in the Texas National Guard. A deputy
26 adjutant general may be removed from office by the governor.

27 (b) A deputy adjutant general shall assist the adjutant

1 general by performing assigned duties. If the adjutant general is
2 dead, absent, or unable to act, the deputy adjutant general who is
3 designated in the adjutant general's succession plan shall perform
4 the duties of the adjutant general.

5 (c) Each deputy adjutant general must complete the training
6 required of the adjutant general as prescribed by Section 437.056
7 not later than the 60th day after the date of appointment.

8 Sec. 437.058. GENERAL OFFICERS. (a) The adjutant general
9 may appoint as general officers an assistant deputy adjutant
10 general for army, an assistant deputy adjutant general for air, an
11 assistant deputy adjutant general for homeland security, and an
12 assistant deputy adjutant general for government affairs.

13 (b) A general officer may not be promoted to a rank higher
14 than that of the adjutant general.

15 (c) A general officer appointed under this section is
16 responsible to and serves at the pleasure of the adjutant general.

17 (d) The assistant deputy adjutant general for the army shall
18 support the deputy adjutant general for the army, represent the
19 command staff at events as needed, and manage the activities
20 assigned by the adjutant general or the deputy adjutant general for
21 the army.

22 (e) The assistant deputy adjutant general for the Army
23 National Guard or the Air National Guard, as determined by the
24 adjutant general, shall:

25 (1) coordinate with other state agencies in matters
26 pertaining to homeland security to ensure state emergency services
27 are provided and organized to support the state operations center;

1 and

2 (2) coordinate homeland security actions taken by the
3 National Guard Bureau in this state.

4 (f) The assistant deputy adjutant general for the Army
5 National Guard or the Air National Guard, as determined by the
6 adjutant general, shall coordinate activities of the Texas military
7 forces with the National Guard Bureau to ensure funding and
8 coordination with other federal, state, and local jurisdictions and
9 officials in matters relating to the operations of the Texas
10 military forces occurring in the assistant deputy adjutant
11 general's jurisdiction or oversight.

12 (g) The Texas military forces shall have at least one
13 traditional Texas Air National Guard general officer and two
14 traditional Texas Army National Guard general officers to support
15 the operation and command of the Texas National Guard.

16 Sec. 437.059. ADJUTANT GENERAL APPOINTMENTS. The adjutant
17 general, as the adjutant general determines appropriate and with
18 available funds, may appoint full-time employees of the department,
19 traditional national guard members, state guard volunteers, or
20 federal employees.

21 Sec. 437.060. CONFLICT OF INTEREST PROVISIONS. (a) A
22 person may not be appointed adjutant general, a deputy adjutant
23 general, a general officer, judge advocate general, or executive
24 director if the person is required to register as a lobbyist under
25 Chapter 305 because of the person's activities for compensation on
26 behalf of a profession related to the operation of the department.

27 (b) An officer, employee, or paid consultant of a Texas

1 trade association in the field of defense or veterans affairs may
2 not be appointed adjutant general, a deputy adjutant general, a
3 general officer, judge advocate general, or executive director.

4 (c) A person who is the spouse of an officer, manager, or
5 paid consultant of a Texas trade association in the field of defense
6 or veterans affairs may not be appointed adjutant general, a deputy
7 adjutant general, a general officer, judge advocate general, or
8 executive director.

9 (d) For the purposes of this section, a Texas trade
10 association is a nonprofit, cooperative, and voluntarily joined
11 association in this state designed to assist its members and its
12 industry or profession in dealing with mutual business or
13 professional problems and in promoting their common interest.

14 Sec. 437.061. REMOVAL PROVISIONS FOR ADJUTANT GENERAL.

15 (a) It is a ground for removal that the adjutant general:

16 (1) does not have at the time of appointment the
17 qualifications for service required by this chapter;

18 (2) does not maintain the qualifications for service
19 required by this chapter;

20 (3) does not obtain approval of the General Officer
21 Federal Recognition Board or its successors;

22 (4) is found to have violated ethical standards of
23 conduct of the federal government, this state, or the department;

24 or

25 (5) cannot discharge the duties required by the
26 position because of illness or disability.

27 (b) The validity of an action of the adjutant general is not

1 affected by the fact that it is taken when a ground for removal
2 exists.

3 (c) If a potential ground for removal exists, the deputy
4 adjutant general with the longest tenure in that position in the
5 department shall notify the governor that a potential ground for
6 removal exists.

7 Sec. 437.062. SALARIES. (a) The adjutant general is
8 entitled to a salary in the amount designated in the General
9 Appropriations Act.

10 (b) A deputy adjutant general, general officer, or
11 executive director employed under this chapter is entitled to a
12 salary subject to the classification and salary schedule provisions
13 defined in the General Appropriations Act.

14 SUBCHAPTER C. TEXAS MILITARY DEPARTMENT OPERATIONS

15 Sec. 437.101. EXECUTIVE DIRECTOR. (a) The executive
16 director is an employee of the department and serves at the pleasure
17 of the adjutant general.

18 (b) Subject to Sections 437.052 and 437.054, the executive
19 director may enter into contracts related to the purposes or duties
20 of the department and may have and use a corporate seal.

21 (c) The executive director is responsible for the daily
22 administration of the department and the operational compliance
23 with the cooperative agreements between the department and the
24 National Guard Bureau.

25 Sec. 437.102. DEPARTMENT PERSONNEL. (a) The executive
26 director may hire employees as necessary to carry on the operations
27 of the department.

1 (b) The executive director or the executive director's
2 designee shall provide to the adjutant general and to department
3 employees, as often as necessary, information regarding the
4 requirements for office or employment under this chapter, including
5 information regarding a person's responsibilities under applicable
6 laws relating to standards of conduct for state officers or
7 employees.

8 Sec. 437.103. STATE GUARD ADMINISTRATIVE PERSONNEL.

9 (a) Except as provided by Subsection (b), to be eligible to hold a
10 position relating to the daily operations and coordination of the
11 Texas State Guard, an employee must maintain membership in the
12 Texas State Guard.

13 (b) For good cause, the adjutant general may exempt a
14 position from the requirement under Subsection (a) by placing a
15 letter stating the reason for the exemption in the state human
16 resources files at the department.

17 Sec. 437.104. CAREER LADDER PROGRAM; PERFORMANCE
18 EVALUATIONS. (a) The executive director shall develop a career
19 ladder program. The program must require intra-agency postings of
20 all non-entry level positions concurrently with any public posting.

21 (b) The executive director shall develop a system of
22 employee performance evaluations. The system must require that
23 evaluations be conducted at least annually. All merit pay for
24 department employees must be based on the system established under
25 this subsection.

26 Sec. 437.105. AUTHORITY TO MAKE DIFFERENTIAL PAYMENTS. The
27 department may pay an employee additional compensation for duty

1 hours other than Monday through Friday normal business hours or for
2 the ability to legally carry weapons if required for the position.
3 The department shall adopt regulations to establish the
4 classification, procedures, and amount of the additional
5 compensation. The department may make differential payments only
6 if money is available to pay those amounts.

7 Sec. 437.106. HISTORICAL PRESERVATION OF RECORDS AND
8 PROPERTY. Except as provided by other law and in accordance with
9 all applicable federal and state requirements, the department shall
10 preserve all historically significant military records or property
11 in the Texas Military Forces Museum.

12 Sec. 437.107. REPORTS. (a) The department annually shall
13 submit to the governor and the presiding officer of each house of
14 the legislature a complete and detailed written report accounting
15 for all funds received and disbursed by the department during the
16 preceding fiscal year. The report must be in the form and reported
17 in the time provided by the General Appropriations Act.

18 (b) The department shall provide to the governor in December
19 of each even-numbered year:

20 (1) an account of all arms, ammunition, and other
21 military property owned by or in possession of this state and its
22 present condition;

23 (2) a statement of the number, condition, and
24 organization of the Texas military forces;

25 (3) suggestions important to the military interests
26 and conditions of this state;

27 (4) a list and description of all Texas military

1 forces missions that are in progress; and

2 (5) a statement of department plans to obtain and
3 maintain future Texas National Guard missions, including proposed
4 missions that are consistent with the United States Department of
5 Defense's strategies.

6 (c) Information relating to any current, proposed, or
7 planned mission that the adjutant general considers to be
8 classified or sensitive in nature is exempt from the reporting
9 requirement of Subsection (b).

10 Sec. 437.108. TECHNOLOGY POLICY. The department shall
11 develop and implement a policy requiring the executive director and
12 department's employees to research and propose appropriate
13 technological solutions to improve the department's ability to
14 perform its functions. The technological solutions must:

15 (1) ensure that the public is able to easily find
16 information about the department on the Internet;

17 (2) ensure that persons who want to use the
18 department's services are able to:

19 (A) interact with the department through the
20 Internet; and

21 (B) access any service that can be provided
22 effectively through the Internet; and

23 (3) be cost-effective and developed through the
24 department's planning processes.

25 Sec. 437.109. EXEMPTION FROM CERTAIN STATE ACTIVITIES.

26 (a) The department is exempt from the provisions of Chapter 2054
27 relating to the oversight of information resources and information

1 resource manager provisions to the extent the National Guard Bureau
2 and the United States Department of Defense provide information
3 technology and communications support to the department.

4 (b) Notwithstanding any other law, a service member
5 considered to be a temporary state employee is not considered to be
6 an employee of the department for the purpose of counting the number
7 of full-time equivalent positions authorized for the department in
8 the General Appropriations Act.

9 Sec. 437.110. POST EXCHANGES ON STATE MILITARY PROPERTY.

10 (a) The department may establish and contract for the operation of
11 not more than three military-type post exchanges similar to those
12 operated by the armed forces of the United States on any real
13 property under the management and control of the department. A post
14 exchange may sell, lease, or rent goods and services, including
15 firearms, tobacco products, prepared foods, and beer and wine but
16 not distilled spirits. The department may designate facilities
17 located on state property to use for purposes of this section.

18 (b) The adjutant general shall adopt regulations to govern
19 post exchanges established under this section that are similar to
20 the procedures, policies, and restrictions governing exchanges of
21 the Army and Air Force Exchange Service, including regulations that
22 require an individual to show identification indicating the
23 individual is qualified to buy, lease, or rent goods at the post
24 exchange.

25 (c) The department shall contract with a person to operate a
26 post exchange created under this section.

27 (d) A post exchange may sell, lease, or rent goods and

1 services only to:

2 (1) active, retired, and reserve members of the United
3 States armed services;

4 (2) active and retired members of the state military
5 forces;

6 (3) full-time employees of the adjutant general's
7 department; and

8 (4) dependents of an individual described by this
9 subsection.

10 (e) The post exchange services account is a unit fund under
11 Section 437.211. For purposes of Section 437.211, the commander is
12 the installation commander. The post exchange services account is
13 exempt from the application of Sections 403.095 and 404.071. The
14 account consists of:

15 (1) money received from the operation of post
16 exchanges created under this section; and

17 (2) all interest attributable to money held in the
18 account.

19 (f) A post exchange created under this section may sell
20 goods and services, including beer and wine but not distilled
21 spirits, for off-premises consumption if the operator of the
22 exchange holds the appropriate license or permit issued by the
23 Texas Alcoholic Beverage Commission. The licensee or permittee
24 shall comply in all respects with the Alcoholic Beverage Code and
25 the rules of the Texas Alcoholic Beverage Commission.

26 (g) Chapter 94, Human Resources Code, does not apply to
27 vending facilities operated at a post exchange.

1 Sec. 437.111. DONATIONS. (a) Except as provided by
2 Subsections (d) and (e), all money paid to the department under this
3 chapter is subject to Subchapter F, Chapter 404.

4 (b) The department may accept funds, property, or services
5 donated by any public or private entity, including:

6 (1) a state agency or department;

7 (2) a political subdivision, including a county,
8 municipality, or public school district; or

9 (3) a special purpose district or authority.

10 (c) The department may solicit and accept gifts, grants, or
11 donations from any private or public entity to support the Texas
12 military forces or the Texas Military Forces Museum and may spend
13 the proceeds consistent with donor limitations and for the use of
14 the Texas military forces, the museum, or the department.

15 (d) The department may accept a donation or transfer of
16 funds from the federal government directly or through another
17 agency or from an agency or political subdivision of this state.
18 The funds shall be deposited with the comptroller. The funds may be
19 used for the legal purposes of the department as provided in the
20 donation or transfer. The comptroller shall make payments from the
21 funds on a properly drawn warrant issued by the comptroller on
22 request of the adjutant general and approval of the governor under
23 rules adopted by the comptroller.

24 (e) A unit may accept funds for the benefit of a particular
25 military unit in a unit fund as prescribed in Section 437.211.

26 Sec. 437.112. INFORMATION OF INTEREST; COMPLAINTS.

27 (a) The department shall prepare information of public interest

1 describing the functions of the department and the procedures by
2 which complaints are filed with and resolved by the department. The
3 department shall make the information available to the public and
4 appropriate state agencies.

5 (b) The adjutant general shall adopt policies to establish
6 methods for notifying the public and members of the Texas National
7 Guard of the department's name, mailing address, and telephone
8 number for the purpose of directing complaints to the department.

9 (c) The department shall maintain a file on each written
10 complaint filed with the department. The file must include:

11 (1) the name of the person who filed the complaint;

12 (2) the date the complaint is received by the
13 department;

14 (3) the subject matter of the complaint;

15 (4) the name of each person contacted in connection
16 with the complaint;

17 (5) a summary of the results of the review or
18 investigation of the complaint; and

19 (6) an explanation of the reason the file was closed,
20 if the department closed the file without taking action other than
21 to investigate the complaint.

22 (d) The department shall provide to the person filing the
23 complaint and to each person who is the subject of the complaint a
24 copy of the department's policies and procedures relating to
25 complaint investigation and resolution unless the notice would
26 jeopardize an undercover investigation.

27 (e) The department, at least quarterly until final

1 disposition of the complaint, shall notify the person filing the
2 complaint and each person who is the subject of the complaint of the
3 status of the investigation unless the notice would jeopardize an
4 undercover investigation.

5 Sec. 437.113. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

6 (a) The department shall develop and implement a policy to
7 encourage the use of appropriate alternative dispute resolution
8 procedures under Chapter 2009 to assist in the resolution of
9 internal and external disputes within the department's
10 jurisdiction.

11 (b) The department's procedures relating to alternative
12 dispute resolution must conform, to the extent possible, to any
13 model guidelines issued by the State Office of Administrative
14 Hearings for the use of alternative dispute resolution by state
15 agencies.

16 (c) The department shall designate a trained person to:

17 (1) coordinate the implementation of the policy
18 adopted under Subsection (a);

19 (2) serve as a resource for any training needed to
20 implement the procedures for negotiated rulemaking or alternative
21 dispute resolution; and

22 (3) collect data concerning the effectiveness of those
23 procedures, as implemented by the department.

24 Sec. 437.114. SUPPLIES. (a) The department may purchase
25 from money appropriated to the department and keep ready for use,
26 store, or issue a necessary amount of ordnance, subsistence,
27 medical, signal, engineering, and other supplies.

1 (b) The department may dispose of or exchange supplies owned
2 by this state that are unfit for further use as the department
3 determines is in the best interest of the Texas military forces.

4 (c) The department shall provide each state military unit
5 with the arms, equipment, instruction and record books, and other
6 supplies necessary for performance of the duties required of the
7 unit by this chapter. The unit shall keep the property in proper
8 repair and good condition. The department may execute bonds in the
9 name of this state as necessary to obtain this property.

10 Sec. 437.115. BIDS. The department shall adopt rules
11 governing the preparation, submission, and opening of bids for
12 contracts.

13 Sec. 437.116. PROGRAM ACCESSIBILITY. The department shall
14 comply with federal and state laws related to program
15 accessibility. The department shall also prepare and maintain a
16 written plan that describes how a person who does not speak English
17 can be provided reasonable access to the department's programs and
18 services.

19 Sec. 437.117. TEXAS CHALLENGE ACADEMY. (a) For each
20 student enrolled in the Texas Challenge Academy, the department is
21 entitled to allotments from the Foundation School Program under
22 Chapter 42, Education Code, as if the academy were a school district
23 without a tier one local share for purposes of Section 42.253,
24 Education Code.

25 (b) The department shall contract with an appropriate
26 school district for the provision of educational services for
27 students enrolled in the academy. The school district with which

1 the department contracts shall be responsible for ensuring
2 compliance with any applicable regulatory requirements imposed
3 under the Education Code and enforced by the commissioner of
4 education and the Texas Education Agency.

5 Sec. 437.118. USE OF FUNDS TO SUPPORT MILITARY HOUSING AND
6 TRAINING. (a) The department may use appropriated money to
7 purchase food and beverages for charged military housing and
8 training functions required of the Texas military forces.

9 (b) The department shall maintain and operate charged
10 military housing in accordance with policies and regulations
11 adopted by the adjutant general and published on the department's
12 Internet website. The department shall deposit room fees in a
13 billeting account.

14 SUBCHAPTER D. REAL PROPERTY MANAGEMENT

15 Sec. 437.151. REAL PROPERTY ADVISORY COUNCIL. (a) The
16 real property advisory council is composed of the following eight
17 members:

- 18 (1) two deputy adjutants general;
19 (2) the executive director; and
20 (3) five public members who are not actively serving
21 in the Texas National Guard and who have experience in
22 architecture, construction management, engineering, property
23 management, facilities maintenance management, real estate
24 services, or real property law.

25 (b) The public members of the advisory council are appointed
26 to staggered three-year terms by the adjutant general.

27 (c) The adjutant general shall adopt regulations specifying

1 the requirements, term limits, and expectations for the advisory
2 council.

3 (d) The adjutant general shall designate one of the public
4 members of the advisory council as the presiding officer of the
5 advisory council to serve in that capacity at the pleasure of the
6 adjutant general.

7 (e) The director of the facilities management office is
8 responsible for administration and coordination of council
9 meetings and preparation of materials with input from the council
10 membership.

11 (f) The council shall meet at least two times each fiscal
12 year to advise the department on:

- 13 (1) the facility master plan;
- 14 (2) the long-range construction plan;
- 15 (3) the selection of architecture and engineering
16 firms;
- 17 (4) requests for bonding authority for state military
18 facilities;
- 19 (5) the disposal or sale of department property;
- 20 (6) surface leases of department property;
- 21 (7) natural resources management plans; and
- 22 (8) environmental studies and agreements.

23 (g) Each public member of the advisory council is entitled
24 to a per diem as provided by the General Appropriations Act for each
25 day that the member engages in the business of the council.

26 (h) Each member of the advisory council is entitled to
27 reimbursement for meals, lodging, transportation, and incidental

1 expenses:

2 (1) under the rules for reimbursement that apply to
3 the member's office or employment, if the member is a state officer
4 or employee; or

5 (2) as provided by the General Appropriations Act if
6 the member is not a state officer or employee.

7 (i) The advisory council is not subject to Chapter 2110.

8 Sec. 437.152. PUBLIC COMMENT. The advisory council shall
9 develop and implement policies that provide the public with a
10 reasonable opportunity to at least annually appear before the
11 council and speak on any issue related to the construction, repair,
12 and maintenance of Texas military forces armories, facilities, and
13 improvements under the jurisdiction of the department.

14 Sec. 437.153. BORROWING MONEY; ISSUING AND SELLING BONDS.

15 (a) The department may borrow money in the amount and under
16 circumstances allowed by the Texas Constitution and may request the
17 Texas Public Finance Authority, on behalf of the department, to
18 issue and sell fully negotiable bonds to acquire, construct,
19 remodel, repair, or equip one or more facilities.

20 (b) The Texas Public Finance Authority may sell the bonds in
21 any manner it determines to be in the best interest of the
22 department, except that it may not sell a bond that has not been
23 approved by the attorney general and registered with the
24 comptroller.

25 Sec. 437.154. REPORT OF MILITARY USE OF PROPERTY. (a) If
26 the department receives notice from the General Land Office as
27 provided by Section 31.156, Natural Resources Code, the department

1 shall produce a report evaluating the military use of any real
2 property under the management and control of the department.

3 (b) Not later than August 1 of the year in which the
4 commissioner of the General Land Office submits a report as
5 provided by Section 31.157, Natural Resources Code, the department
6 shall submit a preliminary report of the report required under
7 Subsection (a) to the commissioner of the General Land Office
8 identifying the real property used for military purposes. Not
9 later than September 1 of the year in which the commissioner of the
10 General Land Office submits a report as provided by Section 31.157,
11 Natural Resources Code, the department shall submit the final
12 report as required by Subsection (a) to:

13 (1) the governor;

14 (2) the presiding officer of each house of the
15 legislature;

16 (3) the Legislative Budget Board; and

17 (4) the governor's budget office.

18 Sec. 437.155. ACQUISITION; MANAGEMENT; PLEDGE OF RENTS,
19 ISSUES, AND PROFITS. (a) The department by gift, lease, or
20 purchase may acquire real property, including leasehold estates in
21 real property, for any purpose the department considers necessary
22 for the use of the Texas military forces.

23 (b) The department may acquire furniture and equipment
24 suitable for facility purposes by gift, purchase, or construction.

25 (c) The department may:

26 (1) hold, manage, or maintain the property;

27 (2) after the analysis required under Section

1 437.163(b), if applicable, lease or sell the property; and

2 (3) pledge all or part of the rents, issues, and
3 profits of the property.

4 (d) The department may own and operate or contract with a
5 vendor to provide temporary lodging facilities for use of military
6 and retired military personnel. The department shall publish
7 information on the department's Internet website outlining the
8 operation, use, and fee structure for temporary lodging facilities.
9 Out of the money received for operating the temporary lodging
10 facilities, the department may procure the necessary furnishings,
11 goods, and services to manage and operate the temporary lodging
12 facilities.

13 (e) The adjutant general, deputy adjutant general for the
14 air, and deputy adjutant general for the army may reside in
15 state-owned housing and are exempt from paying housing costs. The
16 department may allocate existing department housing to other
17 department employees who demonstrate a need based on location and
18 job description at a rate in accordance with the General
19 Appropriations Act.

20 (f) The department shall deposit proceeds from any land
21 lease or other revenue under this section, other than daily fee
22 deposits that qualify as unit funds, into the state treasury to the
23 credit of the department for the use and benefit of the facilities
24 of the Texas military forces. If any part of these funds remains
25 unexpended and unobligated at the end of the state fiscal year, that
26 amount is dedicated for the same purposes in the subsequent year.
27 Money in the fund may not be diverted for any other purpose.

1 Sec. 437.156. CONSTRUCTION; FURNISHING AND EQUIPMENT.

2 (a) The department may construct buildings on real property held
3 by the department in fee simple or otherwise. The department may
4 furnish and equip the buildings.

5 (b) The department may construct a building on land
6 comprising a site licensed or otherwise provided to this state by
7 the federal government. If the department constructs a building on
8 that site, the site becomes the property of the department for all
9 purposes of this chapter as if the site had been acquired by gift to
10 or purchase by the department.

11 (c) Department buildings that are constructed or undergoing
12 major renovations must include information distribution system
13 provisions in the contract.

14 Sec. 437.157. LEASE OF PROPERTY. (a) In this section,
15 "lease" includes a sublease.

16 (b) After the analysis required under Section 437.163(b),
17 if applicable, the department may lease property to any person.

18 (c) The law requiring notice and competitive bids does not
19 apply to a lease under this section.

20 Sec. 437.158. TRANSFER TO STATE. When property that the
21 Texas Public Finance Authority owns in accordance with Section
22 437.159 is fully paid for and free of liens and all obligations
23 incurred in connection with the acquisition and construction of the
24 property have been fully paid, the Texas Public Finance Authority
25 shall donate and transfer the property to the department by
26 appropriate instruments of transfer. The instruments of transfer
27 shall be kept in the custody of the department.

1 Sec. 437.159. PROPERTY FINANCED BY BONDS. Notwithstanding
2 any other provision of this chapter, property used by this state for
3 military purposes that was acquired, constructed, remodeled, or
4 repaired using money from bonds and that has not yet been
5 transferred under Section 437.158 is owned by the Texas Public
6 Finance Authority and a reference to the department in this chapter
7 in relation to that ownership means the Texas Public Finance
8 Authority until the property is transferred.

9 Sec. 437.160. DONATION OF PROPERTY. The governing body of a
10 county or municipality, on behalf of the county or municipality,
11 may donate real property to the department for use as a Texas
12 military forces facility. The donation may be in fee simple or
13 otherwise.

14 Sec. 437.161. TAX STATUS OF PROPERTY. Property held by the
15 department and rents, issues, and profits from the property are
16 exempt from taxation by the state, a municipality, a county or other
17 political subdivision, or a taxing district of this state.

18 Sec. 437.162. FACILITY ACCESSIBILITY. The department for
19 new facility construction shall comply with federal and state laws
20 related to facility accessibility.

21 Sec. 437.163. DISPOSAL OF CERTAIN SURPLUS REAL PROPERTY.
22 (a) When department property that is owned or transferred to this
23 state is fully paid for and free of liens incurred in connection
24 with the acquisition and construction of the property, the
25 department may, after conducting the analysis required under this
26 section, if applicable, properly dispose of the property that is
27 designated by the adjutant general as surplus.

1 (b) Before granting or conveying an interest in real
2 property under this subchapter, the department must conduct an
3 analysis to determine whether the disposal of property is in the
4 best interests of the Texas military forces and evaluate whether
5 each unit of the Texas military forces has adequate facility space
6 to ensure that ongoing operations are maintained.

7 (c) To accomplish the purposes of Subsection (a), the
8 department may remove, dismantle, or sever any of the property or
9 authorize its removal, dismantling, or severance.

10 (d) If property under this section is designated as surplus,
11 the department may sell the property to the highest and best bidder
12 for cash using either sealed bid or public auction. The department
13 may reject any or all bids. If the site is considered historical,
14 the department may evaluate other factors relating to ensuring the
15 long-term care of the site when selecting the winning bidder.

16 (e) If property under this section is designated for
17 exchange, the department may exchange the property for one or more
18 parcels of land equal to or exceeding the value of the property to
19 be exchanged.

20 (f) A sale, deed, or exchange made under this section must
21 reserve to this state a one-sixteenth mineral interest free of cost
22 of production.

23 (g) The department may:

24 (1) reconvey to the original grantor or donor all
25 rights, title, and interests, including mineral interests, to all
26 or part of the land conveyed by that person; and

27 (2) convey to the original grantor or donor, on a

1 negotiated basis at fair market value, improvements constructed on
2 the land reconveyed.

3 (h) The department shall deposit proceeds of sales under
4 this section in the state treasury to the credit of the department
5 for the use and benefit of the Texas military forces.

6 SUBCHAPTER E. TEXAS MILITARY FORCES

7 Sec. 437.201. CERTIFICATION OF MILITARY UNITS. The
8 adjutant general shall issue each unit a certificate stating that
9 the unit has been duly organized according to the laws and
10 regulations of the Texas military forces and is entitled to the
11 rights, powers, privileges, amenities, and immunities conferred by
12 law and military regulation. The certificate is evidence in a state
13 court that the unit is duly incorporated.

14 Sec. 437.202. LEAVE OF ABSENCE FOR PUBLIC OFFICERS AND
15 EMPLOYEES. (a) Except as provided by Subsections (b) and (c), a
16 person who is an officer or employee of this state, a municipality,
17 a county, or another political subdivision of this state and who is
18 a member of the Texas military forces, a reserve component of the
19 armed forces, or a member of a state or federally authorized urban
20 search and rescue team is entitled to a paid leave of absence from
21 the person's duties on a day on which the person is engaged in
22 authorized training or duty ordered or authorized by proper
23 authority for not more than 15 workdays in a fiscal year. During a
24 leave of absence, the person may not be subjected to loss of time,
25 efficiency rating, personal time, sick leave, or vacation time.

26 (b) An officer or employee of this state is entitled to
27 carry forward from one fiscal year to the next the net balance of

1 unused accumulated leave under Subsection (a) that does not exceed
2 45 workdays.

3 (c) A member of the legislature is entitled to pay for all
4 days that the member is absent from a session of the legislature and
5 engaged in training or duty as provided by Subsection (a).

6 (d) A state employee who is a member of the Texas military
7 forces, a reserve component of the armed forces, or a member of a
8 state or federally authorized urban search and rescue team and who
9 is ordered to duty by proper authority is entitled, when relieved
10 from duty, to be restored to the position that the employee held
11 when ordered to duty.

12 Sec. 437.203. DUAL OFFICE HOLDING. A position in or
13 membership in the Texas military forces is not considered to be a
14 civil office of emolument.

15 Sec. 437.204. REEMPLOYMENT OF SERVICE MEMBER CALLED TO
16 TRAINING OR DUTY. (a) An employer may not terminate the
17 employment of an employee who is a member of the state military
18 forces of this state or any other state because the employee is
19 ordered to authorized training or duty by a proper authority. The
20 employee is entitled to return to the same employment held when
21 ordered to training or duty and may not be subjected to loss of
22 time, efficiency rating, vacation time, or any benefit of
23 employment during or because of the absence. The employee, as soon
24 as practicable after release from duty, must give written or actual
25 notice of intent to return to employment.

26 (b) A violation of this section is an unlawful employment
27 practice. A person injured by a violation of this section may file

1 a complaint with the Texas Workforce Commission civil rights
2 division under Subchapter I.

3 Sec. 437.205. OATH. (a) A commissioned officer of the
4 Texas military forces may administer oaths for purposes of military
5 administration. The officer's signature, without seal, and the
6 title of the officer's assignment is prima facie evidence of the
7 officer's authority.

8 (b) A person appointed, enlisted, or drafted in the Texas
9 military forces shall take and subscribe an oath prescribed by the
10 adjutant general.

11 Sec. 437.206. COMMISSIONS. (a) An initial state
12 commission in the Texas military forces must be:

- 13 (1) in the name and by authority of this state;
- 14 (2) sealed with the state seal;
- 15 (3) signed by the governor and attested by the
16 secretary of state;
- 17 (4) recorded by the Texas military forces; and
- 18 (5) conferred without fee.

19 (b) On the recommendation of the commanding officer or
20 noncommissioned officer of the Texas military forces, the governor
21 may confer on the officer or noncommissioned officer a brevet of a
22 grade higher than the ordinary commission or brevet held by the
23 officer or noncommissioned officer for gallant conduct or
24 meritorious military service. The adjutant general shall specify
25 the criteria for gallant conduct or meritorious military service.

26 (c) The governor may confer on an officer in active service
27 in the Texas military forces who has previously served in the forces

1 of the United States during a war a brevet of a grade equal to the
2 highest grade in which the officer previously served.

3 (d) A commission under Subsection (b) or (c) carries only
4 the privileges or rights allowed for similar commissions in the
5 military service of the United States.

6 (e) The governor, without examination, may appoint and
7 confer a brevet of second lieutenant on an enlisted service member
8 who has served well and faithfully in the Texas military forces for
9 25 years or more. The service member shall immediately be placed on
10 the retired list.

11 (f) The governor may delegate the powers granted by this
12 section to the adjutant general.

13 Sec. 437.207. MILITARY UNIT AS CORPORATE BODY. (a) A
14 military unit in the Texas military forces is, from the time of its
15 creation, a body politic and corporate and may:

16 (1) take, purchase, own, hold, transfer, pledge, and
17 convey under its corporate name property of a total value, when
18 acquired, of not more than \$200,000;

19 (2) sue and be sued, plead and be impleaded, and
20 prosecute and defend in court under its corporate name;

21 (3) have and use a common seal in a form it adopts;

22 (4) adopt bylaws to govern and regulate its affairs,
23 consistent with state law and United States law and the orders and
24 regulations of the governor; and

25 (5) otherwise act as necessary and proper to carry out
26 its purpose.

27 (b) The officers of the unit are its directors. The senior

1 officer is its president.

2 (c) The power of a unit to hold or handle property is not
3 affected by a natural increase in the property's value after it is
4 acquired.

5 Sec. 437.208. ORGANIZATION PROHIBITED. (a) Except as
6 provided by Subsection (b), a body of persons other than the
7 regularly organized Texas military forces, the armed forces of the
8 United States, or the active militia of another state may not
9 associate as a military company or organization or parade in public
10 with firearms in a municipality of the state.

11 (b) With the consent of the governor, students in an
12 educational institution at which military science is a prescribed
13 part of the course of instruction may drill and perform ceremonies
14 with firearms in public. The governor may delegate the powers
15 granted by this subsection to the adjutant general.

16 Sec. 437.209. FOREIGN TROOPS. A military force from
17 another state, territory, or district, except a force that is on
18 federal orders and acting as a part of the United States armed
19 forces, may not enter this state without the permission of the
20 governor. The governor may delegate the powers granted by this
21 section to the adjutant general.

22 Sec. 437.210. INTERFERENCE WITH TEXAS MILITARY FORCES.
23 (a) A person commits an offense if the person physically and
24 intentionally hinders, delays, or obstructs or intentionally
25 attempts to hinder, delay, or obstruct a portion of the Texas
26 military forces on active duty in performance of a military duty.

27 (b) An offense under Subsection (a) is a Class B

1 misdemeanor.

2 (c) The commanding officer of a portion of the Texas
3 military forces parading or performing a military duty in a street
4 or highway may require a person in the street or highway to yield
5 the right-of-way to the forces, except that the commanding officer
6 may not interfere with the carrying of the United States mail, a
7 legitimate function of the police, or the progress or operation of
8 an emergency medical services provider or fire department.

9 (d) During an occasion of duty, a commanding officer may
10 detain a person who:

11 (1) trespasses on a place of duty;

12 (2) interrupts or molests the orderly discharge of
13 duty by those under orders; or

14 (3) disturbs or prevents the passage of troops going
15 to or coming from duty.

16 (e) The commanding officer shall make a reasonable effort to
17 forward detained individuals to civil authorities as soon as
18 practicable.

19 Sec. 437.211. MANAGEMENT OF UNIT FUNDS. (a) The
20 commanding officer of each unit is the custodian of the unit fund.
21 The commanding officer shall:

22 (1) receive, keep, properly disburse, and document the
23 use of the money in the fund; and

24 (2) submit to the department an itemized statement of
25 money received and disbursed during the preceding reporting period:

26 (A) on September 1 of each year; and

27 (B) when there is a change of the commanding

1 officer of the unit.

2 (b) The unit fund consists of:

3 (1) donations made to the fund;

4 (2) rental income from state facilities under the
5 management of the unit that are leased for less than three days;

6 (3) revenue received from the sale of goods or
7 services to members of the unit and visitors; and

8 (4) depository interest and investment income earned
9 on amounts in the fund.

10 (c) A unit fund is a special fund held outside the state
11 treasury to be administered by the commanding officer of the unit
12 without further appropriation. A unit fund is not subject to
13 Chapter 2256. The department shall develop policies and procedures
14 concerning the administration of the funds. If any part of the fund
15 remains unexpended and unobligated at the end of the state fiscal
16 year, that amount is dedicated for the same purposes in the
17 subsequent year. Money in the fund may not be diverted for any
18 other purpose.

19 (d) Chapter 94, Human Resources Code, does not apply to
20 vending facilities operated for the benefit of a unit fund.

21 Sec. 437.212. PAY AND BENEFITS FOR STATE ACTIVE DUTY, STATE
22 TRAINING, AND OTHER DUTY. (a) This state may make suitable
23 provision for the pay, transportation, subsistence, and housing of
24 service members on state active duty or state training and other
25 duty as necessary to accomplish the mission.

26 (b) Pay and benefits received by service members of the
27 Texas military forces under this chapter are not a gratuity, but are

1 compensation for services provided as a condition of membership in
2 the Texas military forces.

3 (c) Service members who are state employees when called by
4 proper authority into a state active duty status or for state
5 training and other duty status are entitled to the regular benefits
6 provided by the employing agency and a paid leave of absence as
7 provided by Section 437.202.

8 (d) A service member who is not a state employee when called
9 by proper authority into a state active duty status or state
10 training and other duty status becomes a temporary state employee
11 when in this status and is limited to the benefits specified in this
12 chapter. A temporary state employee status does not apply to a
13 service member who is a federal civil servant or on active guard
14 reserve status, including a member serving on orders issued under
15 Title 10 or 32, United States Code.

16 (e) A service member compensated under this section is
17 eligible for state workers' compensation coverage under Chapter
18 501, Labor Code.

19 (f) A volunteer in the Texas State Guard who is not a
20 full-time or part-time state employee and who has been on state
21 active duty or on state training or other duty for more than 90 days
22 is eligible to participate in the state group benefits program
23 under Chapter 1551, Insurance Code, to purchase health or dental
24 insurance coverage, subject to the following requirements:

25 (1) the participant must be a member of the Texas State
26 Guard at the time of enrollment in the group benefits program;

27 (2) the participant must pay the full cost of health or

1 dental insurance coverage under the group benefits program and may
2 not receive a state contribution for premiums; and

3 (3) an application under this subsection for group
4 benefit health or dental insurance coverage must be submitted in
5 accordance with procedures established by the Employees Retirement
6 System of Texas.

7 (g) The adjutant general and the Employees Retirement
8 System of Texas shall coordinate and consult to implement the
9 benefits program provided by Subsection (f) and shall adopt a
10 memorandum of understanding to establish:

11 (1) the procedures that a member of the Texas State
12 Guard may use to elect to participate in the state group benefits
13 program; and

14 (2) an appropriate method to annually confirm
15 continuing eligibility to participate in the group benefits
16 program.

17 (h) A service member who is on active guard reserve status,
18 including a member serving on orders issued under Title 10 or 32,
19 United States Code, may not receive state active duty pay or state
20 training and other duty pay.

21 (i) A service member who is a federal technician in a paid
22 status may not receive state active duty pay or pay for state
23 training and other duty unless the member is on a military leave or
24 leave without pay status from the federal employment.

25 Sec. 437.213. CERTAIN BENEFITS AND PROTECTIONS FOR STATE
26 SERVICE. A service member of the Texas military forces who is
27 ordered to state active duty or to state training and other duty by

1 the governor, the adjutant general, or another proper authority
2 under the law of this state is entitled to the same benefits and
3 protections provided to persons:

4 (1) performing service in the uniformed services as
5 provided by 38 U.S.C. Sections 4301-4313 and 4316-4319, as that law
6 existed on April 1, 2003; and

7 (2) in the military service of the United States as
8 provided by 50 App. U.S.C. Sections 501-536, 560, and 580-594, as
9 that law existed on April 1, 2003.

10 Sec. 437.214. MILITARY FUNERALS AND HONORS. (a) On the
11 request of a person listed in Subsection (b), the Texas military
12 forces may provide a military funeral and honor service for a
13 decedent who served in the Texas military forces.

14 (b) The following persons may request a military funeral and
15 honor service from the Texas military forces:

16 (1) the decedent's spouse;

17 (2) the decedent's adult children, if there is no
18 spouse;

19 (3) the decedent's parents, if there is no spouse or
20 adult child;

21 (4) the decedent's brothers or sisters, if there is no
22 spouse, adult child, or parent; or

23 (5) the executor or administrator of the decedent's
24 estate, if there is no spouse, adult child, parent, or brother or
25 sister.

26 (c) A service member is not eligible for a military funeral
27 and honor service under this section if the service member is

1 eligible for a military funeral and honor service under federal
2 law.

3 (d) The Texas military forces shall model the military
4 funeral and honor service after the service provided by the federal
5 government.

6 Sec. 437.215. GRAVE MARKERS FOR STATE MILITARY PERSONNEL.

7 (a) On the request of a person listed in Subsection (b), the
8 department shall provide a grave marker for a decedent who served in
9 the Texas military forces.

10 (b) The grave marker may be requested from the department by
11 a person described by Section 437.214(b).

12 (c) A service member is not eligible for a grave marker
13 under this section if the service member is eligible for a grave
14 marker under federal law.

15 (d) The department shall model the grave markers after the
16 grave markers provided by the federal government.

17 (e) The department shall publish information about its
18 grave marker program on the department's Internet website.

19 Sec. 437.216. SERVICE REFERRAL PROGRAM. (a) The Texas
20 military forces shall develop a program to provide referrals to
21 service members for reintegration services.

22 (b) The program shall:

23 (1) identify and make referrals to community-based
24 organizations that have existing programs that provide
25 reintegration services to service members and their families;

26 (2) focus on early intervention and appropriate
27 referral to promote the health of service members and the children

1 and other family members of the service members;

2 (3) promote family cohesion and sustainability;

3 (4) be based on evidence-based best practices related
4 to meeting the needs of service members and the children and other
5 family members of the service members;

6 (5) be provided, when appropriate, in a community
7 setting through peer counseling and other means effective for
8 community outreach;

9 (6) use existing service delivery facilities,
10 including churches, National Guard Bureau family education
11 facilities, and veterans centers and support facilities;

12 (7) use community-based and faith-based
13 organizations;

14 (8) be developed and administered in a manner that
15 promotes collaboration of service providers and results in the
16 referral of service members, their children, and other family
17 members to the appropriate federal, state, and community services
18 for which they are eligible; and

19 (9) provide information and referral services
20 regarding the risks and consequences of trauma, including
21 post-traumatic stress disorder, traumatic brain injury, and other
22 conditions for which service members are at risk.

23 (c) The Texas military forces shall ensure that:

24 (1) each person who provides referrals to service
25 members under the referral program has received sufficient training
26 to ensure that service members receive accurate information; and

27 (2) service members are notified in a timely manner

1 about the service referral program.

2 (d) In developing the referral program, the Texas military
3 forces shall consult with the National Guard Bureau, the United
4 States Veterans Health Administration, the Health and Human
5 Services Commission, the Texas A&M Health Science Center College of
6 Medicine, and The University of Texas Health Science Center at San
7 Antonio.

8 Sec. 437.217. EXEMPTION FROM FEES FOR DEPLOYED MILITARY
9 PERSONNEL. (a) A member of the National Guard on federal active
10 duty, or a member of the armed forces of the United States on active
11 duty, who is preparing to be deployed to serve in a hostile fire
12 zone as designated by the United States secretary of defense is
13 exempt from paying the following state or local governmental fees
14 the member incurs because of the deployment to arrange the member's
15 personal affairs:

16 (1) fees for obtaining copies of:

17 (A) a birth certificate;

18 (B) a recorded marriage license;

19 (C) a divorce decree;

20 (D) a child support order;

21 (E) guardianship documents; and

22 (F) property tax records;

23 (2) fees for issuing a marriage license or duplicate
24 marriage license; and

25 (3) fees for transferring title to real or personal
26 property.

27 (b) The governmental entity responsible for collecting a

1 fee described by Subsection (a) may rely on a letter issued by the
2 commander of the service member's unit for purposes of providing an
3 exemption under Subsection (a).

4 Sec. 437.218. TAX EXEMPTION. (a) An officer or enlisted
5 service member in the Texas military forces who complies with the
6 service member's military duties as prescribed by this chapter is
7 exempt from payment of a road or street tax.

8 (b) To obtain the exemption, a service member must file in
9 the county tax assessor-collector's office an affidavit, sworn to
10 before a notary public or other person authorized to administer
11 oaths in this state, in the following form:

12 "I, _____, do hereby solemnly swear or affirm that I am a
13 service member in good standing of the Texas military forces of the
14 State of Texas.

15 Subscribed to and sworn to before me this _____ day of
16 _____, _____

17 SEAL

18 _____
19 _____
20 Notary Public in and for
21 _____ County, Texas"

22 (c) The county tax assessor-collector may rely on a letter
23 issued by the commander of the service member's unit for purposes of
24 providing the exemption under this section.

25 Sec. 437.219. COMPENSATION. (a) Except as provided by
26 Section 437.220, a member of the Texas military forces who performs
27 training or other military duty under authority of the United

1 States Code may not receive pay or allowances from this state for
2 that duty.

3 (b) When orders are issued for state active duty or state
4 training or other duty, a National Guard service member of the Texas
5 military forces performing the duty or training is entitled, during
6 the period of the duty or training, to receive pay and allowances as
7 provided by law for the United States armed forces. Pay is a
8 stipend for duty or training and is salary or base pay. The pay may
9 not be reduced because of food, shelter, or transportation that
10 this state pays or furnishes in connection with the duty or
11 training.

12 (c) The adjutant general shall set the daily pay rate and
13 allowance rate for state active duty and for state training and
14 other duty for Texas State Guard service members called to duty or
15 training under this chapter. The rate established by the adjutant
16 general may not exceed the meal and lodging rate set by the
17 comptroller by more than \$25 per day. The department shall publish
18 information about the established pay rates on the department's
19 Internet website.

20 (d) Duty or training by volunteers in the Texas State Guard
21 without pay is considered for insurance and state coverage purposes
22 as if it were duty or training for pay.

23 Sec. 437.220. SUPPLEMENTAL DUTY PAY FOR ECONOMIC HARDSHIP.

24 (a) A person who is called to military duty as a member of the
25 Texas National Guard in the service of this state or the United
26 States by proper federal or state authority and who suffers an
27 economic hardship as a result of serving on military duty is

1 eligible to receive supplemental pay for serving in accordance with
2 this section. Payment under this subsection is subject to the
3 availability of funds.

4 (b) The comptroller shall establish the Texas National
5 Guard members' supplemental military duty pay account in the
6 general revenue fund. Money in the account may be appropriated only
7 for purposes of implementing this section. The comptroller,
8 governor, or adjutant general may accept gifts and grants for
9 deposit to the credit of the account. The legislature may transfer
10 money into the account or may appropriate money to implement this
11 section and the comptroller shall credit that money to the account.

12 (c) A member of the Texas National Guard described by
13 Subsection (a) is eligible to receive supplemental pay under this
14 section in an amount not to exceed the lesser of:

15 (1) the amount required to alleviate the economic
16 hardship the member suffers as a result of serving on active duty;
17 and

18 (2) the difference between the amount of income that
19 the member has lost from civilian employment as a result of being
20 called to military duty and the amount of military pay and
21 allowances the member receives from state or federal sources while
22 on military duty.

23 (d) The adjutant general shall determine whether a member is
24 eligible to receive supplemental pay under this section and the
25 amount of supplemental pay a member may receive. In determining the
26 amount, the adjutant general shall consider the total amount that
27 is available for supplemental pay during a period and the probable

1 total need for supplemental pay during that period.

2 (e) The adjutant general may adopt regulations to implement
3 this section, including regulations that prescribe the procedure
4 for requesting supplemental pay and that prescribe evidence a
5 member may or must present to demonstrate hardship. The
6 comptroller, in consultation with the adjutant general, may adopt
7 rules to govern the manner and method of paying supplemental pay
8 under this section.

9 Sec. 437.221. OTHER DUTY AND COMMUNITY SERVICE MISSIONS.

10 The governor or the adjutant general, if designated by the
11 governor, may require other duty for officers and enlisted persons
12 in the Texas military forces. The other duty may include community
13 service missions.

14 Sec. 437.222. LIABILITY OF SERVICE MEMBER. (a) A service
15 member of the Texas military forces ordered into service of this
16 state by proper authority is not personally liable in the person's
17 private capacity for any act performed or for any contract or other
18 obligation entered into or undertaken in an official capacity in
19 good faith and without intent to defraud in connection with the
20 administration, management, or conduct of the department in
21 business, programs, or other related affairs, under the limited
22 waiver of governmental immunity provided by the Texas Tort Claims
23 Act (Chapter 101, Civil Practice and Remedies Code).

24 (b) If a suit is instituted against a service member of the
25 Texas military forces for an act of the service member in the
26 service member's official capacity in the discharge of duty or
27 against a person acting under the authority, order, or lawfully

1 issued warrant of the service member, the court shall require the
2 plaintiff to file security for the payment of court costs that may
3 be awarded to the defendant. The defendant in the case may make a
4 general denial and give the special matter in evidence. If the
5 plaintiff is nonsuited or the verdict or judgment is against the
6 plaintiff, the defendant is entitled to recover three times the
7 court costs.

8 (c) If a service member of the Texas military forces is sued
9 for injury to a person or property occurring in the performance of
10 or an attempt to perform a duty required by law, the court shall
11 remove venue of the case to a court in another county not subject to
12 disqualification if:

13 (1) the defendant applies for the removal; and

14 (2) the application is supported by affidavit of two
15 credible persons stating that they have good reason to believe the
16 defendant cannot have a fair and impartial trial before the court.

17 Sec. 437.223. EXEMPTION FROM ARREST. (a) A member of the
18 Texas military forces may not be arrested, except for treason,
19 felony, or breach of the peace, while the person is going to or
20 coming from a place that the person was required to be for military
21 duty.

22 (b) This section does not prevent a peace officer from
23 issuing a traffic summons or citation to appear in court at a later
24 date that does not conflict with the member's duty hours.

25 Sec. 437.224. VOTING. (a) A unit, force, division, or
26 command of the Texas military forces that is engaged in regular
27 training on a day on which a primary, general, or special election

1 for a state or federal office is held shall provide time off or
2 arrange duty hours to permit all personnel to vote in the election.

3 (b) This section does not apply during war, invasion,
4 insurrection, riot, or tumult, during imminent danger of one of
5 those situations, or during annual active duty for training not
6 exceeding 15 days.

7 Sec. 437.225. DISCHARGE. (a) A service member may be
8 discharged from the Texas military forces according to regulations
9 adopted by the adjutant general or by federal law or regulations.

10 (b) On termination of the appointment of an officer or
11 enlistment of an enlisted service member in the Texas military
12 forces, the officer or enlisted service member shall be given a
13 certificate of discharge stating the character of the person's
14 service.

15 Sec. 437.226. ASSISTANCE FOR TUITION AND FEES. (a) In
16 this section, "institution of higher education" and "private or
17 independent institution of higher education" have the meanings
18 assigned by Section 61.003, Education Code.

19 (b) To be eligible for assistance for tuition and mandatory
20 fees under this section, a person must:

21 (1) be a service member in good standing, as certified
22 by the adjutant general, of the Texas military forces who is:

23 (A) an enlisted member;

24 (B) a warrant officer of a grade from Warrant
25 Officer One through Chief Warrant Officer Three; or

26 (C) a commissioned officer of a grade from Second
27 Lieutenant through Lieutenant Colonel; and

1 (2) meet any additional qualification established by
2 the adjutant general to carry out the purposes of this section or to
3 further the institutional needs of the Texas military forces.

4 (c) The adjutant general shall grant assistance for tuition
5 and mandatory fees under this section to eligible service members,
6 in an amount not to exceed the amount provided in the General
7 Appropriations Act. The adjutant general may apportion the number
8 of assistance awards among the components of the Texas military
9 forces necessary to meet the recruitment and retention needs of
10 those components. The number of assistance awards made to members
11 of the Texas State Guard may not exceed 30 for any semester unless
12 the adjutant general finds a compelling need for additional awards
13 to members of the Texas State Guard.

14 (d) Assistance for tuition and mandatory fees may be awarded
15 under this section for tuition and mandatory fees charged for any
16 undergraduate or graduate course at an institution of higher
17 education or private or independent institution of higher
18 education, including a vocational or technical course.

19 (e) A service member may not receive assistance for tuition
20 under this section for more than 12 semester credit hours in any
21 semester.

22 (f) A service member may not receive assistance for tuition
23 and mandatory fees under this section for more than 5 academic years
24 or 10 semesters, whichever occurs first for the service member.

25 (g) Before each semester, the department must certify to the
26 appropriate public and private institutions of higher education a
27 list of the service members to whom the adjutant general has awarded

1 assistance for tuition and mandatory fees under this section for
2 that semester. The amount of assistance awarded by the adjutant
3 general under this section may not exceed the amount of money
4 available to fund the assistance awards.

5 (h) From money appropriated for purposes of this section,
6 the department shall authorize the comptroller to reimburse an
7 institution of higher education in an amount equal to the amount of
8 the exemption from tuition and mandatory fees the institution
9 grants to a person under Section 54.345, Education Code.

10 (i) From money appropriated for purposes of this section,
11 the department shall authorize the comptroller to make a grant to a
12 service member attending a private or independent institution of
13 higher education to whom the adjutant general has awarded
14 assistance for tuition and mandatory fees for the semester under
15 this section. The amount of a grant under this subsection is an
16 amount equal to the average amount of reimbursement the department
17 estimates will be paid per student for the same semester under
18 Subsection (h).

19 Sec. 437.227. COMPENSATION FOR DEATH OR INJURY. A member of
20 the Texas military forces who is on state active duty, on state
21 training or other duty, or traveling to or from the member's duty
22 location and who is killed or injured while engaged in authorized
23 duty, training, or travel is entitled to receive compensation and
24 protections under Title 5, Labor Code.

25 Sec. 437.228. ISSUANCE AND USE OF UNIFORM AND OTHER
26 MILITARY PROPERTY. (a) A service member to whom the department
27 issues a uniform or other military property shall give a receipt for

1 the uniform or property. The adjutant general shall prescribe the
2 manner in which the uniform and property shall be accounted for and
3 kept.

4 (b) The uniform or other property may be used only for
5 military purposes. An officer or enlisted service member of the
6 Texas military forces who is responsible for public property may
7 not lend the property for private use or permit it to be used for a
8 purpose for which it was not intended.

9 Sec. 437.229. UNIFORM. (a) Except as provided by
10 Subsection (b), the uniform of the officers and enlisted service
11 members of the Texas military forces is the uniform prescribed for
12 the United States armed forces with modifications that the
13 governor, or adjutant general if delegated the authority, considers
14 necessary.

15 (b) The uniforms of the officers and enlisted personnel of
16 the Texas State Guard are the uniforms prescribed for the United
17 States armed forces with any modifications the governor, or the
18 adjutant general if delegated the authority by the governor,
19 considers necessary to distinguish the Texas State Guard from the
20 Texas National Guard.

21 Sec. 437.230. EXEMPTION FROM LEVY AND SALE. Arms,
22 equipment, clothing, and other military supplies issued by the
23 department to units or service members of the Texas military forces
24 for military purposes are exempt from levy and sale because of
25 execution for debt or other legal proceedings.

26 Sec. 437.231. SEIZURE. (a) On a finding by the adjutant
27 general that a person unlawfully possesses, and refuses or fails to

1 deliver up, arms, equipment, or other military property issued by
2 the department for use of the Texas military forces, the governor
3 may by warrant command the sheriff of the county in which the person
4 resides or is located to seize the arms, equipment, or other
5 military property and keep the property subject to the governor's
6 further order. The sheriff in executing the warrant may invoke the
7 power of the county.

8 (b) Each sheriff may collect military arms or property
9 issued by the department that is liable to loss or in the hands of
10 unauthorized persons and safely keep the arms and property subject
11 to order of the governor. The sheriff shall make a report of the
12 collection to the governor. The sheriff's official bond covers
13 faithful performance of duties under this subchapter.

14 SUBCHAPTER F. TEXAS NATIONAL GUARD

15 Sec. 437.251. COMPOSITION. The Texas National Guard may
16 not exceed half of one percent of the population of the state except
17 in case of war, insurrection, or invasion, the prevention of
18 invasion, the suppression of riot, or the aiding of civil
19 authorities to execute state law.

20 Sec. 437.252. LOCAL GOVERNMENTAL ASSISTANCE. Funds, other
21 property, or services may be donated to a unit of the Texas National
22 Guard by any public or private entity, including:

- 23 (1) a state agency or department;
24 (2) a political subdivision, including a county,
25 municipality, or public school district; or
26 (3) a special purpose district or authority.

27 Sec. 437.253. PROPERTY FORFEITURE. When the National Guard

1 Counterdrug Program assists a federal law enforcement agency in
2 enforcing drug laws, the National Guard Counterdrug Program is
3 considered to be a law enforcement agency of this state for the
4 purpose of participating in the sharing of property seized or
5 forfeited to the United States under federal law.

6 Sec. 437.254. EMPLOYEES IN TEXAS MILITARY FORCES; EMERGENCY
7 LEAVE. (a) A state employee called to state active duty as a
8 member of the Texas military forces by the governor or other
9 appropriate authority in response to a natural or man-made disaster
10 is entitled to receive paid emergency leave without loss of
11 military leave under Section 437.202 or annual leave.

12 (b) A state employee called to federal active duty for the
13 purpose of providing assistance to civil authorities in a declared
14 emergency or for training for that purpose is entitled to receive
15 paid emergency leave for not more than 22 workdays without loss of
16 military leave under Section 437.202 or annual leave.

17 (c) The duty or training under Subsection (b) does not
18 include duty or training carried out under Section 437.202.

19 SUBCHAPTER G. TEXAS STATE GUARD

20 Sec. 437.301. COMMANDER. The commander of the Texas State
21 Guard is responsible:

22 (1) for the welfare, strength, and management of the
23 Texas State Guard;

24 (2) for the organization, training, and
25 administration of all Texas State Guard components;

26 (3) to the adjutant general to ensure the Texas State
27 Guard missions remain relevant and responsive as a force provider

1 to this state; and

2 (4) to field and staff the volunteer components of the
3 Texas State Guard.

4 Sec. 437.302. COMPOSITION. (a) The Texas State Guard is
5 composed of units the governor, or adjutant general if delegated
6 the authority, considers advisable.

7 (b) To serve in the Texas State Guard, a person:

8 (1) must be a resident of this state for at least 180
9 days;

10 (2) must be a citizen of the United States or a person
11 who has been lawfully admitted to the United States for permanent
12 residence under the Immigration and Nationality Act (8 U.S.C.
13 Section 1101 et seq.);

14 (3) subject to Subsection (c), must be at least 18
15 years of age and not older than 70 years of age;

16 (4) must undergo a criminal history check;

17 (5) must not be a registered sex offender; and

18 (6) must be acceptable to and approved by the governor
19 or adjutant general under the governor's direction.

20 (c) The adjutant general may adopt a policy regarding waiver
21 of the maximum age requirement under Subsection (b)(3).

22 Sec. 437.303. GOVERNOR'S AUTHORITY. (a) The governor has
23 full control and authority over the Texas State Guard.

24 (b) The governor may adopt regulations governing
25 enlistment, organization, administration, uniforms, equipment,
26 maintenance, command, training, and discipline of the Texas State
27 Guard. The regulations to the extent practicable and desirable

1 must conform to law and regulations governing the Texas National
2 Guard.

3 (c) The governor may delegate the powers granted by this
4 section to the adjutant general.

5 Sec. 437.304. ASSISTANCE. (a) Funds or other property or
6 services may be solicited by or donated to a unit in the Texas State
7 Guard by any public or private entity, including:

8 (1) a state agency or department;

9 (2) a political subdivision, including a county,
10 municipality, or public school district; or

11 (3) a special purpose district or authority.

12 (b) A public school district may permit the Texas State
13 Guard to use a school building.

14 (c) The assistance solicited or received under this section
15 is governed by the policies and regulations adopted by the adjutant
16 general.

17 Sec. 437.305. EMPLOYEES IN STATE GUARD; EMERGENCY LEAVE. A
18 state employee called to state active duty as a member of the Texas
19 State Guard by the governor or other appropriate authority in
20 response to a natural or man-made disaster is entitled to receive
21 paid emergency leave without loss of military leave under Section
22 437.202 or annual leave.

23 Sec. 437.306. USE OUTSIDE STATE; FRESH PURSUIT FROM OR INTO
24 STATE. (a) Except as provided by Subsections (b) and (c), the
25 Texas State Guard may not be required to serve outside the state.

26 (b) The governor, on request of the governor of another
27 state, may order all or part of the Texas State Guard to assist a

1 military or civil authority of that state in defending that state.

2 The governor may recall these forces.

3 (c) If authorized by the law of another state, an
4 organization, unit, or detachment of the Texas State Guard, on
5 order of the officer in immediate command, may continue in fresh
6 pursuit of an insurrectionist, a saboteur, an enemy, or enemy
7 forces into that state until the apprehension or capture of the
8 person or forces pursued or until military or police forces of that
9 state or the United States have had a reasonable opportunity to
10 apprehend, capture, or take up the pursuit of the person or forces.

11 The Texas State Guard without unnecessary delay shall surrender a
12 person apprehended or captured in another state to the military or
13 police forces of that state or the United States. This surrender is
14 not a waiver by this state of a right to extradite or prosecute the
15 person for a crime committed in this state.

16 (d) Military forces of another state may continue a fresh
17 pursuit into this state in the same manner permitted the Texas State
18 Guard under Subsection (c). The military forces of the other state
19 shall without unnecessary delay surrender a person captured or
20 arrested in this state to the military or police forces of this
21 state to be dealt with according to law. This subsection does not
22 prohibit an arrest in this state permitted by other law.

23 Sec. 437.307. FEDERAL SERVICE. This chapter does not
24 authorize the calling, ordering, or drafting of all or part of the
25 Texas State Guard into military service of the United States. A
26 person is not exempted by enlistment or commission in the Texas
27 State Guard from military service under federal law.

1 Sec. 437.308. RECORDS; ARMS; EQUIPMENT. (a) The commander
2 of the Texas State Guard shall maintain and preserve the individual
3 and unit records of the Texas State Guard and the Texas State Guard
4 Honorary Reserve.

5 (b) The governor may request for use of the Texas State
6 Guard arms and equipment that the United States government
7 possesses and can spare. The governor, or the adjutant general if
8 delegated the authority by the governor, shall make available to
9 the Texas State Guard state armories and available state property.

10 Sec. 437.309. TEXAS STATE GUARD HONORARY RESERVE. (a) The
11 governor, or adjutant general under the governor's authority and
12 direction, may transfer to the Texas State Guard Honorary Reserve
13 an officer or enlisted service member of the Texas State Guard who:

- 14 (1) is physically disabled;
15 (2) is at least 60 years of age; or
16 (3) has served the federal or state military
17 satisfactorily for at least 20 years.

18 (b) The governor may advance the service member one grade or
19 rank at the time of the transfer into the honorary reserve. For a
20 service member who is not a general officer, the adjutant general
21 may advance the service member one grade or rank at the time of the
22 transfer into the honorary reserve.

23 Sec. 437.310. TEXAS STATE GUARD UNIFORM AND INSIGNIA FUND.
24 (a) A special revolving fund is established outside the state
25 treasury to be known as the Texas State Guard uniform and insignia
26 fund. The fund may be used only to purchase uniforms and insignia
27 to be used by members of the Texas State Guard. The fund shall be

1 administered in accordance with Section 437.211.

2 (b) The fund consists of:

3 (1) donations made to the fund;

4 (2) revenue received by the Texas State Guard from the
5 sale of uniforms and insignia to members of the guard; and

6 (3) depository interest and investment income earned
7 on money in the fund.

8 (c) If any part of the fund remains unexpended and
9 unobligated at the end of the state fiscal year, that amount is
10 dedicated for the same purposes in the subsequent year. Money in
11 the fund may not be diverted for any other purpose.

12 SECTION 1.02. Subchapter J, Chapter 431, Government Code,
13 is transferred to Chapter 437, Government Code, as added by this
14 Act, redesignated as Subchapter H, Chapter 437, Government Code,
15 and amended to read as follows:

16 SUBCHAPTER H [~~J~~]. AWARDS

17 Sec. 437.351 [~~431.131~~]. TEXAS LEGISLATIVE MEDAL OF HONOR.

18 (a) The Texas Legislative Medal of Honor shall be awarded to a
19 member of the state or federal military forces designated by
20 concurrent resolution of the legislature who voluntarily performs a
21 deed of personal bravery or self-sacrifice involving risk of life
22 that is so conspicuous as to clearly distinguish the service member
23 [~~person~~] for gallantry and intrepidity above the service member's
24 [~~person's~~] comrades. Awarding of the medal shall be considered on
25 the standard of extraordinary merit. The medal may be awarded only
26 on incontestable proof of performance of the deed. To be eligible
27 for the Texas Legislative Medal of Honor, a service member [~~person~~]

1 must:

2 (1) have been born in this state;

3 (2) reside in this state or have been a resident of
4 this state on the service member's [~~person's~~] death; or

5 (3) have been a resident of this state when the service
6 member [~~person~~] entered military service.

7 (b) A service member [~~person~~] is not ineligible for the
8 Texas Legislative Medal of Honor because the service member
9 [~~person~~] has received any other medal or award for military
10 service, including a medal or award made by the United States.

11 (c) To receive the Texas Legislative Medal of Honor, a
12 service member [~~person~~] must be nominated during a regular session
13 of the legislature by majority vote of all the members of a
14 nominating committee consisting of:

15 (1) the adjutant general or the adjutant general's
16 designated representative;

17 (2) the lieutenant governor or the lieutenant
18 governor's designated representative;

19 (3) the speaker of the house of representatives or the
20 speaker's designated representative; and

21 (4) the chair of the standing committee of each house
22 of the legislature with primary jurisdiction over military and
23 veterans affairs.

24 (d) The legislature by concurrent resolution may direct the
25 governor to award the Texas Legislative Medal of Honor to a service
26 member [~~person~~] nominated by the nominating committee. The
27 committee chairs serving on the nominating committee shall jointly

1 prepare a concurrent resolution directing the governor to award the
2 medal to a service member [~~person~~] nominated. The legislature may
3 direct the medal to be awarded only during a regular session and may
4 not, during a regular session, direct the medal to be awarded to
5 more than:

6 (1) one service member for service in the state or
7 federal military forces during the period beginning after 1835 but
8 before 1956; and

9 (2) one service member for service in the state or
10 federal military forces after 1955 [~~person during a regular~~
11 ~~session~~].

12 Sec. 437.352 [~~431.132~~]. LONE STAR MEDAL OF VALOR. The Lone
13 Star Medal of Valor shall be awarded to a member of the military
14 forces of this state, another state, or the United States who
15 performs specific acts of bravery or outstanding courage, or who
16 performs within an exceptionally short period a closely related
17 series of heroic acts, if the acts involve personal hazard or danger
18 and the voluntary risk of life and result in an accomplishment so
19 exceptional and outstanding as to clearly set the person apart from
20 the person's comrades or from other persons in similar
21 circumstances. Awarding of the medal requires a lesser degree of
22 gallantry than awarding of the Texas Legislative Medal of Honor,
23 but requires that the acts be performed with marked distinction.

24 [~~Sec. 431.133. LONE STAR DISTINGUISHED SERVICE MEDAL. The~~
25 ~~Lone Star Distinguished Service Medal shall be awarded to a member~~
26 ~~of the military forces of this state, another state, or the United~~
27 ~~States for exceptionally outstanding achievement or service to the~~

1 ~~state in performance of a duty of great responsibility while~~
2 ~~servng with the state military forces.~~

3 ~~[Sec. 431.134. OTHER AWARDS. (a) The adjutant general may~~
4 ~~adopt rules and regulations relating to the:~~

5 ~~[(1) Texas Faithful Service Medal, which shall be~~
6 ~~awarded to a member of the state military forces who has completed~~
7 ~~five years of honorable service during which the person has shown~~
8 ~~fidelity to duty, efficient service, and great loyalty to the~~
9 ~~state;~~

10 ~~[(2) Federal Service Medal, which shall be awarded to~~
11 ~~a person who was inducted into federal service from the state~~
12 ~~military forces between June 15, 1940, and January 1, 1946, or after~~
13 ~~June 1, 1950, if the service was for more than 90 days;~~

14 ~~[(3) Texas Medal of Merit, which may be presented to a~~
15 ~~member of the military forces of this state, another state, or the~~
16 ~~United States who performs outstanding service or attains~~
17 ~~extraordinary achievement in behalf of the state or United States;~~

18 ~~[(4) Texas Outstanding Service Medal, which may be~~
19 ~~presented to a member of the military forces of this state, another~~
20 ~~state, or the United States who has performed service in a superior~~
21 ~~and clearly outstanding manner;~~

22 ~~[(5) Texas State Guard Service Medal, which shall be~~
23 ~~awarded to a person who completes three consecutive years of~~
24 ~~honorable service in the Texas State Guard during which the person~~
25 ~~has shown fidelity to duty, efficient service, and great loyalty to~~
26 ~~the state;~~

27 ~~[(6) Texas Desert Shield/Desert Storm Campaign Medal,~~

1 ~~which shall be awarded to a person who was inducted into federal~~
2 ~~service from the Texas National Guard after August 1, 1990, in~~
3 ~~support of Operation Desert Shield or Operation Desert Storm,~~
4 ~~without regard to the place that the person was deployed while~~
5 ~~-serving on active federal military duty;~~

6 ~~[(7) Texas Humanitarian Service Medal, which shall be~~
7 ~~awarded to a person who:~~

8 ~~[(A) does not meet the criteria for an award of~~
9 ~~the federal Humanitarian Service Medal;~~

10 ~~[(B) is a member of the state military forces;~~
11 ~~and~~

12 ~~[(C) while serving on state active duty or active~~
13 ~~duty under state authority in accordance with Title 32 of the United~~
14 ~~States Code, participates satisfactorily in defense support to a~~
15 ~~mission under civilian authority to protect life or property during~~
16 ~~or soon after a natural disaster or civil unrest in the state;~~

17 ~~[(8) Texas Cavalry Medal, which shall be awarded to a~~
18 ~~person who:~~

19 ~~[(A) served on or after September 11, 2001, in~~
20 ~~the 124th Cavalry, Texas Army National Guard; and~~

21 ~~[(B) served in a hostile fire zone as designated~~
22 ~~by the United States secretary of defense;~~

23 ~~[(9) Texas Combat Service Ribbon, which shall be~~
24 ~~awarded to a member of the Texas National Guard who served, after~~
25 ~~September 11, 2001, in a hostile fire zone as designated by the~~
26 ~~United States secretary of defense;~~

27 ~~[(10) Texas Purple Heart Medal, which shall be awarded~~

1 ~~to a person who, after September 11, 2001:~~

2 ~~[(A) was inducted into federal service from the~~
3 ~~Texas National Guard; and~~

4 ~~[(B) meets the criteria for an award of the~~
5 ~~federal Purple Heart Medal;~~

6 ~~[(11) Texas Superior Service Medal, which shall be~~
7 ~~awarded to:~~

8 ~~[(A) a member of the state military forces who~~
9 ~~has:~~

10 ~~[(i) completed 30 or more years of~~
11 ~~honorable state service or a combination of state and federal~~
12 ~~service; and~~

13 ~~[(ii) continually demonstrated superior~~
14 ~~performance and service while assigned to key leadership positions~~
15 ~~demanding responsibility; or~~

16 ~~[(B) a civilian who has contributed significant~~
17 ~~service to the state military forces;~~

18 ~~[(12) Texas Homeland Defense Service Medal, which~~
19 ~~shall be awarded to a member of the state military forces who~~
20 ~~served:~~

21 ~~[(A) on or after September 11, 2001;~~

22 ~~[(B) on state active duty or active duty under~~
23 ~~state authority in accordance with Title 32 of the United States~~
24 ~~Code; and~~

25 ~~[(C) satisfactorily in defense support to a~~
26 ~~mission in the state under civilian authority;~~

27 ~~[(13) Texas Iraqi Campaign Medal, which shall be~~

1 ~~awarded to a person who was inducted into federal service from the~~
2 ~~Texas National Guard, without regard to the place that the person~~
3 ~~was deployed while serving on active federal military duty, after:~~

4 ~~[(A) March 19, 2003, in support of Operation~~
5 ~~Iraqi Freedom; or~~

6 ~~[(B) August 31, 2010, in support of Operation New~~
7 ~~Dawn; and~~

8 ~~[(14) Texas Afghanistan Campaign Medal, which shall be~~
9 ~~awarded to a person who was inducted into federal service from the~~
10 ~~Texas National Guard after October 6, 2001, in support of Operation~~
11 ~~Enduring Freedom, without regard to the place that the person was~~
12 ~~deployed while serving on active federal military duty.~~

13 ~~[(b) A member of the state military forces or a civilian~~
14 ~~described by Subsection (a)(11) may be awarded the Texas Superior~~
15 ~~Service Medal only one time.]~~

16 Sec. 437.353 [~~431.135~~]. RECOMMENDATIONS. (a) A
17 recommendation for award of the Texas Legislative Medal of Honor
18 ~~or [7] Lone Star Medal of Valor [7, or Lone Star Distinguished Service~~
19 ~~Medal]~~ shall be forwarded through military channels to the adjutant
20 general. An individual having personal knowledge of an act or
21 achievement or exceptional service believed to warrant the award of
22 one of these medals may submit a letter of recommendation to the
23 adjutant general.

24 (b) A letter of recommendation for award of the Texas
25 Legislative Medal of Honor or Lone Star Medal of Valor must give an
26 account of the occurrence and statements of eyewitnesses, extracts
27 from official records, sketches, maps, diagrams, or photographs to

1 support and amplify the stated facts.

2 (c) ~~[A letter of recommendation for award of the Lone Star~~
3 ~~Distinguished Service Medal must give an account of the exceptional~~
4 ~~service or achievement, facts, and extracts from official documents~~
5 ~~and photographs to support and amplify the facts.~~

6 ~~[(d)]~~ If the adjutant general determines that a case meets
7 the criteria established by Section 437.352 ~~[this subchapter]~~ for
8 award of the Lone Star Medal of Valor ~~[the awarding of one of these~~
9 ~~medals]~~, the adjutant general shall by endorsement recommend to the
10 governor the awarding of the ~~[appropriate]~~ medal.

11 Sec. 437.354 ~~[431.136]~~. AWARDING. The governor awards the
12 Texas Legislative Medal of Honor as directed by the legislature
13 under Section 437.351 ~~[431.131]~~. The governor awards the Lone Star
14 Medal of Valor ~~[, Lone Star Distinguished Service Medal, or any~~
15 ~~other award authorized by this subchapter]~~ on recommendation of the
16 adjutant general.

17 Sec. 437.355. OTHER AWARDS. (a) The governor or adjutant
18 general, if delegated the authority, may adopt policies and
19 regulations relating to awarding:

20 (1) the Texas Purple Heart Medal, which shall be
21 awarded to a service member who, after September 11, 2001:

22 (A) was inducted into federal service from the
23 Texas National Guard; and

24 (B) meets the criteria for an award of the
25 federal Purple Heart Medal;

26 (2) the Texas Superior Service Medal, which shall be
27 awarded to:

1 (A) a service member of the Texas military forces
2 who has:

3 (i) completed 30 or more years of honorable
4 state service or a combination of state and federal service; and

5 (ii) continually demonstrated superior
6 performance and service while assigned to key leadership positions
7 demanding responsibility; or

8 (B) a civilian who has contributed significant
9 service to the Texas military forces;

10 (3) the Lone Star Distinguished Service Medal, which
11 shall be awarded to a member of the military forces of this state,
12 another state, or the United States for exceptionally outstanding
13 achievement or service to this state in performance of a duty of
14 great responsibility while serving with the Texas military forces
15 for whom the department receives a letter of recommendation for
16 award of the Lone Star Distinguished Service Medal that:

17 (A) gives an account of the exceptional
18 achievement or service; and

19 (B) includes facts and photographs, and extracts
20 from official documents to support and amplify the facts;

21 (4) the Texas Outstanding Service Medal, which shall
22 be awarded to a service member of the military forces of this state,
23 another state, or the United States who has performed service in a
24 superior and clearly outstanding manner;

25 (5) the Texas Humanitarian Service Medal, which shall
26 be awarded to a service member who:

27 (A) does not meet the criteria for an award of the

1 federal Humanitarian Service Medal;

2 (B) is a member of the Texas military forces; and

3 (C) while serving on state active duty or active
4 duty under state authority in accordance with Title 32, United
5 States Code, participates satisfactorily in defense support to a
6 mission under civilian authority to protect life or property during
7 or soon after a natural disaster or civil unrest in the state;

8 (6) the Texas Homeland Defense Service Medal, which
9 shall be awarded to a service member of the Texas military forces
10 who served:

11 (A) on or after September 11, 2001;

12 (B) on state active duty or active duty under
13 state authority in accordance with Title 32, United States Code;
14 and

15 (C) satisfactorily in defense support to a
16 mission in the state under civilian authority;

17 (7) the Federal Service Medal, which shall be awarded
18 to a service member who was inducted into federal service from the
19 Texas military forces between June 15, 1940, and January 1, 1946, or
20 after June 1, 1950, if the service was for more than 90 days;

21 (8) the Texas Combat Service Ribbon, which shall be
22 awarded to a service member of the Texas National Guard who served,
23 after September 11, 2001, in a hostile fire zone as designated by
24 the United States secretary of defense;

25 (9) the Texas Faithful Service Medal, which shall be
26 awarded to a member of the Texas military forces who has completed
27 five years of honorable service during which the service member has

1 shown fidelity to duty, efficient service, and great loyalty to
2 this state;

3 (10) the Texas Medal of Merit, which shall be awarded
4 to a member of the military forces of this state, another state, or
5 the United States who performs outstanding service or attains
6 extraordinary achievement in behalf of the state or United States;

7 (11) the Texas State Guard Service Medal, which shall
8 be awarded to a service member who completes three consecutive
9 years of honorable service in the Texas State Guard during which the
10 service member has shown fidelity to duty, efficient service, and
11 great loyalty to this state;

12 (12) the Texas Desert Shield/Desert Storm Campaign
13 Medal, which shall be awarded to a service member who was inducted
14 into federal service from the Texas National Guard after August 1,
15 1990, in support of Operation Desert Shield or Operation Desert
16 Storm, without regard to the place that the service member was
17 deployed while serving on active federal military duty;

18 (13) the Texas Iraqi Campaign Medal, which shall be
19 awarded to a service member who was inducted into federal service
20 from the Texas National Guard, without regard to the place that the
21 service member was deployed while serving on active federal
22 military duty, after:

23 (A) March 19, 2003, in support of Operation Iraqi
24 Freedom; or

25 (B) August 31, 2010, in support of Operation New
26 Dawn; and

27 (14) the Texas Afghanistan Campaign Medal, which shall

1 be awarded to a service member who was inducted into federal service
2 from the Texas National Guard after October 6, 2001, in support of
3 Operation Enduring Freedom, without regard to the place that the
4 service member was deployed while serving on active federal
5 military duty.

6 (b) A person may be awarded only one Texas Superior Service
7 Medal.

8 Sec. 437.356 [~~431.137~~]. POSTHUMOUS AWARDS. An award may be
9 made to a person who has died in the same manner as an award to a
10 living person, except the orders and citation must indicate that
11 the award is made posthumously.

12 Sec. 437.357 [~~431.138~~]. DESIGN; RIBBONS. (a) The
13 department [~~adjutant general~~] shall design and have manufactured
14 the medals, awards, decorations, and ribbons awarded under this
15 subchapter and others that the adjutant general has approved for
16 award.

17 (b) The department may purchase or replace medals, awards,
18 decorations, and ribbons authorized under this subchapter for the
19 recipient, the decedent's family, and nonprofit and governmental
20 entities honoring the recipient or decedent.

21 (c) The adjutant general shall adopt [~~rules and~~
22 regulations prescribing when a ribbon may be appropriately worn
23 instead of the medal it symbolizes.

24 SECTION 1.03. Subchapter K, Chapter 431, Government Code,
25 is transferred to Chapter 437, Government Code, as added by this
26 Act, redesignated as Subchapter I, Chapter 437, Government Code,
27 and amended to read as follows:

1 SUBCHAPTER I [~~Ⓚ~~]. ADMINISTRATIVE REVIEW AND JUDICIAL ENFORCEMENT

2 Sec. 437.401 [~~431.151~~]. DEFINITIONS. In this subchapter:

3 (1) "Commission" means the Texas Workforce Commission
4 civil rights division.

5 (2) "Complainant" means an individual who brings an
6 action or proceeding under this subchapter.

7 (3) "Respondent" means the person charged in a
8 complaint filed under this subchapter.

9 Sec. 437.402 [~~431.152~~]. FILING OF COMPLAINT; FORM AND
10 CONTENT; SERVICE. (a) A person claiming to be aggrieved by an
11 unlawful employment practice under Section 437.204 [~~431.006~~] or the
12 person's agent may file a complaint with the commission.

13 (b) The complaint must be in writing and made under oath.

14 (c) The complaint must state:

15 (1) that an unlawful employment practice under Section
16 437.204 [~~431.006~~] has been committed;

17 (2) the facts on which the complaint is based,
18 including the date, place, and circumstances of the alleged
19 unlawful employment practice; and

20 (3) facts sufficient to enable the commission to
21 identify the respondent.

22 (d) The commission shall serve the respondent with a copy of
23 the perfected complaint not later than the 10th day after the date
24 the complaint is filed.

25 (e) A complaint may be amended to cure technical defects or
26 omissions, including a failure to verify the complaint or to
27 clarify and amplify an allegation made in the complaint.

1 (f) An amendment to a complaint alleging additional facts
2 that constitute an unlawful employment practice under Section
3 437.204 [~~431.006~~] relating to or arising from the subject matter of
4 the original complaint relates back to the date the complaint was
5 first received by the commission.

6 Sec. 437.403 [~~431.153~~]. ALTERNATIVE DISPUTE RESOLUTION.
7 The use of alternative means of dispute resolution, including
8 settlement negotiations, conciliation, facilitation, mediation,
9 fact-finding, minitrials, and arbitration, is encouraged to
10 resolve disputes arising under Section 437.204 [~~431.006~~]. The
11 settlement of a disputed claim under this subchapter that results
12 from the use of traditional or alternative means of dispute
13 resolution is binding on the parties to the claim.

14 Sec. 437.404 [~~431.154~~]. INVESTIGATION BY COMMISSION. The
15 commission shall investigate a complaint arising under Section
16 437.204 [~~431.006~~] and determine if there is reasonable cause to
17 believe that the respondent engaged in an unlawful employment
18 practice as alleged in the complaint.

19 Sec. 437.405 [~~431.155~~]. LACK OF REASONABLE CAUSE;
20 DISMISSAL OF COMPLAINT. (a) If, after investigation, the
21 commission determines that reasonable cause does not exist to
22 believe that the respondent engaged in an unlawful employment
23 practice under Section 437.204 [~~431.006~~] as alleged in a complaint,
24 the commission shall issue a written determination incorporating
25 the finding that the evidence does not support the complaint and
26 dismissing the complaint.

27 (b) The commission shall serve a copy of the determination

1 on the complainant, the respondent, and other agencies as required
2 by law.

3 Sec. 437.406 [~~431.156~~]. DETERMINATION OF REASONABLE CAUSE;
4 REVIEW BY PANEL. If, after investigation, the commission
5 determines that there is reasonable cause to believe that the
6 respondent engaged in an unlawful employment practice under Section
7 437.204 [~~431.006~~] as alleged in a complaint, the commission shall:

8 (1) issue a written determination incorporating the
9 finding that the evidence supports the complaint; and

10 (2) serve a copy of the determination on the
11 complainant, the respondent, and other agencies as required by law.

12 Sec. 437.407 [~~431.157~~]. RESOLUTION BY INFORMAL METHODS.

13 (a) If a determination of reasonable cause is made, the commission
14 shall endeavor to eliminate the alleged unlawful employment
15 practice arising under Section 437.204 [~~431.006~~] by informal
16 methods of conference, conciliation, and persuasion.

17 (b) Without the written consent of the complainant and
18 respondent, the commission, its executive director, or its other
19 officers or employees may not disclose to the public information
20 about the efforts in a particular case to resolve an alleged
21 unlawful employment practice by conference, conciliation, or
22 persuasion, regardless of whether there is a determination of
23 reasonable cause.

24 Sec. 437.408 [~~431.158~~]. NOTICE OF DISMISSAL OR UNRESOLVED
25 COMPLAINT. If the commission dismisses a complaint or does not
26 resolve the complaint, the commission shall inform the complainant
27 of the dismissal or failure to resolve the complaint in writing by

1 certified mail.

2 Sec. 437.409 [~~431.159~~]. TEMPORARY INJUNCTIVE RELIEF.

3 (a) If the commission concludes from a preliminary investigation
4 of an unlawful employment practice arising under Section 437.204
5 [~~431.006~~] alleged in a complaint that prompt judicial action is
6 necessary, the commission shall file a petition seeking appropriate
7 temporary relief against the respondent pending final
8 determination of a proceeding under this subchapter.

9 (b) The petition shall be filed in a district court in a
10 county in which:

11 (1) the alleged unlawful employment practice that is
12 the subject of the complaint occurred; or

13 (2) the respondent resides.

14 (c) A court may not issue temporary injunctive relief unless
15 the commission shows:

16 (1) a substantial likelihood of success on the merits;

17 and

18 (2) irreparable harm to the complainant in the absence
19 of the preliminary relief pending final determination on the
20 merits.

21 Sec. 437.410 [~~431.160~~]. CIVIL ACTION BY COMMISSION.

22 (a) The commission may bring a civil action against a respondent
23 if:

24 (1) the commission determines that there is reasonable
25 cause to believe that the respondent engaged in an unlawful
26 employment practice under Section 437.204 [~~431.006~~]; and

27 (2) the commission's efforts to resolve the

1 discriminatory practice to the satisfaction of the complainant and
2 respondent through informal methods have been unsuccessful.

3 (b) The complainant may intervene in a civil action brought
4 by the commission.

5 Sec. 437.411 [~~431.161~~]. NOTICE OF COMPLAINANT'S RIGHT TO
6 FILE CIVIL ACTION. (a) A complainant who receives notice under
7 Section 437.408 [~~431.158~~] that the complaint is dismissed or not
8 resolved is entitled to request from the commission a written
9 notice of the complainant's right to file a civil action.

10 (b) The complainant must request the notice in writing.

11 (c) The executive director of the commission may issue the
12 notice.

13 (d) Failure of the executive director of the commission to
14 issue the notice of a complainant's right to file a civil action
15 does not affect the complainant's right under this subchapter to
16 bring a civil action against the respondent.

17 Sec. 437.412 [~~431.162~~]. CIVIL ACTION BY COMPLAINANT.
18 Within 60 days after the date a notice of the right to file a civil
19 action is received, the complainant may bring a civil action
20 against the respondent.

21 Sec. 437.413 [~~431.163~~]. COMMISSION'S INTERVENTION IN CIVIL
22 ACTION BY COMPLAINANT. After receipt of a timely application, a
23 court may permit the commission to intervene in a civil action filed
24 under Section 437.412 [~~431.162~~] if:

25 (1) the commission certifies that the case is of
26 general public importance; and

27 (2) before commencement of the action, the commission

1 issued a determination of reasonable cause to believe that Section
2 437.204 [~~431.006~~] was violated.

3 Sec. 437.414 [~~431.164~~]. ASSIGNMENT TO EARLY HEARING. The
4 court shall set an action brought under this subchapter for hearing
5 at the earliest practicable date to expedite the action.

6 Sec. 437.415 [~~431.165~~]. INJUNCTION; EQUITABLE RELIEF.

7 (a) On finding that a respondent engaged in an unlawful employment
8 practice under Section 437.204 [~~431.006~~] as alleged in a complaint,
9 a court may:

10 (1) prohibit by injunction the respondent from
11 engaging in an unlawful employment practice under Section 437.204
12 [~~431.006~~]; and

13 (2) order additional equitable relief as may be
14 appropriate.

15 (b) Additional equitable relief may include:

16 (1) hiring or reinstating with or without back pay;

17 (2) upgrading an employee with or without pay; and

18 (3) paying court costs.

19 (c) Liability under a back pay award may not accrue for a
20 date more than two years before the date a complaint is filed with
21 the commission. Interim earnings, workers' compensation benefits,
22 and unemployment compensation benefits received operate to reduce
23 the back pay otherwise allowable.

24 Sec. 437.416 [~~431.166~~]. COMPENSATORY AND PUNITIVE DAMAGES.

25 (a) On finding that a respondent engaged in an intentional
26 unlawful employment practice under Section 437.204 [~~431.006~~] as
27 alleged in a complaint, a court may, as provided by this section,

1 award:

- 2 (1) compensatory damages; and
- 3 (2) punitive damages.

4 (b) A complainant may recover punitive damages against a
5 respondent, other than a respondent that is a governmental entity,
6 if the complainant demonstrates that the respondent engaged in an
7 unlawful employment practice under Section 437.204 [~~431.006~~] with
8 malice or with reckless indifference to the state-protected rights
9 of an aggrieved individual.

10 (c) Compensatory damages awarded under this section may not
11 include:

- 12 (1) back pay;
- 13 (2) interest on back pay; or
- 14 (3) other relief authorized under Section 437.415(b)
15 [~~431.165(b)~~].

16 (d) The sum of the amount of compensatory damages awarded
17 under this section for future pecuniary losses, emotional pain,
18 suffering, inconvenience, mental anguish, loss of enjoyment of
19 life, and other nonpecuniary losses and the amount of punitive
20 damages awarded under this section may not exceed, for each
21 complainant:

- 22 (1) \$50,000 in the case of a respondent that has fewer
23 than 101 employees;
- 24 (2) \$100,000 in the case of a respondent that has more
25 than 100 and fewer than 201 employees;
- 26 (3) \$200,000 in the case of a respondent that has more
27 than 200 and fewer than 501 employees; and

1 (4) \$300,000 in the case of a respondent that has more
2 than 500 employees.

3 (e) For the purposes of Subsection (d), in determining the
4 number of employees of a respondent, the requisite number of
5 employees must be employed by the respondent for each of 20 or more
6 calendar weeks in the current or preceding calendar year.

7 Sec. 437.417 [~~431.167~~]. ATTORNEY'S FEES; COSTS. (a) In a
8 proceeding under this subchapter, a court may allow the prevailing
9 party, other than the commission, a reasonable attorney's fee as
10 part of the costs.

11 (b) The state, a state agency, or a political subdivision is
12 liable for costs, including attorney's fees, to the same extent as a
13 private person.

14 (c) In awarding costs and attorney's fees in an action or a
15 proceeding under this subchapter, the court, in its discretion, may
16 include reasonable expert fees.

17 Sec. 437.418 [~~431.168~~]. COMPELLED COMPLIANCE. If an
18 employer fails to comply with a court order issued under this
19 subchapter, a party to the action or the commission, on the written
20 request of a person aggrieved by the failure, may commence
21 proceedings to compel compliance with the order.

22 Sec. 437.419 [~~431.169~~]. TRIAL DE NOVO. (a) A judicial
23 proceeding under this subchapter is by trial de novo.

24 (b) A commission finding, recommendation, determination, or
25 other action is not binding on a court.

26 ARTICLE 2. TEXAS MILITARY CONFORMING CHANGES

27 SECTION 2.01. Subsection (a), Section 7.111, Education

1 Code, is amended to read as follows:

2 (a) The board shall provide for the administration of high
3 school equivalency examinations, including administration by the
4 Texas Military Department [~~adjutant general's department~~] for
5 students described by Subdivision (2)(C). A person who does not
6 have a high school diploma may take the examination in accordance
7 with rules adopted by the board if the person is:

8 (1) over 17 years of age;

9 (2) 16 years of age or older and:

10 (A) is enrolled in a Job Corps training program
11 under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801
12 et seq.), and its subsequent amendments;

13 (B) a public agency providing supervision of the
14 person or having custody of the person under a court order
15 recommends that the person take the examination; or

16 (C) is enrolled in the Texas Military
17 Department's [~~adjutant general's department's~~] Seaborne Challenge
18 Corps; or

19 (3) required to take the examination under a justice
20 or municipal court order issued under Article 45.054(a)(1)(C), Code
21 of Criminal Procedure.

22 SECTION 2.02. Subsection (b), Section 411.121, Government
23 Code, is amended to read as follows:

24 (b) The adjutant general is entitled to obtain from the
25 department criminal history record information maintained by the
26 department that relates to a person who is:

27 (1) a member of the Texas [~~state~~] military forces;

1 (2) an employee of the Texas Military Department
2 ~~[adjutant general's department]~~;

3 (3) an applicant for enlistment in the Texas ~~[state]~~
4 military forces; or

5 (4) an applicant for employment with the Texas
6 Military Department ~~[adjutant general's department]~~.

7 SECTION 2.03. Subsection (a), Section 421.021, Government
8 Code, is amended to read as follows:

9 (a) The Homeland Security Council is composed of the
10 governor or the governor's designee, the speaker of the house of
11 representatives or the speaker's designee, the lieutenant governor
12 or the lieutenant governor's designee, and one representative of
13 each of the following entities, appointed by the single statewide
14 elected or appointed governing officer, administrative head, or
15 chair, as appropriate, of the entity:

- 16 (1) Department of Agriculture;
- 17 (2) office of the attorney general;
- 18 (3) General Land Office;
- 19 (4) Public Utility Commission of Texas;
- 20 (5) Department of State Health Services;
- 21 (6) Department of Information Resources;
- 22 (7) Department of Public Safety of the State of Texas;
- 23 (8) Texas Division of Emergency Management;
- 24 (9) Texas Military Department ~~[adjutant general's~~
25 ~~department]~~;
- 26 (10) Texas Commission on Environmental Quality;
- 27 (11) Railroad Commission of Texas;

- 1 (12) Texas ~~[Strategic]~~ Military Preparedness
- 2 ~~[Planning]~~ Commission;
- 3 (13) Texas Department of Transportation;
- 4 (14) Commission on State Emergency Communications;
- 5 (15) Office of State-Federal Relations;
- 6 (16) secretary of state;
- 7 (17) Senate Committee on Veterans Affairs and Military
- 8 Installations;
- 9 (18) Senate Committee on Agriculture, Rural Affairs
- 10 ~~[Transportation]~~ and Homeland Security;
- 11 (19) ~~[(18)]~~ House Committee on Defense and Veterans'
- 12 Affairs;
- 13 (20) House Committee on Homeland Security and Public
- 14 Safety;
- 15 (21) ~~[(19)]~~ Texas Animal Health Commission;
- 16 (22) ~~[(20) Texas Association of Regional Councils,~~
- 17 ~~[(21)]~~ Texas Commission on Law Enforcement Officer
- 18 Standards and Education;
- 19 (23) ~~[(22)]~~ state fire marshal's office;
- 20 (24) ~~[(23)]~~ Texas Education Agency;
- 21 (25) ~~[(24)]~~ Texas Commission on Fire Protection;
- 22 (26) ~~[(25)]~~ Parks and Wildlife Department;
- 23 (27) ~~[(26)]~~ Texas A&M Forest Service; and
- 24 (28) ~~[(27)]~~ Texas Water Development Board.

25 SECTION 2.04. Subsection (a), Section 432.072, Government
26 Code, is amended to read as follows:

27 (a) A person not subject to this chapter commits an offense

1 if the person:

2 (1) has been duly subpoenaed to appear as a witness or
3 to produce books and records before a military court or before a
4 military or civil officer or peace officer designated to take a
5 deposition to be read in evidence before a court;

6 (2) has been duly paid or tendered by the Texas
7 military forces [~~adjutant general's department~~] the fees and
8 mileage of a witness at the rates allowed to witnesses under Section
9 432.192; and

10 (3) wilfully neglects or refuses to appear, qualify as
11 a witness, testify, or produce evidence that the person may have
12 been legally subpoenaed to produce.

13 SECTION 2.05. Subsection (a), Section 432.109, Government
14 Code, is amended to read as follows:

15 (a) The Texas Court of Military Appeals [~~, located for~~
16 ~~administrative purposes only in the adjutant general's~~
17 ~~department,~~] consists of five judges appointed by the adjutant
18 general on the advice and recommendation of the state judge
19 advocate general for staggered six-year terms. A judge appointed
20 to fill a vacancy occurring before the expiration of the term for
21 which the judge's predecessor was appointed shall be appointed only
22 for the unexpired term of his predecessor. The adjutant general, on
23 the advice and recommendation of the state judge advocate general,
24 shall appoint the chief judge of the court. A person is eligible
25 for appointment to the court if the person:

26 (1) is a member of the State Bar of Texas;

27 (2) is a commissioned officer of the Texas [~~state~~]

1 military forces, active or retired, or a retired commissioned
2 officer in the reserves of the armed forces of the United States;
3 and

4 (3) has been engaged in the active practice of law for
5 at least five years and has at least five years' experience as a
6 staff judge advocate, judge advocate, or legal officer with the
7 Texas [~~state~~] military forces, except that the requirements of this
8 subdivision are satisfied by equivalent experience or practice in
9 the armed forces of the United States.

10 SECTION 2.06. Subsection (b), Section 432.192, Government
11 Code, is amended to read as follows:

12 (b) A person not in the employ of this state and not
13 belonging to its active military forces, who has been duly summoned
14 to appear as a witness before a military court, is entitled to
15 receive \$50 a day for each day actually in attendance on the court,
16 and 12 cents a mile for going from his place of residence to the
17 place of trial or hearing, and 12 cents a mile for returning.
18 Civilian witnesses will be paid by the Texas military forces
19 [~~adjutant general's department~~].

20 SECTION 2.07. Section 432.194, Government Code, is amended
21 to read as follows:

22 Sec. 432.194. EXPENSES OF ADMINISTRATION. The adjutant
23 general may pay all expenses incurred in the administration of
24 state military justice, including the expenses of courts-martial
25 and expenses incurred under Sections 432.109, 432.184, and 432.192,
26 from any funds appropriated to the Texas military forces [~~adjutant~~
27 ~~general's department~~].

1 SECTION 2.08. Section 434.153, Government Code, is amended
2 to read as follows:

3 Sec. 434.153. COMPOSITION OF COUNCIL. The council is
4 composed of the executive head of the following agencies, or that
5 person's designated representative:

6 (1) the Texas Veterans Commission;

7 (2) the Veterans' Land Board;

8 (3) the Texas Military Department [~~adjutant general's~~
9 ~~department~~];

10 (4) the Health and Human Services Commission; and

11 (5) the State Bar of Texas.

12 SECTION 2.09. Subsection (a), Section 1232.101, Government
13 Code, is amended to read as follows:

14 (a) With respect to all bonds authorized to be issued by or
15 on behalf of the Texas Military Department [~~adjutant general's~~
16 ~~department~~], Parks and Wildlife Department, Texas Agricultural
17 Finance Authority, Texas Low-Level Radioactive Waste Disposal
18 Authority, Midwestern State University, and Texas Southern
19 University, the authority has the exclusive authority to act on
20 behalf of those entities in issuing bonds on their behalf. In
21 connection with those issuances and with the issuance of refunding
22 bonds on behalf of those entities, the authority is subject to all
23 rights, duties, and conditions surrounding issuance previously
24 applicable to the issuing entity under the statute authorizing the
25 issuance. A reference in an authorizing statute to the entity on
26 whose behalf the bonds are being issued applies equally to the
27 authority in its capacity as issuer on behalf of the entity.

1 SECTION 2.10. Subsection (d), Section 161.552, Health and
2 Safety Code, is amended to read as follows:

3 (d) The department and commission shall develop and
4 maintain the directory in collaboration with local, state, and
5 national private and government organizations, including:

6 (1) the United States Veterans Health Administration;

7 (2) the United States Department of Defense;

8 (3) the Texas military forces [~~adjutant-general's~~
9 ~~department~~];

10 (4) the Texas Veterans Commission; and

11 (5) other public and private national and
12 community-based organizations that provide support to
13 servicemembers and their families.

14 SECTION 2.11. Section 412.0128, Labor Code, is amended to
15 read as follows:

16 Sec. 412.0128. CONFIDENTIALITY OF [~~INJURY~~] INFORMATION.
17 Information in or derived from a workers' compensation claim file
18 regarding an employee, and information in or derived from a risk
19 management review related to facility security or continuity of
20 operations of the Texas military forces, is confidential and may
21 not be disclosed by the office except as provided by this subchapter
22 or other law. Classified or sensitive information of the Texas
23 military forces specifically preempted from disclosure by federal
24 law retains the confidentiality protection provided by this section
25 for all purposes, including disclosure to the office.

26 SECTION 2.12. Subsection (e), Section 31.156, Natural
27 Resources Code, is amended to read as follows:

1 (e) In any year that the division will evaluate real
2 property under the management and control of the Texas Military
3 Department [~~adjutant general's department~~], the division shall
4 notify the department before the division begins the evaluation.

5 SECTION 2.13. Subsection (d), Section 31.157, Natural
6 Resources Code, is amended to read as follows:

7 (d) If under the Texas Military Department's [~~adjutant~~
8 ~~general's~~] report submitted as provided by Section 437.154
9 [~~431.030~~], Government Code, the department [~~adjutant general~~]
10 determines that real property under the management and control of
11 the [~~adjutant general's~~] department is used for military purposes,
12 the commissioner may not recommend a real estate transaction
13 involving that real property in the final report submitted as
14 provided by Subsection (e).

15 SECTION 2.14. Subsections (b), (c), and (d), Section
16 74.404, Property Code, are amended to read as follows:

17 (b) A military award or decoration delivered to the
18 comptroller under this chapter:

19 (1) may not be sold under Section 74.401 or destroyed;
20 and

21 (2) shall be delivered by the comptroller to the Texas
22 military forces [~~adjutant general's department~~].

23 (c) The Texas military forces [~~adjutant general's~~
24 ~~department~~] shall conduct a reasonable search of public records to
25 locate the person to whom the military award or decoration was
26 awarded. If the department cannot locate the person, the
27 department shall attempt to locate the person's next of kin. If the

1 department locates the person or the person's next of kin, the
2 department shall deliver the award or decoration to the person or
3 the person's next of kin, as applicable.

4 (d) If the Texas military forces [~~adjutant-general's~~
5 ~~department~~] cannot locate the person to whom a military award or
6 decoration was awarded or the person's next of kin, the award or
7 decoration shall be held in trust for the comptroller at:

- 8 (1) a museum established by the department; or
9 (2) if no museum exists, any other public facility
10 designated by the department.

11 ARTICLE 3. CONFORMING AMENDMENTS

12 SECTION 3.01. Subsection (a), Section 721.002, Business &
13 Commerce Code, is amended to read as follows:

14 (a) A person commits an offense if the person uses, in an
15 advertisement for a commercial purpose, the name of an individual
16 who is an active duty or former member of the United States armed
17 forces, who is a member or former member of a reserve component of
18 the United States armed forces, or who is a member or former member
19 of the state military forces, as defined by Section 437.001
20 [~~431.001~~], Government Code, or a picture of the individual in
21 uniform in which the individual is clearly identifiable, without
22 obtaining the consent of:

- 23 (1) the individual, if the individual is living; or
24 (2) the individual's surviving spouse or personal
25 representative or a majority of the individual's adult heirs, if
26 the individual is deceased.

27 SECTION 3.02. Subsection (a), Section 54.345, Education

1 Code, is amended to read as follows:

2 (a) For each semester, the adjutant general of the state
3 military forces shall certify to institutions of higher education
4 as described by Section 437.226 [~~431.090~~], Government Code,
5 information identifying the persons to whom the adjutant general
6 has awarded assistance for tuition and mandatory fees under that
7 section.

8 SECTION 3.03. Subsection (a), Section 411.121, Government
9 Code, is amended to read as follows:

10 (a) In this section:

11 (1) "Adjutant general" has the meaning assigned by
12 Section 437.001 [~~431.022~~].

13 (2) "State military forces" has the meaning assigned
14 by Section 437.001 [~~431.001~~].

15 SECTION 3.04. Subsection (a), Section 411.1881, Government
16 Code, is amended to read as follows:

17 (a) Notwithstanding any other provision of this subchapter,
18 a person may not be required to complete the range instruction
19 portion of a handgun proficiency course to obtain or renew a
20 concealed handgun license issued under this subchapter if the
21 person:

22 (1) is currently serving in or is honorably discharged
23 from:

24 (A) the army, navy, air force, coast guard, or
25 marine corps of the United States or an auxiliary service or reserve
26 unit of one of those branches of the armed forces; or

27 (B) the Texas [~~state~~] military forces, as defined

1 by Section 437.001 [~~431.001~~]; and

2 (2) has, within the five years preceding the date of
3 the person's application for an original or renewed license, as
4 applicable, completed a course of training in handgun proficiency
5 or familiarization as part of the person's service with the armed
6 forces or Texas [~~state~~] military forces.

7 SECTION 3.05. Subsection (a), Section 411.1951, Government
8 Code, is amended to read as follows:

9 (a) In this section, "veteran" means a person who:

10 (1) has served in:

11 (A) the army, navy, air force, coast guard, or
12 marine corps of the United States;

13 (B) the Texas [~~state~~] military forces as defined
14 by Section 437.001 [~~431.001~~]; or

15 (C) an auxiliary service of one of those branches
16 of the armed forces; and

17 (2) has been honorably discharged from the branch of
18 the service in which the person served.

19 SECTION 3.06. Section 418.006, Government Code, is amended
20 to read as follows:

21 Sec. 418.006. CIVIL LIABILITY. An officer or employee of a
22 state or local agency, or a volunteer acting at the direction of an
23 officer or employee of a state or local agency, is considered for
24 purposes of Section 437.222 [~~431.085~~] to be a member of the Texas
25 [~~state~~] military forces ordered into active service of the state by
26 proper authority and is considered to be discharging a duty in that
27 capacity if the person is performing an activity related to

1 sheltering or housing individuals in connection with the evacuation
2 of an area stricken or threatened by disaster.

3 SECTION 3.07. Subsections (a), (b), and (d), Section
4 421.061, Government Code, are amended to read as follows:

5 (a) An officer or employee of a state or local agency
6 performing a homeland security activity or a volunteer performing a
7 homeland security activity at the request or under the direction of
8 an officer or employee of a state or local agency is considered for
9 purposes of Section 437.222 [~~431.085~~] to be a member of the Texas
10 [~~state~~] military forces ordered into active service of the state by
11 proper authority and is considered to be discharging a duty in that
12 capacity if:

13 (1) the officer, employee, or volunteer is performing
14 the homeland security activity under procedures prescribed or
15 circumstances described for the purpose of this section in the
16 governor's homeland security strategy;

17 (2) in the case of a volunteer, the volunteer is acting
18 within the course and scope of the request or direction of the
19 officer or employee of the state or local agency; and

20 (3) in the case of an officer or employee of a state or
21 local agency, the officer or employee is acting within the course
22 and scope of the person's authority.

23 (b) A person described by Subsection (a) is not immune from
24 civil liability under Section 437.222 [~~431.085~~] for damages
25 resulting from the performance of a homeland security activity if,
26 under the circumstances, the person's performance of the homeland
27 security activity was wilfully or wantonly negligent or done with

1 conscious indifference or reckless disregard for the safety of
2 persons this chapter is intended to protect.

3 (d) This section does not affect the application of Section
4 437.222 [~~431.085~~] on its own terms to a person who is a member of the
5 Texas [~~state~~] military forces ordered into active service of the
6 state by proper authority under other law.

7 SECTION 3.08. Section 661.903, Government Code, is amended
8 to read as follows:

9 Sec. 661.903. NATIONAL GUARD EMERGENCY. A state employee
10 who is called to state active duty as a member of the Texas [~~state~~]
11 military forces by the governor because of an emergency is entitled
12 to a leave of absence without a deduction in salary in accordance
13 with Section 437.254 [~~431.0825~~]. A state employee who is called to
14 federal active duty as a member of the Texas [~~state~~] military forces
15 may not receive the employee's state salary except as provided by
16 Sections 661.904(d) and (f) and 661.9041.

17 SECTION 3.09. Subsection (b), Section 1232.1025,
18 Government Code, is amended to read as follows:

19 (b) After receiving a request under Section 437.153
20 [~~431.0292 or 431.0302(c)~~], the board shall promptly issue and sell
21 bonds in the name of the authority to provide the requested
22 financing.

23 SECTION 3.10. Subdivision (2), Section 2308.251,
24 Government Code, is amended to read as follows:

25 (2) "Veteran" means a person who:

26 (A) has served in:

27 (i) the army, navy, air force, coast guard,

1 or marine corps of the United States or the United States Public
2 Health Service under 42 U.S.C. Section 201 et seq., as amended;

3 (ii) the Texas [~~state~~] military forces as
4 defined by Section 437.001 [~~431.001~~]; or

5 (iii) an auxiliary service of one of those
6 branches of the armed forces; and

7 (B) has been honorably discharged from the branch
8 of the service in which the person served.

9 SECTION 3.11. Subdivision (3), Section 161.551, Health and
10 Safety Code, is amended to read as follows:

11 (3) "Servicemember" means [~~a resident of this state~~
12 ~~who is~~] a member or former member of the state military forces or a
13 component of the United States armed forces, including a reserve
14 component. In this section, "state military forces" has the
15 meaning assigned by Section 437.001 [~~431.001~~], Government Code.

16 SECTION 3.12. Subsections (d) and (e), Section 775.039,
17 Health and Safety Code, are amended to read as follows:

18 (d) The differential pay provided by Subsection (a) begins
19 when the benefits allowed under Section 437.202 [~~431.005~~],
20 Government Code, are exhausted and continues until the employee's
21 active military duty terminates.

22 (e) The board may extend the insurance benefits provided by
23 the district to a district employee who is a member of the state
24 military forces or a reserve component of the United States armed
25 forces who is called to active duty and to the employee's
26 dependents. The extension period begins when the benefits allowed
27 under Section 437.202 [~~431.005~~], Government Code, are exhausted and

1 continues until the employee's active military duty terminates.

2 SECTION 3.13. Subsection (a), Section 1001.076, Health and
3 Safety Code, is amended to read as follows:

4 (a) In this section, "veteran" means a person who:

5 (1) has served in:

6 (A) the army, navy, air force, coast guard, or
7 marine corps of the United States;

8 (B) the state military forces as defined by
9 Section 437.001 [~~431.001~~], Government Code; or

10 (C) an auxiliary service of one of those branches
11 of the armed forces; and

12 (2) has been honorably discharged from the branch of
13 the service in which the person served.

14 SECTION 3.14. Subsection (a), Section 408.0445, Labor Code,
15 is amended to read as follows:

16 (a) For purposes of computing income benefits or death
17 benefits under Section 437.227 [~~431.104~~], Government Code, the
18 average weekly wage of a member of the state military forces as
19 defined by Section 437.001 [~~431.001~~], Government Code, who is
20 engaged in authorized training or duty is an amount equal to the sum
21 of the member's regular weekly wage at any employment the member
22 holds in addition to serving as a member of the state military
23 forces, disregarding any period during which the member is not
24 fully compensated for that employment because the member is engaged
25 in authorized military training or duty, and the member's regular
26 weekly wage as a member of the state military forces, except that
27 the amount may not exceed 100 percent of the state average weekly

1 wage as determined under Section 408.047.

2 SECTION 3.15. Subdivision (5), Section 501.001, Labor Code,
3 is amended to read as follows:

4 (5) "Employee" means a person who is:

5 (A) in the service of the state pursuant to an
6 election, appointment, or express oral or written contract of hire;

7 (B) paid from state funds but whose duties
8 require that the person work and frequently receive supervision in
9 a political subdivision of the state;

10 (C) a peace officer employed by a political
11 subdivision, while the peace officer is exercising authority
12 granted under:

13 (i) Article 2.12, Code of Criminal
14 Procedure; or

15 (ii) Articles 14.03(d) and (g), Code of
16 Criminal Procedure;

17 (D) a member of the state military forces, as
18 defined by Section 437.001 [~~431.001~~], Government Code, who is
19 engaged in authorized training or duty; or

20 (E) a Texas Task Force 1 member, as defined by
21 Section 88.301, Education Code, who is activated by the Texas
22 Division of Emergency Management or is injured during training
23 sponsored or sanctioned by Texas Task Force 1.

24 SECTION 3.16. Subsection (a), Section 392.067, Local
25 Government Code, is amended to read as follows:

26 (a) In this section, "veteran" means a person who has served
27 on active duty in the armed forces of the United States or in the

1 state military forces as defined by Section 437.001 [~~431.001~~],
2 Government Code.

3 SECTION 3.17. Subdivision (1), Section 1804.001,
4 Occupations Code, is amended to read as follows:

5 (1) "Veteran" means a person who has served on active
6 duty in the armed forces of the United States or in the state
7 military forces as defined by Section 437.001 [~~431.001~~], Government
8 Code.

9 SECTION 3.18. Subdivision (2), Subsection (a), Section
10 31.121, Parks and Wildlife Code, is amended to read as follows:

11 (2) "State military forces" has the meaning assigned
12 by Section 437.001 [~~431.001~~], Government Code.

13 SECTION 3.19. Subdivision (2), Subsection (a), Section
14 32.54, Penal Code, is amended to read as follows:

15 (2) "State military forces" has the meaning assigned
16 by Section 437.001 [~~431.001~~], Government Code.

17 SECTION 3.20. Subsections (b), (d), and (f), Section 46.15,
18 Penal Code, are amended to read as follows:

19 (b) Section 46.02 does not apply to a person who:

20 (1) is in the actual discharge of official duties as a
21 member of the armed forces or state military forces as defined by
22 Section 437.001 [~~431.001~~], Government Code, or as a guard employed
23 by a penal institution;

24 (2) is traveling;

25 (3) is engaging in lawful hunting, fishing, or other
26 sporting activity on the immediate premises where the activity is
27 conducted, or is en route between the premises and the actor's

1 residence, motor vehicle, or watercraft, if the weapon is a type
2 commonly used in the activity;

3 (4) holds a security officer commission issued by the
4 Texas Private Security Board, if the person is engaged in the
5 performance of the person's duties as an officer commissioned under
6 Chapter 1702, Occupations Code, or is traveling to or from the
7 person's place of assignment and is wearing the officer's uniform
8 and carrying the officer's weapon in plain view;

9 (5) acts as a personal protection officer and carries
10 the person's security officer commission and personal protection
11 officer authorization, if the person:

12 (A) is engaged in the performance of the person's
13 duties as a personal protection officer under Chapter 1702,
14 Occupations Code, or is traveling to or from the person's place of
15 assignment; and

16 (B) is either:

17 (i) wearing the uniform of a security
18 officer, including any uniform or apparel described by Section
19 1702.323(d), Occupations Code, and carrying the officer's weapon in
20 plain view; or

21 (ii) not wearing the uniform of a security
22 officer and carrying the officer's weapon in a concealed manner;

23 (6) is carrying a concealed handgun and a valid
24 license issued under Subchapter H, Chapter 411, Government Code, to
25 carry a concealed handgun of the same category as the handgun the
26 person is carrying;

27 (7) holds an alcoholic beverage permit or license or

1 is an employee of a holder of an alcoholic beverage permit or
2 license if the person is supervising the operation of the permitted
3 or licensed premises; or

4 (8) is a student in a law enforcement class engaging in
5 an activity required as part of the class, if the weapon is a type
6 commonly used in the activity and the person is:

7 (A) on the immediate premises where the activity
8 is conducted; or

9 (B) en route between those premises and the
10 person's residence and is carrying the weapon unloaded.

11 (d) The provisions of Section 46.02 prohibiting the
12 carrying of a firearm or carrying of a club do not apply to a public
13 security officer employed by the adjutant general under Section
14 437.053 [~~431.029~~], Government Code, in performance of official
15 duties or while traveling to or from a place of duty.

16 (f) Section 46.03(a)(6) does not apply to a person who
17 possesses a firearm or club while in the actual discharge of
18 official duties as:

19 (1) a member of the armed forces or state military
20 forces, as defined by Section 437.001 [~~431.001~~], Government Code;
21 or

22 (2) an employee of a penal institution.

23 SECTION 3.21. Section 151.344, Tax Code, is amended to read
24 as follows:

25 Sec. 151.344. POST EXCHANGES ON STATE MILITARY PROPERTY.

26 (a) A taxable item sold, leased, or rented to, or stored, used, or
27 consumed by, a post exchange under Section 437.110 [~~431.040~~],

1 Government Code, is exempt from the taxes imposed by this chapter.

2 (b) A taxable item sold, leased, or rented by a post
3 exchange under Section 437.110 [~~431.040~~], Government Code, is
4 exempt from the taxes imposed by this chapter.

5 SECTION 3.22. Subsection (a), Section 521.1235,
6 Transportation Code, is amended to read as follows:

7 (a) In this section, "veteran" means a person who:

8 (1) has served in:

9 (A) the army, navy, air force, coast guard, or
10 marine corps of the United States; or

11 (B) the Texas National Guard as defined by
12 Section 437.001 [~~431.001~~], Government Code; and

13 (2) has been honorably discharged from the branch of
14 the service in which the person served.

15 SECTION 3.23. Subsection (g), Section 36.354, Utilities
16 Code, is amended to read as follows:

17 (g) For the purposes of this section, the term "military
18 base" does not include a military base:

19 (1) that has been closed or realigned under the
20 Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section
21 2687) and its subsequent amendments;

22 (2) that is administered by an authority established
23 by a municipality under Chapter 379B [~~378~~], Local Government Code
24 [~~as added by Chapter 1221, Acts of the 76th Legislature, Regular~~
25 ~~Session, 1999~~];

26 (3) that is operated by or for the benefit of the Texas
27 National Guard, as defined by Section 437.001 [~~431.001~~], Government

1 Code, unless the base is served by a municipally owned utility owned
2 by a city with a population of 650,000 or more; or

3 (4) for which a municipally owned utility has acquired
4 the electric distribution system under 10 U.S.C. Section 2688.

5 ARTICLE 4. REPEALER AND EFFECTIVE DATE

6 SECTION 4.01. The following provisions of the Government
7 Code are repealed:

8 (1) Sections 431.002, 431.003, 431.004, 431.005,
9 431.0055, 431.006, 431.007, 431.008, 431.009, 431.010, 431.011,
10 431.012, 431.013, 431.014, 431.015, 431.016, 431.017, 431.0175,
11 431.018, and 431.0185; and

12 (2) Subchapters B, C, D, F, G, and I, Chapter 431.

13 SECTION 4.02. This Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1536 passed the Senate on April 29, 2013, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 23, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1536 passed the House, with amendment, on May 20, 2013, by the following vote: Yeas 147, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor