

## **BILL ANALYSIS**

Senate Research Center

S.B. 1016  
By: Estes, Hegar  
Government Organization  
9/24/2009  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Department of Agriculture (TDA), Prescribed Burning Board (PBB), and Texas-Israel Exchange Fund Board (board) are subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. TDA encompasses all phases of modern agriculture, agricultural businesses, and consumer protection. To fulfill its mission of making Texas the leader in agriculture, TDA promotes Texas agricultural products; promotes economic development in rural communities; regulates pesticides, measuring devices, and agricultural commodities; controls destructive plant pests and diseases; and administers federal nutrition programs for children and adults.

Prescribed burning serves a need in Texas for controlling vegetative fuels that can contribute to wildfires and for managing land to maintain or restore ecosystems. Regulation of certified prescribed burn managers is intended to ensure that those responsible for conducting these burns have the training, experience, and financial responsibility to protect the interests of land owners. PBB, however, has no enforcement authority against certified prescribed burn managers who are negligent in conducting a burn or who fail to maintain insurance coverage required for certification. PBB also lacks the ability to go after unlicensed activity, among other limitations.

The board provides funding for agricultural research projects intended to be of mutual benefit to Texas and Israel. While the board is able to leverage state dollars to fund useful research for Texas agriculture, the funding for and results of these projects are not transparent to the legislature, the agriculture industry, or the public. The same functions could be provided by an advisory committee, rather than a semi-independent board.

S.B. 1016 relates to the continuation and functions of TDA and PBB, the creation of the Texas Bioenergy Policy Council and Texas Bioenergy Research Committee, and the abolition of the Texas-Israel Exchange Fund Board and provides penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is prohibited to the Texas Commission on Environmental Quality in SECTION 4.03 (Section 50D.015, Agriculture Code) of this bill.

Rulemaking authority previously granted to the board of directors (board) for the Texas Agricultural Finance Authority (TAFA) is modified in SECTION 1.03 (Section 44.007, Agriculture Code) and SECTION 1.08 (Section 58.023, Agriculture Code) of this bill.

Rulemaking authority is expressly granted to the board of TAFA in SECTION 1.09 (Section 58.041, Agriculture Code), SECTION 1.13 (Section 58.052, Agriculture Code), SECTION 1.16 (Section 58.072, Agriculture Code), and SECTION 1.17 (Section 58.091, Agriculture Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of agriculture (commissioner) in SECTION 4.02 (Section 50B.002, Agriculture Code) and SECTION 10.01 (Sections 80.005, 80.011, 80.016, 80.017, 80.018, 80.020, 80.022, 80.026, and 80.031, Agriculture Code) of this bill.

Rulemaking authority previously granted to the commissioner is modified in SECTION 4.08 (Section 110.002, Alcoholic Beverage Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Agriculture (TDA) in SECTION 2.10 (Section 153.102, Natural Resources Code), SECTION 6.03 (Sections 12A.101 and 12A.201, Agriculture Code), SECTION 8.04 (Section 12.0271, Agriculture Code), SECTION 9.03 (Section 12.0027, Agriculture Code), and SECTION 9.04 (Section 12.046, Occupations Code), of this bill.

Rulemaking authority previously granted to TDA is modified in SECTION 5.07 (Section 13.261, Agriculture Code), SECTION 7.07 (Section 1951.105, Occupations Code), SECTION 7.08 (Section 1951.205, Occupations Code), and SECTION 9.20 (Section 76.004, Agriculture Code) of this bill.

Rulemaking authority previously granted to TDA is rescinded in SECTION 5.09 (Section 52.151, Agriculture Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

### ARTICLE 1. TEXAS AGRICULTURAL FINANCE AUTHORITY

SECTION 1.01. Amends Sections 44.001(1) and (2), Agriculture Code, to redefine "eligible lending institution" and "eligible borrower."

SECTION 1.02. Amends the heading to Section 44.007, Agriculture Code, to read as follows:

Sec. 44.007. INTEREST RATE REDUCTION PROGRAM.

SECTION 1.03. Amends Sections 44.007(a), (c), (d), (k), and (l), Agriculture Code, as follows:

(a) Requires the board of directors for the Texas Agricultural Finance Authority (board) to establish an interest rate reduction, rather than a linked deposit, program to foster the creation and expansion of enterprises based on agriculture in this state. Deletes existing text requiring the board to encourage commercial lending for the enhanced production, processing, and marketing of certain agricultural crops, encourage the development or expansion of businesses in rural areas of this state, and finance water conservation projects or equipment for agricultural production purposes.

(c) Requires the board to promulgate rules for the loan portion of the interest rate reduction, rather than linked deposit, program. Deletes existing text requiring that the rules include a list of the categories of crops customarily grown in Texas, with consideration given to the Texas Agricultural Statistics Service information available and relevant to this determination; a list of crops that are alternative agricultural crops, with consideration given to the Texas Agricultural Statistics Service information available and relevant to this determination; identification of criteria for a project eligible for natural disaster assistance; and identification of projects and types of equipment considered as water conservation projects or equipment for agricultural production purposes.

(d) Makes a conforming change.

(k) Deletes existing text authorizing the policy objectives of the rules adopted by the board to include preferences to achieve adequate geographic distribution of loans, assist certain industries, encourage certain practices including water conservation, and encourage value-added processing of agricultural products.

(l) Makes a conforming change.

SECTION 1.04. Amends Sections 44.010(a) and (b), Agriculture Code, as follows:

(a) Authorizes that, at any one time, not more than \$30 million, rather than \$30 million of which \$10 million is authorized to be used only to finance water conservation projects and \$5 million is authorized to be used to finance the economic development of businesses in rural areas, be placed in linked deposits under this chapter.

(b) Provides that the maximum amount of a loan under this chapter, rather than a loan under this chapter to process and market Texas agricultural crops, is \$500,000. Deletes existing text providing that the maximum amount of a loan under this chapter to produce alternative agricultural crops in this state is \$250,000; the maximum amount of a loan under this chapter to finance water conservation projects or equipment for agricultural production purposes is \$250,000; the maximum amount of a loan under this chapter to finance production of a crop declared eligible for natural disaster relief, as defined by board rule, is \$250,000; and the maximum amount of a loan under this chapter to finance a business in a rural area is \$250,000.

SECTION 1.05. Amends Section 58.012, Agriculture Code, by amending Subsections (a)-(c) and adding Subsection (g), as follows:

(a) Provides that the Texas Agricultural Finance Authority (TAFA) is governed by a board composed of the commissioner of agriculture (commissioner), the director of the Institute for International Agribusiness Studies at Prairie View A&M University, and nine, rather than seven, members appointed by the commissioner, rather than appointed by the governor with the advice and consent of the senate. Requires members of the board to be appointed in the numbers specified and from certain categories including two persons who represent young farmers and the interests of young farmers. Makes a nonsubstantive change.

(b) Provides that the members of the board serve staggered terms of two years, with the terms of four, rather than three, members expiring on January 1 of each even-numbered year and the terms of five, rather than four, members expiring on January 1 of each odd-numbered year.

(c) Requires that any vacancy occurring in an appointed position on the board be filled by the commissioner, rather than the governor, for the unexpired term.

(g) Authorizes the commissioner to consider age, notwithstanding Subsection (f) (relating to appointments to the board), in making appointments under Subsection (a)(5) (relating to two persons who represent young farmers occupying seats on the board of directors).

SECTION 1.06. Amends Section 58.013(a), Agriculture Code, to make conforming changes.

SECTION 1.07. Amends Section 58.0176(a), Agriculture Code, to delete existing text requiring the member, before the member is authorized to be confirmed by the senate, to complete at least one course of the training program established under this section.

SECTION 1.08. Amends Sections 58.023(c) and (d), Agriculture Code, as follows:

(c) Requires the board to charge an administrative fee for guaranteeing a loan under Subchapter E (Young Farmer Loan Guarantee Program) that is prohibited from being less than one percent of the amount of the guaranteed loan.

(d) Requires the board to by rule adopt an agreement to be used between a lender and an approved applicant under which TAFA makes a payment from the Texas agricultural fund for the purpose of providing a reduced interest rate on a loan guarantee to a borrower, rather than a borrower under this subchapter. Requires that the agreement require the borrower to use the proceeds of the loan for the purposes of the program under which the payment is made.

SECTION 1.09. Amends Subchapter D, Chapter 58, Agriculture Code, by adding Section 58.041, as follows:

Sec. 58.041. ISSUANCE OF DEBT BY TEXAS PUBLIC FINANCE AUTHORITY.  
(a) Defines "debt instrument."

(b) Provides that the Texas Public Finance Authority (TPFA) has the exclusive authority to act on behalf of TAFA in issuing debt instruments authorized to be

issued by TAFAs. Provides that a reference in law to a debt instrument issued by TAFAs, in the context of a debt instrument issued on or after September 1, 2009, means a debt instrument issued by the TPFA on behalf of TAFAs.

(c) Requires TAFAs, notwithstanding Section 58.034(e) (relating to prohibiting a charge or fee by any other agency in the issuance of bonds), to pay all costs incurred by the TPFA for issuing debt instruments on behalf of TAFAs and associated fees and expenses.

(d) Requires TAFAs, when the board authorizes the issuance of debt instruments to fund a loan, to notify TPFA of the amount of the loan and the receipt of the loan and request TPFA to issue debt instruments in an amount necessary to fund the loan. Requires TAFAs and TPFA to determine the amount and time of the debt instrument issue to best provide funds for one or multiple loans.

(e) Authorizes TPFA, at the request of TAFAs, to issue debt instruments to provide money to the Texas agricultural fund.

(f) Authorizes TPFA to sell debt instruments in any manner it determines to be in the best interest of TAFAs, except that it is prohibited from selling a debt instrument that has not been approved by the attorney general and registered with the comptroller of public accounts (comptroller).

(g) Requires the board, in consultation with TPFA, to adopt rules containing criteria for evaluating the creditworthiness of loan applicants and the financial feasibility of projects to be funded with debt instruments issued by TPFA on behalf of TAFAs.

(h) Authorizes TPFA to enter into a credit agreement for a debt instrument issued by the TPFA on behalf of TAFAs for a period and on conditions approved by TPFA.

(i) Provides that this subsection applies only in relation to general obligation debt instruments. Provides that to the extent other sources of revenue available for payment of TAFAs's debts are insufficient and in accordance with the Texas Constitution, general revenue is to be appropriated to TPFA in an amount determined by TPFA to be necessary to pay the principal, premium if any, and interest on general obligation debt instruments issued by the TPFA on behalf of TAFAs, and that amount is required to be specified in the biennial appropriations acts.

SECTION 1.10. Amends the heading to Subchapter E, Chapter 58, Agriculture Code, to read as follows:

#### SUBCHAPTER E. AGRICULTURAL LOAN GUARANTEE PROGRAM

SECTION 1.11. Amends Section 58.051(2), Agriculture Code, to redefine "eligible applicant."

SECTION 1.12. Amends the heading to Section 58.052, Agriculture Code, to read as follows:

#### Sec. 58.052. AGRICULTURAL LOAN GUARANTEE PROGRAM.

SECTION 1.13. Amends Section 58.052, Agriculture Code, by amending Subsections (b), (c), and (e) and adding Subsection (f), as follows:

(b) Requires the board by rule to establish tiered loan guarantee limits. Requires that to be eligible to be guaranteed under this subchapter, a loan with a term of more than one year have a fixed interest rate. Deletes existing text prohibiting the guarantee amount from exceeding the lesser of \$250,000 or 90 percent of the loan amount.

(c) Prohibits the amount that may be used to guarantee loans under this subchapter from exceeding three-fourths of the amount contained in the Texas agricultural fund. Deletes existing text prohibiting the aggregate amount under this subchapter from exceeding twice the amount contained in the young farmer loan guarantee account within the Texas agricultural fund.

(e) Requires the board to adopt an agreement, to be used between a commercial lender and an approved eligible applicant, under which the program provides a payment from money in the Texas agricultural fund, rather than the young farmer loan guarantee account, for the purpose of providing a reduced interest rate on a loan guarantee to a borrower under this subchapter. Prohibits the maximum rate reduction under this subsection per year for each borrower from exceeding three percentage points or an amount that results in \$10,000 in interest savings for the borrower for the year. Makes a nonsubstantive change.

(f) Requires the board by rule to establish a certified lender program under which the board is authorized to certify commercial lenders to participate in the agricultural loan guarantee program in order to expedite the processing of loan guarantee applications by the board.

SECTION 1.14. Amends Section 58.056, Agriculture Code, to make a conforming change.

SECTION 1.15. Amends Sections 58.057(b) and (d), Agriculture Code, by transferring them to Section 58.032, Agriculture Code, and redesignating them as Subsections (g) and (h) of that section, as follows:

(g) Redesignates Subsection (b) as Subsection (g). Provides that the fund includes grants and donations made for the purposes of the programs administered by the TAFE and any other money received under this chapter, rather than providing that the account consists of funds and transfers made to the account, grants and donations made for the purposes of the young farmer loan guarantee program, income earned on money in the account, and any other money received under this subchapter. Requires that income and interest earned, notwithstanding Section 404.071 (Disposition of Interest on Investments), Government Code, on money in the fund, rather than in the account, be deposited to the credit of the fund. Deletes existing text requiring TAFE, at the end of each state fiscal year to transfer to the general credit of the Texas agricultural fund any interest earned on the account that remains after payment of any administrative expenses of the program. Makes conforming changes.

(h) Redesignates Subsection (d) as Subsection (h). Makes no further changes to this subsection.

SECTION 1.16. Amends Chapter 58, Agriculture Code, by adding Subchapter F, as follows:

#### SUBCHAPTER F. YOUNG FARMER INTEREST RATE REDUCTION PROGRAM

Sec. 58.071. DEFINITIONS. Defines "eligible lending institution" and "linked deposit."

Sec. 58.072. YOUNG FARMER INTEREST RATE REDUCTION PROGRAM. (a) Requires the board to establish a young farmer interest rate reduction program to promote the creation and expansion of agricultural businesses by young people in this state.

(b) Requires an applicant, to be eligible to participate in the young farmer interest rate reduction program, be at least 18 years of age but younger than 46 years of age.

(c) Requires the board to approve or disapprove any and all applications under this subchapter, provided that the board is authorized to delegate this authority to the commissioner.

- (d) Requires the board to adopt rules for the loan portion of the young farmer interest rate reduction program.
- (e) Authorizes an eligible lending institution, in order to participate in the young farmer interest rate reduction program, to solicit loan applications from eligible applicants.
- (f) Requires the eligible lending institution, after reviewing an application and determining that the applicant is eligible and creditworthy, to send the application for a linked deposit loan to the administrator of TAFSA.
- (g) Requires the eligible lending institution to certify the interest rate applicable to the specific eligible applicant and attach it to the application sent to the administrator of TAFSA.
- (h) Requires the board or the commissioner, after reviewing each loan application under this subchapter, to recommend to the comptroller the acceptance or rejection of the application.
- (i) Requires the comptroller, after acceptance of the application, to place a linked deposit with the applicable eligible lending institution for the period the comptroller considers appropriate. Prohibits the comptroller from placing a deposit for a period extending beyond the state fiscal biennium in which it is placed. Authorizes the comptroller, subject to the limitation described by Section 58.075, to place deposits at an interest rate described by Section 58.071(2) (relating to defining linked deposit).
- (j) Requires the eligible lending institution, represented by the comptroller, before the placing of a linked deposit, to enter into a written deposit agreement containing the conditions on which the linked deposit is made.
- (k) Authorizes the comptroller, if a lending institution holding linked deposits ceases to be either a state depository or a Farm Credit System institution headquartered in this state, to withdraw the linked deposits.
- (l) Authorizes the board to adopt rules that create a procedure for determining priorities for loans granted under this subchapter. Requires that each rule adopted state the policy objective of the rule.
- (m) Provides that a lending institution is not ineligible to participate in the young farmer interest rate reduction program solely because a member of the board is also an officer, director, or employee of the lending institution, provided that a board member is required to recuse himself or herself from any action taken by the board on an application involving a lending institution by which the board member is employed or for which the board member serves as an officer or director.
- (n) Requires that linked deposits under the young farmer interest rate reduction program be funded from the Texas agricultural fund.

Sec. 58.073. COMPLIANCE. (a) Requires an eligible lending institution, on accepting a linked deposit, to loan money to eligible applicants in accordance with the deposit agreement and this subchapter. Requires the eligible lending institution to forward a compliance report to the board.

- (b) Requires the board to monitor compliance with this subchapter and inform the comptroller of noncompliance on the part of an eligible lending institution.

Sec. 58.074. STATE LIABILITY PROHIBITED. Provides that the state is not liable to an eligible lending institution for payment of the principal, interest, or late charges on a loan made under this subchapter. Provides that a delay in payment or default on a loan

by a borrower does not affect the validity of the deposit agreement. Provides that linked deposits are not an extension of the state's credit within the meaning of any state constitutional prohibition.

Sec. 58.075. LIMITATIONS IN PROGRAM. (a) Provides that the maximum amount of a loan under this subchapter is \$500,000.

(b) Authorizes a loan granted under this subchapter to be used for any agriculture-related operating expense, including the purchase or lease of land or fixed assets acquisition or improvement, as identified in the application.

SECTION 1.17. Amends Chapter 58, Agriculture Code, by adding Subchapter G, as follows:

#### SUBCHAPTER G. YOUNG FARMER GRANT PROGRAM

Sec. 58.091. GRANT PROGRAM. (a) Requires TAFa to administer a young farmer grant program. Requires that a grant be for the purpose of fostering the creation and expansion of agricultural businesses by young people in this state.

(b) Requires the board to adopt rules governing the operation of the program and selection criteria for grant recipients.

(c) Requires the board to select grant recipients.

Sec. 58.092. ELIGIBILITY. Requires a person, to be eligible to receive a grant under this subchapter, to be an agricultural producer who is at least 18 years of age but younger than 46 years of age and provide matching funds in the amount of not less than one dollar for each dollar of grant money received.

Sec. 58.093. AMOUNT OF GRANTS. Prohibits a grant under the young farmer grant program from being less than \$5,000 or more than \$20,000.

Sec. 58.094. APPLICATIONS. (a) Requires TAFa to accept grant applications during two application periods each year.

(b) Requires applicants to submit an application on a form approved by the board or the board's designee.

Sec. 58.095. FUNDING. Provides that the source of the funds for the young farmer grant program is the Texas agricultural fund.

SECTION 1.18. Amends Section 1232.101, Government Code, to provide that TAFa has the exclusive authority with respect to all bonds authorized to be issued by or on behalf of certain entities, including TAFa, to act on behalf of those entities in issuing bonds on their behalf.

SECTION 1.19. Amends Section 1372.028(d), Government Code, to delete existing text providing that an issuer is not required to provide the statement required by Subsection (c)(3)(F) (relating to required statements on application for reservation), if the issuer is TAFa.

SECTION 1.20. Amends Section 502.174(b), Transportation Code, to delete existing text to require the county assessor-collector to send an assessment collected under this section to the comptroller, at the time and in the manner prescribed by TAFa, for deposit in the Texas agricultural fund to the credit of the young farmer loan guarantee account.

SECTION 1.21. Repealers: Sections 44.001(3) (relating to the definition of alternative agricultural crops), 58.0173(c) (relating to notification by the commissioner of potential ground for removal), 58.0211(b) (relating to preference to value-added agricultural business), 58.057(a) (relating to the Texas agricultural fund), (c) (relating to the board spending not more than \$100,000 each fiscal year), and (e) (relating to the authority of the board of directors of TAFa), Agricultural Code.

Repealer: Section 1372.0235 (Dedication of Portion of State Ceiling to Texas Agricultural Finance Authority), Government Code.

SECTION 1.22. Provides that on the effective date of this Act the young farmer loan guarantee program under Subchapter E, Chapter 58, Agriculture Code, as that subchapter existed before amendment by this Act, is abolished and the agricultural loan guarantee program under Subchapter E, Chapter 58, Agriculture, as amended by this Act, is established.

SECTION 1.23. Provides that on the effective date of this Act, the young farmer loan guarantee account is abolished and all money in the account on that date remains in the Texas agricultural fund. Requires that all deposits purportedly made to the account on or after that date be deposited in the Texas agricultural fund. Provides that all references in law or rule to the young farmer loan guarantee account mean the Texas agricultural fund.

SECTION 1.24. (a) Requires the commissioner, as soon as practicable on or after the effective date of this Act, to appoint two members to the board who represent young farmers and the interests of young farmers. Requires the commissioner, in appointing those members, to appoint one person to a term expiring January 1, 2010, and one to a term expiring January 1, 2011.

(b) Provides that the changes in law made by this Act by the amendment of Section 58.012, Agriculture Code, do not affect the entitlement of a member of the board serving on the board immediately before the effective date of this Act to continue to serve on the board and carry out the board's functions for the remainder of the member's term. Provides that this Act does not prohibit a person who is a member of the board on the effective date of this Act from being reappointed to the board if the person has the qualifications required for a member under Section 58.012, Agriculture Code, as amended by this Act. Makes application of this Act prospective.

SECTION 1.25. Provides that Section 58.041(b), Agriculture Code, as added by this Act, does not apply to the extension, renewal, or renegotiation of debt issued by TAFE before the effective date of this Act. Provides that the extension, renewal, or renegotiation of debt issued by TAFE before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

## ARTICLE 2. PRESCRIBED BURNING BOARD

SECTION 2.01. Amends Section 153.001, Natural Resources Code, as follows:

Sec. 153.001. New heading: DEFINITIONS. Defines "board" and "department." Makes nonsubstantive changes.

SECTION 2.02. Amends Subchapter A, Chapter 153, Natural Resources Code, by adding Section 153.004, as follows:

Sec. 153.004. PRESCRIBED BURNING IN STATE OF EMERGENCY OR DISASTER. Authorizes a certified and insured prescribed burn manager to conduct a burn in a county in which a state of emergency or state of disaster has been declared by the governor or the president of the United States, unless the declaration expressly prohibits all outdoor burning.

SECTION 2.03. Amends Section 153.041(a), Natural Resources Code, as follows:

(a) Provides that the Prescribed Burning Board (PBB) is established within TDA, rather than the Department of Agriculture, and is composed of an employee of the Texas Forest Service designated by the director of the Texas Forest Service; an employee of the Parks and Wildlife Department (TPWD) appointed by the executive director of TPWD; an employee of the Texas Commission on Environmental Quality (TCEQ), rather than the Texas Natural Resource Conservation Commission (TNRCC), appointed by the executive director of the TCEQ, rather than TNRCC; an employee of the Texas AgriLife, rather than Agricultural, Extension Service appointed by the executive director of the Texas AgriLife Extension Service; an employee of Texas AgriLife Research, rather than

Agricultural Experiment Station, appointed by the director of Texas AgriLife Research; an employee of the Texas Tech University Range and Wildlife Department appointed by the dean of the Texas Tech University College of Agricultural Sciences and Natural Resources; and an employee of TDA appointed by the commissioner. Makes conforming and nonsubstantive changes.

SECTION 2.04. Amends Section 153.044, Natural Resources Code, as follows:

Sec. 153.004. SUNSET PROVISION. Provides that PBB is subject to Chapter 325, Government Code (Texas Sunset Act). Requires PBB to be reviewed during the period in which TDA is reviewed. Deletes existing text providing that unless continued in existence as provided by that chapter, PBB is abolished and this chapter expires September 1, 2009.

SECTION 2.05. Amends Section 153.046, Natural Resources Code, to require PBB to develop a comprehensive training curriculum for certified and insured prescribed burn managers; establish standards for certification, recertification, and training for certified and insured prescribed burn managers; and establish minimum insurance requirements for certified and insured prescribed burn managers.

SECTION 2.06. Amends Section 153.047, Natural Resources Code, as follows:

Sec. 153.047. PRESCRIBED BURNING STANDARDS. Requires that minimum standards established by PBB for prescribed burning require that at least one certified and insured prescribed burn manager is present on site during the conduct of the prescribed burn, and include standards for notification to adjacent land owners, TCEQ, rather than TNRCC, and local fire authorities. Makes a conforming change.

SECTION 2.07. Amends Sections 153.048(c) and (e), Natural Resources Code, as follows:

(c) Provides that the certification is for two years, rather than five years.

(e) Makes a conforming change.

SECTION 2.08. Amends Sections 153.081(a) and (b), Natural Resources Code, to make conforming changes.

SECTION 2.09. Amends Section 153.082, Natural Resources Code, to make a conforming change.

SECTION 2.10. Amends Chapter 153, Natural Resources Code, by adding Subchapter D, as follows:

#### SUBCHAPTER D. COMPLAINTS, ENFORCEMENT, AND PENALTIES

Sec. 153.101. COMPLAINTS. Requires TDA to receive and process complaints concerning certified and insured prescribed burn managers in the manner described by Section 12.026 (Public Interest Information; Complaints), Agriculture Code, and rules adopted under that section.

Sec. 153.102. DISCIPLINARY ACTION; SCHEDULE OF SANCTIONS. (a) Authorizes TDA to impose an administrative sanction, including an administrative penalty, as provided by Sections 12.020 (Administrative Penalties), 12.0201( License Sanctions), 12.0202 (Administrative Hearings), and 12.0261 (Administrative Procedure), Agriculture Code, for violation of this chapter.

(b) Requires TDA by rule to adopt a schedule of the disciplinary sanctions that TDA may impose under this chapter. Requires TDA, in adopting the schedule of sanctions, to ensure that the severity of the sanction imposed is appropriate to the type of violation or conduct that is the basis for disciplinary action.

(c) Requires TDA, in determining the appropriate disciplinary action, including the amount of any administrative penalty to assess, to consider whether the person is being disciplined for multiple violations of either this chapter or a rule or order adopted under this chapter or has previously been the subject of disciplinary action by TDA under this chapter and has previously complied with TDA rules and this chapter; the seriousness of the violation, the threat to public safety, and any mitigating factors.

Sec. 153.103. INJUNCTION. (a) Authorizes TDA to apply to a district court in any county for an injunction to restrain a person who is not a certified and insured prescribed burn manager from representing that the person is a certified and insured prescribed burn manager.

(b) Requires the attorney general, at the request of TDA, to initiate and conduct an action in a district court in the state's name to obtain an injunction under this section.

Sec. 153.104. EMERGENCY SUSPENSION. (a) Authorizes TDA, on determining that a certification holder is engaged in or about to engage in a violation of this chapter and that the certification holder's continued practice constitutes an immediate threat to the public welfare, to issue an order suspending the certification holder's certification without notice or a hearing. Requires TDA to immediately serve notice of the suspension on the certification holder.

(b) Requires that the notice required by Subsection (a) be personally served on the certification holder or be sent by registered or certified mail, return receipt requested, to the certification holder's last known address according to TDA's records, state the grounds for the suspension, and inform the certification holder of the right to a hearing on the suspension order.

(c) Entitles a certification holder whose certification is suspended under this section to request a hearing on the suspension not later than the 30th day after the date of receipt of notice of the suspension. Requires TDA, not later than the fifth day after the date a hearing is requested, to issue a notice of hearing.

(d) Provides that a hearing on a suspension order under this section is subject to Chapter 2001 (Administrative Procedure), Government Code. Requires the administrative law judge, if the hearing is before an administrative law judge, after the hearing, to recommend to TDA whether to uphold, vacate, or modify the suspension order.

(e) Provides that a suspension order issued under this section remains in effect until further action is taken by TDA. Requires TDA, if the administrative law judge's recommendation under Subsection (d) is to vacate the order, to determine whether to vacate the order not later than the second day after the date of the recommendation.

SECTION 2.11. (a) Makes application of Section 153.048(c), Natural Resources Code, as amended by this Act, prospective.

(b) Makes application of Sections 153.102, 153.103, and 153.104, Natural Resources Code, as added by this Act, prospective.

### ARTICLE 3. TEXAS-ISRAEL EXCHANGE FUND BOARD

SECTION 3.01. Amends the heading to Chapter 45, Agriculture Code, to read as follows:

#### CHAPTER 45. TEXAS-ISRAEL EXCHANGE RESEARCH PROGRAM

SECTION 3.02. Amends Section 45.001, Agriculture Code, as follows:

Sec. 45.001. LEGISLATIVE FINDINGS; PURPOSE. (a) Provides that a program, rather than a fund, to support joint agricultural research and development by, and development of trade and business relations between, Texas and Israel will address common problems and make substantial contributions to the development of agriculture, trade, and business in both areas.

(b) Makes a conforming change.

SECTION 3.03. Amends Section 45.002, Agriculture Code, as follows:

Sec. 45.002. New heading: DEFINITION. Defines "applied research" for the purposes of this chapter and deletes existing text defining "board" and "fund."

SECTION 3.04. Amends Section 45.005, Agriculture Code, as follows:

Sec. 45.005. GENERAL FUNCTIONS, POWERS, AND DUTIES. (a) Authorizes TDA to establish a binational program to support joint agricultural research and development with Israel. Makes a conforming change.

(b) Makes a conforming change.

(c) Authorizes the program to undertake agricultural research and development projects of mutual benefit that are located in Texas, Israel, or any other location considered advisable by TDA or suggested by the advisory committee, rather than advisory boards. Make a conforming change.

(d) Authorizes TDA, rather than the fund, to make research or development grants or loans to public or private entities who intend to carry out the stated objectives of the program. Makes a conforming change.

(e) Makes a conforming change.

(f) Requires that the program encourage and support mutual cooperation, rather than a program of mutual cooperation, that will foster the development of trade, mutual assistance, and business relations between Texas and Israel.

SECTION 3.05. Amends Sections 45.007(b) and (d), Agriculture Code, as follows:

(b) Authorizes TDA to accept gifts and grants from the federal government, state government, and private sources, as well as legislative appropriations to carry out the purposes of this chapter. Makes a conforming change.

(d) Requires TDA to make an annual accounting of all money received, awarded, and expended during the year under this chapter to the legislative committees responsible for agricultural issues. Makes a conforming change.

SECTION 3.06. Amends Chapter 45, Agriculture Code, by adding Section 45.009, as follows:

Sec. 45.009. TEXAS-ISRAEL EXCHANGE ADVISORY COMMITTEE. Requires TDA to establish a binational agricultural research advisory committee to provide guidance and direction on activities conducted under this chapter and the expenditure of money appropriated for the purposes of this chapter.

SECTION 3.07. (a) Provides that the Texas-Israel Exchange Fund Board and the Texas-Israel Exchange Fund are abolished.

(b) Repealer: Section 45.003 (Creation of Fund), Agriculture Code.

Repealer: Section 45.004 (Administration), Agriculture Code.

Repealer: Section 45.006 (Texas-Israel Exchange Fund Board), Agriculture Code.

Repealers: Section 45.007(a) (relating to the original endowment of the fund) and (c) (relating to the deposit of all gifts and grants), Agriculture Code.

Repealer: Section 45.008 (Final Disbursement of Fund), Agriculture Code.

#### ARTICLE 4. STRUCTURE OF CERTAIN BOARDS AND ADVISORY COMMITTEES

SECTION 4.01. Amends Chapter 50B, Agriculture Code, by adding Section 50B.0015, to define "committee."

SECTION 4.02. Amends Section 50B.002, Agriculture Code, as follows:

Sec. 50B.002. New heading: WINE INDUSTRY DEVELOPMENT AND MARKETING ADVISORY COMMITTEE. (a) Requires, rather than authorizes, the commissioner, to appoint a wine industry development and marketing advisory committee (committee) to develop a long-term vision and marketable identity for the wine industry in the state that take into consideration future industry development, funding, research, educational programming, risk management, and marketing; and assist the commissioner in establishing and implementing the Texas Wine Marketing Assistance Program under Chapter 110 (Texas Wine Marketing Assistance Program in the Department of Agriculture), Alcoholic Beverage Code. Makes nonsubstantive changes.

(b) Provides that the committee consists of members appointed by the commissioner who represent a diverse cross-section of the wine industry, including representatives of certain groups and entities.

(c) Provides that the members of the committee serve without compensation.

(d) Provides that a member of the committee serves at the pleasure of the commissioner for a term of two years. Authorizes the commissioner to reappoint a member to the committee.

(e) Requires the commissioner to select a presiding officer from among the members and adopt rules governing the operation of the committee.

(f) Requires the committee to meet as necessary to provide guidance to the commissioner.

SECTION 4.03. Amends Title 3, Agriculture Code, by adding Chapter 50D, as follows:

#### CHAPTER 50D. TEXAS BIOENERGY POLICY COUNCIL AND TEXAS BIOENERGY RESEARCH COMMITTEE

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 50D.001. PURPOSE. Provides that the purpose of the Texas Bioenergy Policy Council (policy council) and the Texas Bioenergy Research Committee (research committee) is to promote the goal of making biofuels a significant part of the energy industry in this state not later than January 1, 2019.

Sec. 50D.002. DEFINITIONS. Defines "alternative chemical feedstock," "policy council," and "research committee," in this chapter.

Sec. 50D.003. ADMINISTRATIVE SUPPORT. Provides that TDA:

(1) is required to provide administrative support, including staff, to the policy council; and

(2) is authorized to allocate appropriate administrative support to the research committee.

[Reserves Sections 50D.004-50D.010 for expansion.]

#### SUBCHAPTER B. TEXAS BIOENERGY POLICY COUNCIL

Sec. 50D.011. COMPOSITION. (a) Sets forth the composition of the policy council.

(b) Provides that the eight members of the policy council appointed by the governor serve at the governor's pleasure and have two-year staggered terms, with the terms of either three or four members expiring on January 1 of each year.

(c) Requires the governor to fill any vacancy in a position appointed by the governor for the remainder of the unexpired term.

(d) Requires that appointments to the policy council be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(e) Provides that the policy council is subject to Chapters 551 (Open Meetings) and 2001 (Administrative Procedure), Government Code.

Sec. 50D.012. REMOVAL OF POLICY COUNCIL MEMBERS. (a) Authorizes a member of the policy council to be removed from the policy council if the member:

(1) is not able to devote the time necessary to perform the member's duties as a member;

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

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

(b) Provides that an action of the policy council is not invalid because a ground for removal of a policy council member exists at the time the action is taken.

(c) Requires the commissioner, if the commissioner has knowledge that a potential ground for removal of a policy council member exists, to notify the governor and attorney general of the potential ground for removal.

Sec. 50D.013. DUTIES OF POLICY COUNCIL. (a) Requires the policy council to:

(1) provide a vision for unifying this state's agricultural, energy, and research strengths in a successful launch of a cellulosic biofuel and bioenergy industry;

(2) foster development of cellulosic-based and bio-based fuels and build on the Texas emerging technology fund's investments in leading-edge energy research and efforts to commercialize the production of bioenergy;

(3) pursue the creation of a next-generation biofuels energy research program at a university in this state;

(4) work to procure federal and other funding to aid this state in becoming a bioenergy leader;

- (5) study the feasibility and economic development effect of a blending requirement for biodiesel or cellulosic fuels;
- (6) pursue the development and use of thermochemical process technologies to produce alternative chemical feedstocks;
- (7) study the feasibility and economic development of the requirements for pipeline-quality, renewable natural gas; and
- (8) perform other advisory duties as requested by the commissioner regarding the responsible development of bioenergy resources in this state.

(b) Requires the policy council to meet regularly as necessary at the call of the commissioner.

Sec. 50D.014. REIMBURSEMENT OF EXPENSES. Prohibits a member of the policy council from receiving compensation for service on the council. Authorizes a policy council member, subject to availability of funds, to receive reimbursement for the actual and necessary expenses incurred while conducting policy council business.

Sec. 50D.015. COORDINATION WITH FEDERAL GOVERNMENT ON BIOENERGY POLICY. (a) Defines "state agency" in this section.

(b) Requires the policy council to take reasonable steps to track the development of federal bioenergy policy and provide information relating to federal regulatory developments to each affected state agency.

(c) Requires TCEQ, not later than October 1, 2009, to request a determination by the United States Environmental Protection Agency (EPA) that this state will not lose nitrogen oxide emission reduction credits currently recognized as part of the state implementation plan if:

- (1) this state allows the use of biodiesel and biodiesel blends with no additives; and
- (2) the final blend of fuel complies with state and federal standards for cetane and aromatic hydrocarbon content.

(d) Prohibits TCEQ, if TCEQ receives a determination from EPA that this state will not lose nitrogen oxide emission reduction credits as a result of the use of biodiesel or biodiesel blends with no additives, or if TCEQ independently makes that determination, from adopting or implementing rules that restrict the production or distribution of biodiesel or biodiesel blends in a manner more stringent than provided by federal law.

[Reserves Sections 50D.016-50D.020 for expansion.]

#### SUBCHAPTER C. TEXAS BIOENERGY RESEARCH COMMITTEE

Sec. 50D.021. COMPOSITION. (a) Sets forth the composition of the research committee.

(b) Provides that the eight members of the research committee appointed under Subsection (a)(7) (relating to a research committee members appointed by each policy council member) serve at the governor's pleasure and have two-year staggered terms, with the terms of either three or four members expiring on January 1 of each year.

(c) Requires the governor to fill any vacancy in a position appointed under Subsection (a)(7) for the remainder of the unexpired term.

(d) Requires appointments to the research committee to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(e) Provides that the research committee is subject to Chapters 551 and 2001, Government Code.

Sec. 50D.022. REMOVAL OF RESEARCH COMMITTEE MEMBERS. (a) Authorizes a member of the research committee to be removed from the research committee if the member:

(1) is not able to devote the time necessary to perform the member's duties as a member;

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

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

(b) Provides that an action of the research committee is not invalid because a ground for removal of a committee member exists at the time the action is taken.

(c) Requires the commissioner, if the commissioner has knowledge that a potential ground for removal of a committee member exists, to notify the governor and attorney general of the potential ground for removal.

Sec. 50D.023. PURPOSES AND DUTY OF RESEARCH COMMITTEE. (a) Provides that the research committee is a research consortium among academic and technical research leadership, with active involvement by all sectors of the economy interested in bioenergy development.

(b) Requires the research committee to:

(1) identify and research appropriate and desirable biomass feedstock for each geographic region of this state;

(2) investigate logistical challenges to the planting, harvesting, and transporting of large volumes of biomass and provide recommendations to the policy council that will aid in overcoming barriers to the transportation, distribution, and marketing of bioenergy;

(3) identify strategies for and obstacles to the potential transition of the agriculture industry in western regions of this state to dryland bioenergy crops that are not dependent on groundwater resources;

(4) explore regions of this state, including coastal areas, that may contain available marginal land for use in growing bioenergy feedstocks;

(5) study the potential for producing oil from algae;

(6) study the potential for the advancement of thermochemical process technologies to produce alternative chemical feedstocks;

(7) study the potential for producing pipeline-quality natural gas from renewable sources; and

(8) perform other research duties as requested by the commissioner relating to the responsible development of bioenergy resources in this state.

(c) Requires the research committee to meet at the call of the commissioner.

Sec. 50D.024. REIMBURSEMENT OF EXPENSES. Prohibits a member of the research committee from receiving compensation for service on the committee. Authorizes a research committee member, subject to availability of funds, to receive reimbursement for the actual and necessary expenses incurred while conducting research committee business.

SECTION 4.04. Amends Sections 62.002(a) and (d), Agriculture Code, as follows:

(a) Provides that the State Seed and Plant Board (SSP board) is an agency of the state. Provides that the SSP board is composed of one individual, appointed by the president of Texas A&M University, from the Soils and Crop Sciences Department, Texas Agricultural Experiment Station, Texas A&M University; one individual, appointed by the president of Texas Tech University, from the Department of Plant and Soil Sciences, Texas Tech University; one individual, appointed by the commissioner, licensed as a Texas Foundation, Registered, or Certified seed or plant producer who is not employed by a public institution; one individual, appointed by the commissioner, who sells Texas Foundation, Registered, or Certified seed or plants; one individual, appointed by the commissioner, actively engaged in farming but not a producer or seller of Texas Foundation, Registered, or Certified seed or plants; and the head of the seed division of TDA, rather than composed of six members appointed by the governor with the advice and consent of the senate. Makes nonsubstantive changes.

(d) Requires the commissioner, rather than the governor, to designate a member of the SSP board as the chairman to serve in that capacity at the pleasure of the commissioner. Makes a conforming change.

SECTION 4.05. Amends Section 62.0027(a), Agriculture Code, to require the member, before a member of the board is authorized to assume the member's duties, rather than assume the member's duties and before the member is authorized to be confirmed by the senate, to complete at least one course of the training program established under this section.

SECTION 4.06. Amends Sections 103.003(a) and (f), Agriculture Code, as follows:

(a) Provides that the Produce Recovery Fund Board is composed of five members appointed by the commissioner, rather than by the governor with the advice and consent of the senate.

(f) Makes conforming changes.

SECTION 4.07. Amends Section 103.019(a), Agriculture Code, to make a conforming change.

SECTION 4.08. Amends Section 110.002(b), Alcoholic Beverage Code, to require the commissioner, in consultation with the advisory committee established under Section 50B.002, Agriculture Code, rather than Section 110.003, to adopt rules as necessary to implement this section.

SECTION 4.09. Repealer: Section 62.0023(c) (relating to notification by chairman to certain officials), Agriculture Code.

Repealers: Sections 103.003(b) (relating to each board member residing in a different senatorial district) and 103.017(c) (relating to notification by chairman to certain officials), Agriculture Code.

Repealer: Section 110.003 (Advisory Committee), Alcoholic Beverage Code.

SECTION 4.10. Provides that the Texas Wine Marketing Assistance program advisory committee and the wine industry development advisory committee are abolished on the effective date of this Act. Authorizes the commissioner to appoint a person who previously served on either of those committees to the wine industry development and marketing advisory committee established under Section 50B.002, Agriculture Code, as amended by this Act.

SECTION 4.11. (a) Requires the appropriate persons, as soon as practicable after the effective date of this Act, to appoint the members of the policy council and research committee established by Sections 50D.011 and 50D.021, Agriculture Code, as added by this Act.

(b) Requires the commissioner, not later than the 30th day after the final member is appointed to the policy council, to call the first meeting of the policy council.

SECTION 4.12. Provides that the changes in law made by this Act by the amendment of Sections 62.002 and 103.003, Agriculture Code, do not effect the entitlement of a member serving on the SSP board or the Produce Recovery Fund Board immediately before the effective date of this Act to continue to serve as a board member for the remainder of the member's term. Provides that the changes in law apply only to a member appointed on or after the effective date of this Act.

#### ARTICLE 5. CERTAIN AGRICULTURAL REGULATORY PROGRAMS

SECTION 5.01. Amends Section 13.251, Agriculture Code, to redefine "public weigher."

SECTION 5.02. Amends Section 13.255, Agriculture Code, as follows:

Sec. 13.255. CERTIFICATE. (a) Prohibits a public weigher, rather than a public weigher, whether elected or appointed, or a deputy public weigher from officially weighing a commodity unless the weigher has obtained from TDA a certificate of authority.

(b) Requires a public weigher to submit a fee, as provided by TDA rule, with the application for a certificate of authority. Deletes existing text requiring a state public weigher to submit a nonrefundable fee, as provided by TDA rule, with the application for a certificate of authority and a county public weigher or deputy public weigher to submit a fee, as provided by TDA rule, with the application.

SECTION 5.03. Amends Section 13.2555, Agriculture Code, as follows:

Sec. 13.2555. REVOCATION, MODIFICATION, OR SUSPENSION OF CERTIFICATE. (a) Requires TDA to revoke, modify, or suspend the certificate of authority of a public weigher, rather than an appointed public weigher or a deputy of an appointed county public weigher, to assess an administrative penalty, place on probation the public weigher, rather than person, whose certificate has been suspended, or reprimand a public weigher for a violation of this subchapter or a rule adopted by TDA under this subchapter. Makes a conforming change.

(b) Authorizes TDA, if a certification suspension is probated, to require the public weigher, to perform certain duties. Makes conforming changes.

(c) Makes conforming changes.

SECTION 5.04. Amends Section 13.256, Agriculture Code, as follows:

Sec. 13.256. BOND. Deletes designation as Subsection (a). Requires each public weigher to execute a bond in accordance with rules adopted by TDA. Deletes existing text requiring each county public weigher, whether elected or appointed, and each deputy public weigher to execute for the full term of office a bond that is in the amount of \$2,500, approved by TDA and made payable to the county judge of the county for which the weigher is elected or appointed. Requires that the bond be conditioned on the accurate weight or measure of a commodity that the public weigher, rather than the

public weigher or deputy, on the protection of a commodity that the public weigher is requested to weigh or measure, and on compliance with all laws and rules governing public weighers. Deletes existing text requiring that the bond be filed with the county clerk's office in the county for which the public weigher or deputy is appointed or elected. Deletes existing Subsection (b) and existing text requiring each state public weigher to execute a bond similar to the bond required under Subsection (a) of this section, except that the bond is for \$10,000, made payable to the State of Texas, and filed with TDA. Makes a conforming change.

SECTION 5.05. Amends Section 13.257(a), Agriculture Code, to require the public weigher, on each certificate of weight or measure that a public weigher, rather than a public weigher or deputy public weigher, issues, to include the signature and license number of the public weigher. Makes conforming changes.

SECTION 5.06. Amends Section 13.259(a), Agriculture Code, to make a conforming change.

SECTION 5.07. Amends Section 13.261, Agriculture Code, as follows:

Sec. 13.261. New heading: RULES. Requires TDA to adopt rules governing the bond requirements and fees imposed by this subchapter, rather than authorizing TDA to adopt rules governing the procedures to be followed in administering the fees imposed under this subchapter.

SECTION 5.08. Amends Section 52.038, Agriculture Code, as follows:

Sec. 52.038. EXISTING CORPORATIONS AND ASSOCIATIONS. Deletes designation as Subsection (a). Deletes existing Subdivision (a)(3) and existing text authorizing any corporation or association organized under prior law before March 1, 1921, to elect, by a majority vote of its members or stockholders, to adopt this chapter and become subject to it by filing articles of incorporation in accordance with the requirements of Section 52.035 (Filing of Articles of Incorporation) of this code except that the entity's directors are required to sign the articles. Deletes existing Subsection (b) and existing text providing that the filing fee for the articles filed under Subsection (a) of this section is equal to the filing fee for an amendment to the articles of incorporation as provided by Section 52.151 (Fees) of this code.

SECTION 5.09. Amends Section 52.151, Agriculture Code, as follows:

Sec. 52.151. New heading: TAX EXEMPTIONS. Deletes existing Subsection (a) and (b) and existing text providing that the fee for filing articles of incorporation under this chapter is \$10 and the fee for filing an amendment to the articles of incorporation under this chapter is \$2.50. Deletes designation of Subsection (c) and existing text requiring each marketing association to pay to TDA an annual license fee, as provided by TDA rule. Makes a nonsubstantive change.

SECTION 5.10. Amends Section 101.003, Agriculture Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that this section does not apply to a person who purchases perishable commodities and pays for the perishable commodities in United States currency before or at the time of delivery or taking possession. Makes nonsubstantive changes.

(c) Provides that a person who purchases perishable commodities without a license, as owner, agent, or otherwise, does not violate this section if the person obtains a license not later than the 30th day after the date the person first purchases perishable commodities.

SECTION 5.11. Amends Section 101.004, Agriculture Code, to delete the Subsection (a) designation and delete existing Subsection (b) requiring a person to register as a cash dealer if the person purchases perishable commodities and pays for the perishable commodities in United States currency before or at the time of delivery or taking possession.

SECTION 5.12. Amends Section 103.0075(b) and (c), Agriculture Code, as follows:

(b) Prohibits TDA, if a previous license of the applicant, rather than if an applicant for a license indicates on the application that a previous license, has been or is suspended or has been revoked, from issuing or renewing a license to the applicant until TDA is furnished with satisfactory proof that the applicant is, on the date of application, qualified to receive the license for which the applicant applied as provided by TDA rule.

(c) Authorizes TDA to refuse to issue or renew, rather than issue, a license under this section if TDA determines that a license previously issued to the applicant was revoked or suspended or that the applicant has engaged in conduct for which a license could have been revoked or suspended. Makes a conforming change.

SECTION 5.13. Amends Section 101.009, Agriculture Code, to authorize TDA to publish as often as it considers necessary a list in pamphlet form or on TDA's Internet website, rather than a list in pamphlet form, of all persons licensed under this chapter.

SECTION 5.14. Amends Sections 101.013(a) and (b), Agriculture Code, as follows:

(a) Provides that if a licensee or a person required to be licensed, rather than a license, causes a producer, seller, or owner, or an agent of a producer, seller, or owner, to part with control or possession of all or any part of the person's perishable commodities and agrees by contract of purchase to pay the purchase price on demand following delivery, the licensee or person required to be licensed, rather than the licensee, shall make payment immediately on demand.

(b) Provides that if a person makes demand for the purchase price in writing, the mailing of a registered letter that makes the demand and is addressed to the licensee or person required to be licensed at their, rather than to the licensee at the licensee's, business address is prima facie evidence that demand was made at the time the letter was mailed.

SECTION 5.15. Amends Section 101.014, Agriculture Code, to make conforming changes.

SECTION 5.16. Amends Sections 101.015(a) and (b), Agriculture Code, to make conforming changes.

SECTION 5.17. Amends Section 101.0151, Agriculture Code, to make a conforming change.

SECTION 5.18. Amends Section 101.016, Agriculture Code, as follows:

(a)-(c) Makes conforming changes.

(d) Authorizes TDA to periodically investigate licensees, persons required to be licensed, or persons alleged to be selling or purchasing perishable commodities in violation of this chapter and, without notice, to require evidence of purchase of any perishable commodities in a person's possession or past possession.

SECTION 5.19. Amends Section 101.017, Agriculture Code, to make conforming changes.

SECTION 5.20. Amends Section 101.020(a), Agriculture Code, as follows:

(a) Provides that a person commits an offense if the person as a license holder or a person required to be licensed, fails to furnish information under Section 101.017 before the 11th day following the date of demand. Deletes existing text providing that a person commits an offense if the person as a cash dealer, pays for perishable commodities by a means other than United States Currency or acts or assumes to act as a cash dealer without first registering as a cash dealer. Makes conforming and nonsubstantive changes.

SECTION 5.21. Amends Section 103.002(a), Agriculture Code, to provide that the produce recovery fund is a special trust fund with the comptroller administered by TDA, without

appropriation, for the payment of claims against license holders, retailers, and persons required to be licensed under Chapter 101.

SECTION 5.22. Amends Section 103.005, Agriculture Code, as follows:

(a) Makes conforming changes.

(b) Requires that a complaint and the fee under Subsection (a), rather than of this section, be filed on or before the second, rather than the first, anniversary of the date that payment was due, rather than date of the violation, or recovery from the fund is barred.

SECTION 5.23. Amends Section 103.0055, Agriculture Code, to make conforming changes.

SECTION 5.24. Amends Section 103.006(a), Agriculture Code, to make a conforming change.

SECTION 5.25. Amends Section 103.007(a), Agriculture Code, to make a conforming change.

SECTION 5.26. Amends Sections 103.008(a), (b), (d), and (f), Agriculture Code, as follows:

(a) Authorizes TDA, in making payments from the fund to pay the aggrieved party the full value of their validated claim, subject to Subsections (b) and (d), rather than all of the first \$2,000 of any claim and no more than 70 percent of the claim above \$2,000.

(b) Prohibits the total payment of all claims arising from the same contract with a license holder or a person required to be licensed from exceeding \$50,000, rather than \$35,000.

(d) Requires that payment of a claim filed against a person who is not licensed in violation of Chapter 101 be limited to 80 percent of the recovery prescribed under this section. Deletes existing text prohibiting TDA from paying a claim against a person who was not licensed on the date the contract on which the claim is based was entered into or a cash dealer registered under Chapter 101.

(f) Makes conforming changes.

SECTION 5.27. Amends Section 103.009, Agriculture Code, by amending Subsections (a), (c), and (d), and adding Subsection (e), as follows:

(a) and (c) Makes conforming changes.

(d) Provides that Subsections (a) and (b), rather than this section, do not apply to a license holder or a person required to be licensed who is released by a final judgment of a bankruptcy court from the legal duty to satisfy the claim paid by TDA.

(e) Requires that the amount to be reimbursed under this section be one and one-half times the amount of the claim paid if the person required to reimburse TDA was not licensed on the date on which the transaction forming the base of the claim occurred.

SECTION 5.28. Amends Section 103.010, Agriculture Code, to make conforming changes.

SECTION 5.29. Amends Section 103.011(b), Agriculture Code, to provide that a person registered as a marketing association, rather than a cash dealer or a marketing association, organized under Chapter 52 that handles citrus fruit only for its members is exempt from payment of the fee under this section.

SECTION 5.30. Amends Sections 103.013(a) and (b), Agriculture Code, as follows:

(a) Provides that a person commits an offense if the person acts or assumes to act as a license holder under Chapter 101 without first paying the annual fee required by Section 103.011, rather than the fee required by this chapter.

(b) Provides that an offense under this section is a Class B misdemeanor, rather than a misdemeanor punishable by a fine of not more than \$500.

SECTION 5.31. Amends Section 121.005(a), Agriculture Code, to delete existing Subdivision (2) requiring that each rose plant or shipment of rose plants be labeled with the number of the certificate of authority of the person selling or offering for sale the plant or shipment. Makes nonsubstantive changes.

SECTION 5.32. Amends Section 52.092(f), Election Code, to delete existing Subdivision (4) requiring that precinct offices be listed to include public weigher.

SECTION 5.33. Amends Section 172.024(a), Election Code, to make a conforming change.

SECTION 5.34. Amends Section 62.160(b), Labor Code, to delete existing text providing that Subchapter C does not apply to an agriculture employer with respect to an employee engaged in the production of livestock.

SECTION 5.35. Repealer: Section 13.252 (Appointment of Public Weighers), Agriculture Code.

Repealer: Section 13.253 (Election of Public Weighers), Agriculture Code.

Repealer: Section 13.2535 (Local Option Election to Abolish Office), Agriculture Code.

Repealer: Section 13.254 (Deputy Public Weighers), Agriculture Code.

Repealer: Section 52.035(b) (relating to requiring incorporators to file certified copies to TDA), Agriculture Code.

Repealer: Section 52.152 (Annual Report), Agriculture Code.

Repealer: Section 101.006(b) (relating to requiring TDA to charge a fee for registration), Agriculture Code.

Repealer: Section 103.008(c) (relating to a limit on total payment of claims), Agriculture Code.

Repealer: Section 121.004 (Certificate of Authority), Agriculture Code.

Repealer: Section 62.002(1) (relating to the definition of agricultural piece rate worker), Labor Code.

Repealer: Subchapter C (Agricultural Piece Rate Workers), Chapter 62 (Minimum Wage), Labor Code.

SECTION 5.36. (a) Provides that the changes in law made by this Act to Subchapter E, Chapter 13, Agricultural Code, do not affect the entitlement of a public weigher or deputy public weigher elected or appointed before the effective date of this Act to serve as a public weigher or deputy public weigher for the remainder of the public weigher's or deputy public weigher's term. Provides that a public weigher or deputy public weigher elected or appointed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) Makes application of Section 103.008, Agriculture Code, prospective.

## ARTICLE 6. GENERAL LICENSING PROVISIONS

SECTION 6.01. Amends Sections 12.020(a) and (c), Agriculture Code, as follows:

(a) Authorizes TDA, if a person violates a provision of law, rather than this code, described by Subsection (c), rather than Subsection (c) of this section, or a rule or order adopted by TDA under a provision of law described by Subsection (c), to assess an

administrative penalty against the person as provided by this section. Makes conforming changes.

(c) Sets forth certain provisions of law, subject to this section and certain applicable penalty amounts that are increased or added, as follows:

Penalty increased from \$1,000 to not more than \$5,000: Chapter 41 (Commodity Producers Board).

Penalty increased from \$500 to not more than \$5,000: Chapters 13 (Weights and Measures), 14A (Other Public Warehouse Operators), 18 (Certification and Agricultural Product Standards), 46 ("Go Texan" Partner Program), 61 (Inspection, Labeling, and Sale of Agricultural and Vegetable Seed), 94 (Citrus Fruit Maturity Standards), 95 (Citrus Fruit Coloring Matter), 101 (Handling and Marketing of Perishable Commodities), 102 (Handling and Marketing of Citrus Fruit), 103 (Produce Recovery Fund), 121 (Grading of Roses), 125 (Agricultural Hazard Communication Act), 132 (Eggs), and 134 (Regulation of Aquaculture).

Penalty increased from not more than \$2,000 to not more than \$5,000: Subchapter B (Inspection of Nursery Products and Florist Items), Chapter 71 (General Control), and Chapters 19 (Citrus Budwood Certification Program) and 76 (Pesticide and Herbicide Regulation).

Penalty of not more than \$5,000 added: Chapter 1951 (Structural Pest Control), Occupations Code.

Penalty of not more than \$5,000 added: Chapter 153 (Prescribed Burning), Natural Resources Code.

SECTION 6.02. Amends Section 12.023, as follows:

Sec. 12.023. EXPIRATION OF REGISTRATION OR LICENSES. Requires, rather than authorizes, TDA by rule to adopt a system under which registrations or licenses required by TDA, including licenses issued under Chapter 1951, Occupations Code, expire on various dates during the year. Authorizes TDA to increase or decrease the term of an initial or renewal license or registration so that all licenses held by a person or a group of license holders expire on the same date. Requires that for the period, rather than year, in which the registration or license expiration date is changed, registration or license fees be prorated on a monthly basis so that each registrant or licensee pays only that portion of the fee that is allocable to the number of months during which the registration or license is valid. Provides that on the next renewal of the registration or license, rather than on the new expiration date, the total renewal fee is payable.

SECTION 6.03. Amends Title 2, Agriculture Code, by adding Chapter 12A, as follows:

#### CHAPTER 12A. GENERAL LICENSING PROVISIONS

##### SUBCHAPTER A. POWERS AND DUTIES OF DEPARTMENT RELATED TO LICENSING

Sec. 12A.001. APPLICABILITY OF PROVISIONS. Provides that the general licensing, regulatory, and enforcement provisions of Chapter 12 (Powers and Duties) and this chapter apply to licensing and regulatory programs administered by TDA under any law.

Sec.12A.002. CEASE AND DESIST ORDER. (a) Authorizes the commissioner, after notice and opportunity for a hearing, if it appears to the commissioner that a person who is not licensed by TDA is violating a statute or rule that requires the person to hold a license issued by TDA or a statute or rule relating to an activity regulated by TDA, to issue a cease and desist order prohibiting the person from engaging in the activity.

(b) Provides that a violation of an order under this section constitutes grounds for imposing an administrative penalty.

Sec. 12A.003. RISK-BASED INSPECTIONS. Authorizes TDA, for each person licensed or regulated by TDA that TDA is authorized to inspect, to:

(1) conduct additional inspections based on a schedule of risk-based inspections using certain criteria; and

(2) waive any inspection requirement under law if an emergency arises or to accommodate complaint investigation or risk-based inspection schedules.

[Reserves Sections 12A.004-12A.050 for expansion.]

#### SUBCHAPTER B. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 12A.051. INFORMATION REGARDING COMPLAINTS AND ENFORCEMENT PROCESS. (a) Requires TDA to inform applicants, license holders, and the public on TDA's Internet website, in TDA brochures, and on any other available information resource about TDA's enforcement process, including each step in the complaint investigation and resolution process, from initial filing through final appeal, and the opportunity to request an informal settlement conference; and inform license holders that a license holder may obtain information about a complaint made against the license holder and may obtain a copy on request of the complaint file.

(b) Requires TDA except as provided by Subsection (d), to provide to a license holder against whom a complaint has been filed the allegations made against the license holder in the complaint and, on the license holder's request, any information obtained by TDA in its investigation of the complaint.

(c) Requires TDA to provide the information required under Subsection (b) in a timely manner to allow the license holder time to respond to the complaint.

(d) Provides that TDA is not required to provide the following information to a license holder: the name of a confidential informant whose testimony will not be used in any hearing as evidence against the license holder; attorney-client communications; attorney work product; or any other information that is confidential or not subject to disclosure under law, rule of evidence, or rule of civil procedure.

Sec. 12A.052. COMPLAINT AND VIOLATION ANALYSIS. Requires TDA to analyze complaints filed with the violations discovered by TDA to identify any trends or issues related to certain violations, including the reason for each complaint or violation; how each complaint or violation was resolved; and the subject matter of each complaint or violation that was not within the jurisdiction of TDA and how TDA responded to the complaint or violation.

[Reserves Sections 12A.053-12A.100 for expansion.]

#### SUBCHAPTER C. ISSUANCE AND RENEWAL OF LICENSES

Sec. 12A.101. REPLACEMENT LICENSE; FEE. Requires TDA to issue to a license holder whose license has been lost or destroyed or whose name has been changed a replacement license if the license holder submits to TDA an appropriate application and a fee in the amount established by TDA rule.

[Reserves Sections 12A.102-12A.150 for expansion.]

#### SUBCHAPTER D. EXAMINATIONS

Sec. 12A.151. EXAMINATION PROCEDURES. Requires TDA , for each licensing examination administered by TDA, to adopt policies and guidelines detailing the procedures for the testing process, including test admission and internal test administration procedures, and post on TDA's Internet website the policies that reference the testing procedures.

Sec. 12A.152. EVALUATION OF EXAMINATION QUESTIONS. Requires TDA, for each licensing examination administered by TDA, to periodically evaluate the effectiveness of examination questions in objectively assessing an applicant's knowledge.

[Reserves Sections 12A.153-12A.200 for expansion.]

#### SUBCHAPTER E. PENALTIES AND ENFORCEMENT PROCEDURES

Sec. 12A.201. INFORMAL PROCEEDINGS. (a) Requires TDA by rule to adopt procedures governing informal disposition of a contested case under Section 2001.056 (Informal Disposition of Contested Case), Government Code, and an informal proceeding held in compliance with Section 2001.054 (Licenses), Government Code.

(b) Requires TDA to offer the opportunity to conduct an informal settlement conference by telephone.

(c) Requires TDA to:

(1) provide a license holder sufficient opportunity to indicate whether the terms of a proposed order are acceptable to the license holder;

(2) indicate in the notice of violation that the license holder has the opportunity described by Subdivision (1); and

(3) allow a license holder who does not agree with a proposed order to request an informal settlement conference.

SECTION 6.04. Amends the heading to Section 76.113, Agriculture Code, to read as follows:

Sec. 76.113. TERM AND RENEWAL OF LICENSES.

SECTION 6.05. Amends Sections 76.113(a) and (b), Agriculture Code, as follows:

(a) Provides that each pesticide, rather than commercial applicator or noncommercial, applicator license issued under this chapter, other than a private applicator license, expires at the end of the license period established by TDA rule, rather than expires on the first anniversary of the date on which it was issued or renewed.

(b) Provides that each private applicator license is valid for five years, rather than expires on the fifth anniversary of the date on which it was issued or renewed.

SECTION 6.06. Amends Section 76.151, Agriculture Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Authorizes TDA, at any time and without notice during regular business hours to enter and inspect a building or place owned, controlled, or operated by a person engaged in an activity regulated under this chapter or Chapter 1951 (Structural Pest Control), Occupations Code, and inspect and review any record maintained by a person engaged in any activity regulated under this chapter or Chapter 1951, Occupations Code, rather than entitling TDA, for the purpose of inspection, examination, or sampling to enter at reasonable hours any building or place owned, controlled, or operated by a registrant or dealer if from probable cause it appears that the building or place contains a pesticide.

(a-1) Authorizes TDA to enter and inspect a building or a place or inspect and review any record under Subsection (a) as necessary to ensure compliance with this chapter or Chapter 1951, Occupations Code, or investigate a complaint made to TDA.

SECTION 6.07. Amends Section 76.1555(a), Agriculture Code, as follows:

(a) Authorizes TDA, if a person violates a provision of this chapter or Chapter 1951, Occupations Code, or a rule or order adopted by TDA under this chapter or Chapter 1951, Occupations Code, to assess an administrative penalty against the person as provided by Section 12.020, except that the penalty for each violation is authorized not to exceed \$5,000, rather than required not to exceed \$4,000 for all violations related to a single incident. Provides that each day a violation continues or occurs may be considered a separate violation for purposes of penalty assessment.

SECTION 6.08. Amends Section 132.024, Agriculture Code, as follows:

Sec. 132.024. New heading: LICENSE TERM. Provides that a license issued or renewed under this chapter is valid for one year, rather than expires on the first anniversary of the date of issuance or renewal.

SECTION 6.09. Makes application of Sections 12.020(c) and 76.1555(a), Agriculture Code, as amended by this Act, prospective.

## ARTICLE 7. STRUCTURAL PEST CONTROL

SECTION 7.01. Amends Section 12.0201, Agriculture Code, as follows:

Sec. 12.0201. LICENSE SANCTIONS. (a) Authorizes TDA, in addition to other sanctions provided by law, to revoke, modify, suspend, or refuse to issue or renew a license, assess an administrative penalty, place on probation a person whose license has been suspended, or reprimand a license holder if TDA finds that the practitioner violated a provision of this code or Chapter 1951, Occupations Code.

(b) Makes a conforming changes.

SECTION 7.02. Amends Section 1951.002(16), Occupations Code, to redefine "technician."

SECTION 7.03. Amends Section 1951.003, Occupations Code, as follows:

Sec. 1951.003. BUSINESS OF STRUCTURAL PEST CONTROL. (a) Provides that, in this chapter, a person is engaged in the "business of structural pest control" if the person performs, rather than offers to perform or advertises for or solicits the person's performance of, any of the following services for compensation, including services performed as a part of the person's employment:

(1) identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations of:

(A) arthropods, including insects, spiders, mites, ticks, and related pests, wood-infesting organisms, rodents, weeds, nuisance birds, and any other obnoxious or undesirable animals that may infest households, railroad cars, ships, docks, trucks, airplanes, or other structures or their contents; or

(B) pests or diseases of trees, shrubs, or other plantings in a park or adjacent to a residence, business establishment, industrial plant, institutional building, or street;

(2) making oral or written inspection reports, recommendations, estimates, or bids with respect to an infestation described by Subdivision (1); or

(3) making contracts, or submitting bids based on an inspection for services or performing services designed to prevent, control, or eliminate an infestation described by Subdivision (1) by the use of insecticides, pesticides, rodenticides, fumigants, allied chemicals or substances, or mechanical devices.

(b) Provides that a person is not engaged in the business of structural pest control if the person is a clerical employee or a manual laborer and the person does not:

- (1) identify pests;
- (2) make inspections, recommendations, estimates, bids, or contracts;
- (3) provide estimates, bids, or contracts based on an inspection; or
- (4) apply insecticides, pesticides, rodenticides, fumigants, allied chemicals, or other related substances regulated by TDA.

SECTION 7.04. Amends Subchapter A, Chapter 1951, Occupations Code, by adding Section 1951.007, as follows:

Sec. 1951.007. **APPLICABILITY OF AGRICULTURE CODE LICENSING PROVISIONS.** Provides that a provision of the Agriculture Code that applies generally to licensing or regulatory programs administered by TDA, including a provision that refers generally to licensing or regulatory programs under the Agriculture Code, applies to this chapter.

SECTION 7.05. Amends Section 1951.053(a), Occupations Code, to delete existing text providing that except as provided by Sections 1951.212 and 1951.457(c) (relating to authorizing TDA to adopt rules relating to distribution of pest control information sheets for an outdoor treatment), this chapter does not apply to a person who performs pest control work on growing plants, trees, shrubs, grass, or other horticultural plants if the person holds a florist or nursery registration certificate from TDA under Section 71.043, Agriculture Code, other than a registration certificate that permits the sale, lease, or distribution of nursery products or floral items only at a temporary market. Makes a nonsubstantive change.

SECTION 7.06. Amends Section 1951.101(a), Occupations Code, to delete existing text providing that the committee consists of nine members appointed by the commissioner, including one member who represents the interests of consumers and who is appointed based on recommendations provided by consumer advocacy groups or associations.

SECTION 7.07. Amends Section 1951.105, Occupations Code, as follows:

Sec. 1951.105. New heading: **RULES GOVERNING COMMITTEE; COMMITTEE MEETINGS.** (a) Requires TDA to adopt rules for the operation of the committee, including rules governing:

- (1) the purpose, role, responsibility, and goals of the committee;
- (2) the quorum requirements for the committee;
- (3) the qualifications required for members of the committee, which may include experience and geographic representation requirements;
- (4) the appointment process for the committee;
- (5) the members' terms;
- (6) the training requirements;

- (7) a process to regularly evaluate the effectiveness of the committee; and
- (8) a requirement that the committee comply with Chapter 551, Government Code.

(b) Requires the committee to meet quarterly, operate under Robert's Rules of Order, and record the minutes of each meeting.

SECTION 7.08. Amends Section 1951.205(a), Occupations Code, as follows:

(a) Requires TDA, with the advice of the committee, to adopt rules as authorized under this chapter governing the methods and practices of structural pest control that TDA determines are necessary to protect the public's health and welfare and prevent adverse effects on human life and the environment. Requires that each rule adopted cite the section of this chapter that authorizes the rule.

SECTION 7.09. Amends Section 1951.207(a), Occupations Code, to delete existing text requiring TDA to by rule adopt a policy that provides for additional inspections based on a schedule of risk-based inspections using certain criteria and provides that TDA is authorized to waive the inspection requirement on a case-by-case basis if an emergency arises or to accommodate complaint investigation schedules. Makes nonsubstantive changes.

SECTION 7.10. Amends Section 1951.212(b), Occupations Code, as follows:

(b) Requires TDA to use the structural pest control advisory committee (advisory committee), rather than an existing advisory committee, to assist TDA in developing the standards for the integrated pest management program. Requires the advisory committee to consult with a person knowledgeable in the area of integrated pest management in schools. Deletes existing text requiring TDA to create a new advisory committee.

SECTION 7.11. Reenacts Section 1951.254(f), Occupations Code, as amended by Chapters 885 (H.B. 2278) and 890 (H.B. 2458), Acts of the 80th Legislature, Regular Session, 2007, to set forth certain information that the information sheet is required to include.

SECTION 7.12. Amends Section 1951.301, Occupations Code, by amending Subsection (d) and adding Subsection (f), as follows:

(d) Requires a person engaged in the business of structural pest control to hold a structural pest control business license for each place of business, including each branch office. Provides that a certified commercial applicator, certified noncommercial applicator, or licensed technician is not required to obtain a separate license for each branch office of an employer.

(f) Requires a certified commercial applicator or technician license to be associated with a business license holder. Requires the name of the employer of a licensed commercial applicator or technician to be printed on the face of the license issued to a commercial applicator or technician.

SECTION 7.13. Amends Section 1951.306(a), Occupations Code, to authorize TDA to enter into reciprocal licensing agreements with other states that have license requirements substantially equivalent to those of this state.

SECTION 7.14. Amends Section 1951.308, Occupations Code, as follows:

Sec. 1951.308. LICENSE EXPIRATION. Provides that a license issued under this chapter expires at the end of the license period as determined by TDA rule. Deletes existing text authorizing TDA by rule to adopt a system under which licenses expire on various dates during the year. Deletes existing text requiring that license fees payable on December 31, for the year in which the license expiration date is changed, be prorated on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. Deletes existing text

providing that on renewal of the license on the new expiration date, the total license renewal fee is payable.

SECTION 7.15. Amends Section 1951.453, Occupations Code, as follows:

Sec. 1951.453. PEST CONTROL INFORMATION FOR INDOOR TREATMENTS: RESIDENTIAL PROPERTY. (a) Requires a certified applicator or technician, for an indoor treatment at a private residence that is not rental property, to make available a pest control information sheet developed under Section 1951.254 (Public Information Program) to the owner of the residence before each treatment begins. Deletes existing text requiring a certified applicator or technician to give a pest control information sheet developed under Section 1951.254 to the owner of the residence before each treatment begins, or if the owner is not available at the time treatment begins, to leave the information sheet in a conspicuous place in the residence.

(b) Requires a certified applicator or technician, for an indoor treatment at a residential rental property with fewer than five rental units, to make available, rather than leave, a pest control information sheet developed under Section 1951.254 to the tenant of each unit, rather than in each unit at the time of each treatment.

(c) Requires a certified applicator or technician, for an indoor treatment at a residential rental property with five or more rental units, to make available, rather than provide, a pest control information sheet developed under Section 1951.254 and a pest control sign developed under that section to the owner or manager of the property. Requires the owner or manager or an employee or agent of the owner or manager, other than the certified applicator or technician, to notify residents who live in the direct area of the treatment or in an adjacent area by:

(1) posting the sign in an area of common access at least 48 hours before each planned treatment; or

(2) leaving the information sheet on the front door of each unit or in a conspicuous place inside each unit at least 48 hours before each planned treatment.

SECTION 7.16. Amends Section 1951.454, Occupations Code, as follows:

Sec. 1951.454. PEST CONTROL INFORMATION FOR INDOOR TREATMENTS: WORKPLACE. Requires a certified applicator or technician, for an indoor treatment at a workplace, to make available, rather than provide, a pest control information sheet developed under Section 1951.254 and a pest control sign developed under that section to the employer or the building manager. Requires the employer or building manager or an employee or agent of the owner or manager, other than the certified applicator or technician, to notify the persons who work at the workplace of the date of the planned treatment by:

(1) posting the sign in an area of common access that the persons are likely to check on a regular basis at least 48 hours before each planned treatment; and

(2) providing the information sheet to any person working in the building on a request made by the person during normal business hours.

SECTION 7.17. Amends Section 1951.455(a), Occupations Code, as follows:

(a) Requires a certified applicator or technician, for an indoor treatment at a building that is a hospital, nursing home, hotel, motel, lodge, warehouse, food-processing establishment, school, or day-care center, to make available, rather than provide, a pest control information sheet developed under Section 1951.254 and a pest control sign developed under that section to the chief administrator or building manager. Requires the

chief administrator or building manager to notify the persons who work in the building of the treatment by:

- (1) posting the sign in an area of common access that the persons are likely to check on a regular basis at least 48 hours before each planned treatment; and
- (2) providing the information sheet to a person working in the building on request of the person.

SECTION 7.18. Amends Sections 1951.457(a) and (b), Occupations Code, as follows:

(a) Requires a certified applicator or technician, for an outdoor treatment at a private residence that is not rental property, to make available, rather than leave, a pest control information sheet developed under Section 1951.254 at the residence before the treatment begins.

(b) Requires a certified applicator or technician, for an outdoor treatment at a residential rental property with fewer than five rental units, to make available, rather than leave, a pest control information sheet at each unit at the time of treatment.

SECTION 7.19. Repealer: Section 1951.202 (Bylaws), Occupations Code.

Repealer: Section 1951.310 (Late Renewal of License), Occupations Code.

Repealer: Section 1951.311 (Replacement License; Fee), Occupations Code.

Repealer: Section 1951.456(d) (relating to a treatment being an indoor treatment even though the treatment may include an outside perimeter treatment of a building), Occupations Code.

Repealers: Sections 1951.501(c) (relating to certain actions by the commissioner) and (d) (relating to certain requirements by the commissioner for a person whose license suspension is probated), Occupations Code.

Repealer: Subchapter L (Administrative Penalty), Chapter 1951, Occupations Code.

Repealer: Section 1951.604 (Cease and Desist Order), Occupations Code.

Repealer: Section 1951.605 (Stop Use Order), Occupations Code.

SECTION 7.20. Makes application of the repeal of Sections 1951.501(c) and (d), Occupations Code, prospective. Provides that a violation committed on or after the effective date of this Act is governed by Section 12.0201, Agriculture Code, as amended by this Act, and other applicable law.

SECTION 7.21. Makes application of the change in law made by this Act by the repeal of Section 1951.310, Occupations Code, prospective. Provides that an application submitted on or after the effective date of this Act is governed by Section 12.024 (Late Renewal of License or Registration), Agriculture Code, and other applicable law.

SECTION 7.22. Makes application of the change in law made by this Act by the repeal of Section 1951.311, Occupations Code, prospective. Provides that an application submitted on or after the effective date of this Act is governed by Section 12A.101, Agriculture Code, as added by this Act, and other applicable law.

SECTION 7.23. Makes application of the change in law made by this Act by the repeal of Subchapter L, Chapter 1951, Occupations Code, prospective. Provides that a violation committed on or after the effective date of this Act is governed by Section 12.020, Agriculture Code, as amended by this Act, and other applicable law.

## ARTICLE 8. SUNSET DATE AND ACROSS-THE-BOARD RECOMMENDATIONS

SECTION 8.01. Amends Section 11.003, Agriculture Code, to provide that TDA is subject to Chapter 325 (Texas Sunset Act), Government Code. Provides that unless continued in existence as provided by that chapter, TDA is abolished September 1, 2021, rather than September 1, 2009.

SECTION 8.02. Amends Section 12.0135, Agriculture Code, as follows:

Sec. 12.0135. CONFLICT PROVISIONS. (a) Prohibits a person from being a TDA employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if the person is an officer, employee, or paid consultant of a Texas trade association in the field of agriculture or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of agriculture.

(b) Creates Subsection (b) from existing text. Prohibits a person from acting as the general counsel to the commissioner or TDA if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code. Deletes existing Subsections (b) and (c) prohibiting an officer, employee, or paid consultant of a statewide Texas trade association or an affiliate of a national trade association in the field of agriculture from being an employee of TDA who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule and prohibiting a person who is the spouse of an officer, manager, or paid consultant of a statewide Texas trade association or an affiliate of a national trade association in the field of agriculture from being an employee of TDA who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule. Redesignates Subsection (d) as Subsection (c).

(c) Redesignates Subsection (d) as Subsection (c). Redefines "Texas trade association."

SECTION 8.03. Amends Chapter 12, Agriculture Code, by adding Section 12.0203, as follows:

Sec. 12.0203. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) Requires the commissioner to develop and implement a policy to encourage the use of certain negotiated rulemaking and alternative dispute resolution procedures.

(b) Requires that TDA's procedures relating to alternative dispute resolution conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires the commissioner to designate a trained person to coordinate the implementation of the policy adopted under Subsection (a); serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and collect data concerning the effectiveness of those procedures, as implemented by TDA.

SECTION 8.04. Amends Chapter 12, Agriculture Code, by adding Section 12.0271, as follows:

Sec. 12.0271. RURAL ECONOMIC DEVELOPMENT AND INVESTMENT PROGRAM. (a) Requires the commissioner, from funds appropriated for that purpose, to establish and administer a financial assistance program to encourage private economic development in rural areas. Authorizes financial assistance under the program to be provided only to:

(1) a county with a population of not more than 75,000;

(2) a municipality with a population of not more than 50,000; or

(3) an economic development corporation or community development financial institution that primarily represents a county or municipality described by this subsection.

(b) Authorizes financial assistance under Subsection (a) to be used only for a project relating to:

(1) the acquisition or development of land, easements, or rights-of-way;

(2) attracting new private enterprises to the county or municipality, including:

(A) manufacturing facilities;

(B) freight storage facilities;

(C) distribution warehouse centers; and

(D) other nonretail private enterprises;

(3) the construction, extension, or other improvement of:

(A) water or waste disposal facilities; or

(B) transportation infrastructure; or

(4) any other activity relating to private economic development that the commissioner determines will encourage economic and infrastructure development in a rural area.

(c) Authorizes the commissioner, to further a purpose described by Subsection (b), to provide financial assistance to an eligible county, municipality, community development financial institution, or economic development corporation by:

(1) extending credit by direct loan, based on the credit of the county, municipality, community development financial institution, or economic development corporation;

(2) providing a credit enhancement;

(3) effectively lowering interest rates;

(4) financing a purchase or lease agreement in connection with an economic or infrastructure development project; or

(5) providing methods of leveraging money from sources other than this state that are related to the project for which the assistance is provided.

(d) Requires a county, municipality, community development financial institution, or economic development corporation that receives funds under Subsection (c) to segregate the funds from other funds under the control of the county, municipality, or economic development corporation and use the funds only for a purpose described by this section. Requires any funds disbursed through the program to be repaid on terms determined by TDA.

(e) Requires TDA to adopt rules necessary to implement this section.

SECTION 8.05. Amends Chapter 12, Agriculture Code, by adding Section 12.047, as follows:

Sec. 12.047. USE OF TECHNOLOGY. Requires the commissioner to implement a policy requiring TDA to use appropriate technological solutions to improve TDA's ability to perform its functions. Requires that the policy ensure that the public is able to interact with TDA on the Internet.

## ARTICLE 9. ADDITIONAL PROVISIONS

SECTION 9.01. Amends Section 11.005(a), Agriculture Code, as follows:

- (a) Requires a person, to be eligible for election as commissioner or appointment to fill a vacancy in the office of commissioner, to:
- (1) have been engaged, for at least five of the 10 years preceding the year in which the person is elected or appointed to the person's initial term, in the business of agriculture;
  - (2) have worked, for the five-year period preceding the calendar year in which the person is elected or appointed to the person's initial term, for a state or federal agency in a position directly related to agriculture;
  - (3) have owned or operated, for at least five of the 10 years preceding the year in which the person is elected or appointed to the person's initial term, farm, ranch, or timber land that qualifies for agricultural use appraisal under Subchapter C (Land Designated For Agricultural Use), Chapter 23 (Appraisal Methods and Procedures), Tax Code, and be participating, in the calendar year in which the person is elected or appointed to the person's initial term, in a farm program administered by the federal Agricultural Stabilization and Conservation Service; or
  - (4) have worked, for at least five years at any time before the calendar year in which the person is elected or appointed to the person's initial term, for the Texas Agricultural Council, an organization that is a member of the Texas Agricultural Council, or another agricultural producer association. Makes a nonsubstantive change.

SECTION 9.02. Amends Section 12.022, Agriculture Code, as follows:

Sec. 12.022. New heading: **AUTHORITY TO SOLICIT AND ACCEPT GIFTS, GRANTS, AND DONATIONS.** Authorizes TDA to solicit and accept, rather than provides that TDA is authorized to accept, gifts, grants, and donations of money, services, or property from any person. Provides that money received by TDA under this section may be expended or distributed for any public purpose related to TDA's duties. Deletes existing text requiring TDA to file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all gifts, grants, and donations received and disbursed, used, or maintained by TDA during the preceding fiscal year and requiring that the report be included in the annual report required by Section 12.014 of this chapter.

SECTION 9.03. Amends Chapter 12, Agriculture Code, by adding Section 12.0027, as follows:

- Sec. 12.0027. **NUTRITION OUTREACH PROGRAM.** (a) Authorizes TDA to develop an outreach program to promote better health and nutrition programs and prevent obesity among children in this state.
- (b) Authorizes TDA to solicit and accept gifts, grants, and donations from any public or private sources for the purposes of this section.
  - (c) Authorizes TDA to adopt rules as necessary to administer an outreach program established under this section.

SECTION 9.04. Amends Chapter 12, Agriculture Code, by adding Section 12.046, as follows:

Sec. 12.046. TEXAS RURAL INVESTMENT FUND. (a) Defines "fund" and "rural community."

(b) Provides that the Texas Rural Investment Fund (fund) is a dedicated account in the general revenue fund and consists of appropriations of money to the fund by the legislature; gifts, grants, including federal grants, and other donations received for the fund; and interest earned on the investment of money in the fund.

(b-1) Requires TDA to administer the fund and select recipients of grants and loans from the fund.

(c) Authorizes TDA to use the fund only to pay for grants or loans to public or private entities for projects in rural communities that have strong local support, provide positive return on the state's investment, and stimulate local entrepreneurship, job creation or retention, new capital investment, strategic economic development planning, individual economic and community development leadership training, housing development, or innovative workforce education; and to administer the grant and loan program under this section.

(d) Requires TDA, in awarding a grant or loan of money from the fund for a project, to consider the project's effect on job creation and wages; the financial strength of the applicant; the applicant's business history; an analysis of the relevant business sector; whether there is public or private sector financial support for the project; and whether there is local support for the project.

(e) Provides that the fund is exempt from the application of Sections 403.095 (Use of Dedicated Revenue) and 404.071, Government Code.

(f) Authorizes TDA to accept grants, gifts, or donations from any source that are made for the purposes of this section. Requires that money received under this subsection be deposited in the fund.

(g) Requires TDA to adopt rules to administer this section.

SECTION 9.05. Amends Chapter 12, Agriculture Code, by adding Section 12.048, as follows:

Sec. 12.048. OBTAINING CRIMINAL HISTORY RECORD INFORMATION. (a) Authorizes TDA to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that relates to a person who:

(1) applies for a license issued by TDA;

(2) holds a license issued by TDA;

(3) requests a determination of eligibility for a license issued by TDA ; or

(4) is an employee, volunteer, or intern of TDA, or an applicant to be an employee, volunteer, or intern of TDA.

(b) Authorizes TDA, in addition to the information TDA is authorized to obtain under Sections 411.122 (Access to Criminal History Record Information: Licensing or Regulatory Agency) and 411.1405 (Access to Criminal History Record Information: State Agencies; Information Technology Employees), Government Code, and this section, to request and obtain criminal history record information through the FBI as provided by Section 411.087 (Access to Criminal History Record Information Maintained by the FBI or Local Justice Agency), Government Code.

(c) Provides that information provided to TDA under this section and Chapter 411 (Department of Public Safety of the State of Texas), Government Code, is confidential, is not subject to disclosure under Chapter 552 (Public Information), Government Code, and may not be disclosed to any person other than as required by a court order.

SECTION 9.06. Amends Section 19.012(a), Agriculture Code, to provide that a person commits an offense if the person uses, for commercial purposes, citrus budwood that is required by TDA rule to be certified and is not certified or does not come from a designated foundation grove. Makes nonsubstantive changes.

SECTION 9.07. Amends Section 19.014, Agriculture Code, to authorize TDA to assess an administrative penalty under Chapter 12 for a violation of this chapter if TDA finds that a person uses, for commercial purposes, citrus budwood that is required by TDA rule to be certified and is not certified or does not come from a designated foundation grove. Makes nonsubstantive changes.

SECTION 9.08. Amends Section 41.151, Agriculture Code, to delete existing text defining "board" and to make nonsubstantive changes.

SECTION 9.09. Amends Section 41.152(b), Agriculture Code, to require the Texas Beef Council (council) to be the certified organization, rather than recognized as the entity, to plan, implement, and operate research, education, promotion, and marketing programs under this subchapter. Provides that the council is the state beef council qualified to collect the proceeds of and administer in this state the beef check off program established by federal law.

SECTION 9.10. Amends Section 41.156, Agriculture Code, as follows:

Sec. 41.156. New heading: COUNCIL MEMBERS. (a) Provides that the council, rather than the board of directors of the council, is composed of 20, rather than 21, members nominated by the council and appointed by the commissioner including two representatives of the Independent Cattlemen's Association of Texas and one representative, rather than two, of the Livestock Marketing Association of Texas.

(b) Provides that a council, rather than board, member serves a one-year term or until his or her successor is appointed. Prohibits a council member from serving more than six consecutive one-year terms, except that a council member who is elected to serve as an officer during the member's sixth consecutive one-year term may serve as chairman or past chairman for not more than two additional consecutive one-year terms.

(c) Requires the commissioner, on recommendation of the council, to fill a vacancy on the council, rather than board, by appointment for the unexpired term.

SECTION 9.11. Amends Section 41.157, Agriculture Code, to authorize the council to take action or exercise other authority as necessary to execute any act authorized by this chapter, rather than subchapter, or the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., V.T.C.S.).

SECTION 9.12. Amends Sections 41.160(b), (c), and (e), Agriculture Code, as follows:

(b) Requires the council, if an assessment referendum is approved, to recommend to the commissioner an assessment amount not greater than the maximum amount approved in the referendum. Requires the council, after the assessment is approved by the commissioner, to collect the assessment.

(c) Requires, rather than authorizes, an assessment levied on producers to be applied by the council to efforts relating to the marketing, education, research, and promotion of beef and beef products in Texas, the United States, and international markets, including administrative costs of conducting an assessment referendum.

(e) Authorizes the commissioner, on the council's recommendation, to exempt from the assessment certain producers who are exempt under federal law.

SECTION 9.13. Amends Section 41.161(a), Agriculture Code, to require the commissioner to annually review and approve the council's operating budget for the funds collected under this subchapter.

SECTION 9.14. Amends Section 41.162(g), Agriculture Code, to require the council to pay all expenses incurred in conducting a referendum with funds collected from the beef industry.

SECTION 9.15. Amends Section 71.004(d), Agriculture Code, to require that an emergency quarantine be established in accordance with the provisions related to emergency rulemaking in Chapter 2001, Government Code, rather than an emergency quarantine expires 30 days following the date on which it was established unless reestablished following notice and hearing as provided by this subchapter.

SECTION 9.16. Amends Section 72.002(b), Agriculture Code, to authorize TDA to adopt rules, rather than to adopt rules to be proclaimed by the governor, as necessary for the administration of this chapter.

SECTION 9.17. Amends Sections 72.011(a) and (b), Agriculture Code, as follows:

(a) Requires TDA, rather than the governor, when advised of the existence of Mexican fruit fly within a county or part of a county in this state, to certify that fact and proclaim the county or part of a county quarantined under this chapter.

(b) Authorizes TDA, if TDA determines that the exigencies of the situation require a modified quarantine, to designate a modified quarantined area, rather than to designate a modified quarantined area to be certified to the governor for proclamation.

SECTION 9.18. Amends Section 72.012, Agriculture Code, to provide that the premises of each individual, whether an owner, lessee, renter, tenant, or occupant, within the area named in the quarantine, rather than the quarantine proclamation, are subject to the quarantine, even though not specifically named.

SECTION 9.19. Amends Section 72.015(a), Agriculture Code, to prohibit a person from hauling, trucking, or otherwise moving citrus fruit from any premises or area that is under quarantine for Mexican fruit fly infestation by this chapter or by order of TDA, rather than by order of TDA or by proclamation of the governor, in violation of the quarantine without a written permit or certificate issued by TDA or an inspector of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, United States Department of Agriculture.

SECTION 9.20. Amends Section 76.004(a), Agriculture Code, to delete existing text requiring TDA, except as provided by Subchapter G, after notice, to conduct at least five regional hearings throughout the state before the adoption of any rule for carrying out the provisions of this chapter.

SECTION 9.21. Amends Section 144.041, Agriculture Code, by adding Subsection (g), as follows:

(g) Provides that the recording of marks and brands at a point of sale for use by an association authorized to inspect livestock under 7 U.S.C. Section 217a does not serve as a record under this chapter. Provides that an association authorized to inspect livestock under 7 U.S.C. Section 217a has no duty to verify ownership at a point of sale.

SECTION 9.22. Amends Section 251.005, Agriculture Code, by adding Subsection (e), to provide that a governmental requirement of a political subdivision of the state does not apply to conduct described by Section 42.09(f) (relating to an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful), Penal Code, on an agricultural operation.

SECTION 9.23. Repealers: Sections 12.017 (Use of the Term "Texas Agricultural Product"), 72.003 (Peace Officer Power), 72.011(c) (relating to the governor's proclamation of a quarantine), and 76.005 (Notice of Hearing), Agriculture Code.

SECTION 9.24. (a) Provides that the change in law made by this Act to Section 19.012, Agriculture Code, applies only to an offense committed on or after the effective date of this Act. Provides that an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. Provides that for purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

(b) Provides that the change in law made by this Act to Section 19.014, Agriculture Code, applies only to conduct that occurred on or after the effective date of this Act. Provides that conduct that occurred before the effective date of this Act is governed by the law in effect when the conduct occurred, and the former law is continued in effect for that purpose.

(c) Provides that the change in law made by this Act to Section 41.156, Agriculture Code, does not affect the entitlement of a member of the board of directors of the Texas Beef Council to serve for the remainder of the member's term. Provides that a board member appointed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(d) Provides that the change in law made by this Act to Section 41.160, Agriculture Code, applies only to an assessment approved on or after the effective date of this Act. Provides that an assessment approved before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(e) Provides that the change in law made by this Act to Section 41.162, Agriculture Code, applies only to an assessment referendum conducted on or after the effective date of this Act. Provides that an assessment referendum conducted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(f) Provides that the changes in law made by this Act by the amendment of Section 76.004, Agriculture Code, and the repeal of Section 76.005, Agriculture Code, apply only to a public hearing held on or after the effective date of this Act. Provides that a public hearing held before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

## ARTICLE 10. ESTABLISHMENT OF THE OFFICIAL CITRUS PRODUCERS' PEST AND DISEASE MANAGEMENT CORPORATION

SECTION 10.01. Amends Subtitle B, Title 5, Agriculture Code, by adding Chapter 80, as follows:

### CHAPTER 80. OFFICIAL CITRUS PRODUCERS' PEST AND DISEASE MANAGEMENT CORPORATION

Sec. 80.001. FINDINGS AND DECLARATION OF POLICY. (a) Provides that the legislature finds that:

(1) the insect known as the Asian citrus psyllid and the disease known as citrus greening are public nuisances and menaces to the citrus industry, and their control and suppression is a public necessity;

(2) because of the natural migration patterns of the Asian citrus psyllid, the control and suppression of the nuisance can best be accomplished by

dividing the commercial citrus-growing areas into separate zones so that integrated pest management programs may be developed for each zone;

(3) there is a need for a quasi-governmental entity acting under the supervision and control of the commissioner whose members are actual citrus producers who would be represented on the board of the entity by directors elected by them to manage control and suppression programs and to furnish expertise in the field of insect control and suppression, because such an entity would enhance the interest and participation of citrus producers in the program;

(4) citrus producers, in partnership with the state and federal governments, have made significant investments toward the suppression of these pests and disease in this state; and

(5) it is essential to the well-being of the citrus industry and the agricultural economy of this state that the investments of the citrus producers and the state and federal governments be protected.

(b) Provides that it is the intent of the legislature that the program of control and suppression of the Asian citrus psyllid be carried out with the best available integrated pest management techniques.

(c) Authorizes TDA to recover costs for administration of this chapter.

Sec. 80.002. DESIGNATION OF ENTITY TO CARRY OUT ASIAN CITRUS PSYLLID AND CITRUS GREENING CONTROL AND SUPPRESSION. (a) Requires TDA to recognize the Texas Citrus Pest and Disease Management Corporation, Inc. (corporation), a Texas nonprofit corporation, as the entity to plan, carry out, and operate suppression programs to manage and control the Asian citrus psyllid and citrus greening in citrus plants in the state under the supervision of TDA as provided by this chapter.

(b) Authorizes the commissioner to terminate the corporation's designation as the entity recognized to carry out Asian citrus psyllid control and management by giving 45 days' written notice to the corporation and by designating a successor entity. Provides that if the commissioner designates a successor to the corporation, the successor has all the powers and duties of the corporation under this chapter. Requires any successor to the corporation to assume and to be responsible for all obligations and liabilities relating to any notes, security agreements, assignments, loan agreements, and any other contracts or other documents entered into by the corporation with or for the benefit of any financial institution or its predecessor, successor, or assignee.

Sec. 80.003. DEFINITIONS. Defines "board," "Asian citrus psyllid," "commissioner," "citrus," "citrus greening," "citrus producer," "suppression," "pest management zone," "corporation," "host," "infested," "integrated pest management," and "regulated article."

Sec. 80.004. ADVISORY COMMITTEES. (a) Authorizes the commissioner to appoint an advisory committee for an existing pest management zone (zone) or an area of the state that is to be considered by the commissioner for designation as or inclusion in zone. Requires the committee to gather advice, input, and guidance from citrus producers from the area represented by the committee concerning the interest in and concerns about the implementation of this chapter.

(b) Authorizes each advisory committee to consider and make recommendations to the commissioner and the corporation concerning the geographic boundaries for a proposed pest management zone, the amount of local interest in operating a suppression program, the basis and amount of an assessment necessary to support a suppression program, ongoing implementation of a suppression program approved by growers in a pest management zone, and any other matter requested by the commissioner or the corporation.

(c) Requires each advisory committee appointed under this section to include a sufficient number of citrus producers to ensure adequate representation across the pest management zone and other persons as determined by the commissioner.

(d) Provides that an advisory committee established under this section is subject to Chapters 551 and 552, Government Code.

Sec. 80.005. CREATION OF PEST MANAGEMENT ZONES. (a) Authorizes the commissioner by rule to designate an area of this state as a proposed zone.

(b) Authorizes the commissioner to hold a public hearing in the proposed zone to discuss the proposed geographic boundaries of the zone. Authorizes the public hearing to include any other topic allowed under this chapter.

(c) Requires the commissioner, after the adoption of a rule under Subsection (a), to conduct a referendum under Section 80.006.

Sec. 80.006. PEST MANAGEMENT ZONE REFERENDA. (a) Requires the commissioner to conduct a referendum in each proposed zone to determine whether citrus producers want to establish a zone.

(b) Requires that zone referenda be conducted under the procedures provided by Section 80.016.

(c) Requires that a proposed zone referendum ballot include or be accompanied by certain information about the proposed zone.

(d) Provides that if a referendum to establish a zone is not approved, the concurrent election of a board member from the proposed zone under Section 80.007 has no effect, and the commissioner is required to appoint a representative to the board of directors of the corporation (board) from the area.

(e) Authorizes the corporation to request the commissioner to call additional referenda in a proposed zone in which a referendum has not been approved. Prohibits an additional zone referendum and concurrent board election from being held before the first anniversary of the date of the preceding referendum.

(f) Requires the eligible voters, after the approval of any referendum, to be allowed, by subsequent referenda, to vote on whether to continue their assessments. Requires that the requirements for an initial referendum be complied with in a subsequent referendum.

Sec. 80.007. BOARD ELECTIONS. (a) Requires that the initial election for board members from a proposed zone be held concurrently with a zone referendum held under Section 80.006. Requires that each zone be represented on the board and remain represented on the board until suppression operations are concluded and all debt of the zone is paid.

(b) Requires that a board election be conducted under the procedures provided by this section and Section 80.016.

(c) Provides that a citrus producer who is eligible to vote in a referendum or election under this chapter is eligible to be a candidate for and member of the board if the person has at least seven years of experience as a citrus producer and otherwise meets the qualifications for the office.

(d) Requires a citrus producer who wants to be a candidate for the board to meet the qualifications for board membership and file an application with the commissioner. Requires that the application be filed not later than the 30th day before the date set for the board election, on a form approved by the

commissioner, and signed by at least 10 citrus producers who are eligible to vote in the board election.

(e) Requires an applicant's name, on receipt of an application and verification that the application meets the requirements of Subsection (d), to be placed on the ballot for the board election.

(f) Authorizes an eligible voter to vote for a citrus producer whose name does not appear on the official ballot by writing that person's name on the ballot.

(g) Requires that a board election be preceded by at least 45 days' notice published in one or more newspapers published and distributed in the proposed or established zone. Requires that the notice be published not less than once a week for three consecutive weeks. Requires that direct written notice of the election, not later than the 45th day before the date of the election, be given to each AgriLife Extension Service agent in the zone.

(h) Requires each board member to be sworn into office by a representative of the commissioner by taking the oath of office required for elected officers of the state.

Sec. 80.008. COMPOSITION OF BOARD. (a) Provides that the board is composed of members elected from each zone established by referendum, members appointed by the commissioner from other citrus-growing areas of the state, and members appointed by the commissioner under Subsection (b). Requires the commissioner to appoint an initial board composed of 15 members. Prohibits the term of each board position, except as provided by Subsection (b), from exceeding four years.

(b) Requires the commissioner, in making appointments under this section, to appoint certain board members, selected from a variety of citrus-growing regions of the state, for four-year terms.

(c) Authorizes the commissioner to change the number of board positions or the zone representation on the board to accommodate changes in the number of zones. Prohibits a change under this subsection from contravening another provision of this chapter.

(d) Requires that a vacancy on the board be filled by appointment by the commissioner for the unexpired term.

(e) Authorizes the commissioner, on 30 days' notice and opportunity for hearing, to replace any unelected board member of the corporation.

Sec. 80.009. POWERS OF BOARD AND COMMISSIONER. (a) Authorizes the board to:

(1) conduct programs consistent with the declaration of policy stated in Section 80.001;

(2) accept, as necessary to implement this chapter, gifts and grants;

(3) borrow money, with the approval of the commissioner, as necessary to execute this chapter;

(4) take other action and exercise other authority as necessary to execute any act authorized by this chapter or the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., V.T.C.S.); and

(5) form an advisory committee composed of individuals from this state, other states, or other countries and change membership on the committee, as necessary. Requires any advisory committee created under this

subdivision for the purpose of establishing treatment methods to include among its members persons with knowledge of the effects of different treatments on the health of agricultural workers, the local population, and the ecosystem, including but not limited to the effects of a particular method of treatment on beneficial organisms and wildlife, the potential for secondary infestations from nontarget pests, and the potential for pest resistance to particular methods of treatment.

(b) Authorizes the commissioner, on petition of at least 30 percent of the citrus producers eligible to vote in the proposed area, or at the commissioner's discretion, by rule, to add an area to a zone or transfer an area or county from one zone to another zone if citrus production has begun or could begin in the area; the area is adjacent to a zone or is in an area with biological characteristics similar to the zone; and the addition is approved in a referendum held in the area.

(c) Requires the board to adopt a procurement policy, subject to approval by the commissioner, outlining the procedures to be used in purchasing.

(d) Authorizes the commissioner at any time to inspect the books and other financial records of the corporation.

Sec. 80.010. BOARD DUTIES. (a) Requires the board to have an annual independent audit of the books, records of account, and minutes of proceedings maintained by the corporation prepared by an independent certified public accountant or a firm of independent certified public accountants. Requires that the audit include information for each zone in which a suppression program has been conducted under this chapter. Requires that the audit be filed with the board, the commissioner, and the state auditor and be made available to the public by the corporation or the commissioner. Provides that the transactions of the corporation are subject to audit by the state auditor in accordance with Chapter 321 (State Auditor), Government Code.

(b) Requires the board, not later than the 45th day after the last day of the fiscal year, to submit to the commissioner a report itemizing all income and expenditures and describing all activities of the corporation during the fiscal year.

(c) Requires the corporation to provide fidelity bonds in amounts determined by the board for employees or agents who handle money for the corporation.

(d) Provides that the corporation and the board are state agencies for certain purposes only.

(e) Provides that funds collected by the corporation are not state funds and are not required to be deposited in the state treasury. Requires the corporation to deposit all money collected under this chapter in a bank or other depository approved by the commissioner.

(f) Requires the board to collect data on the type and quantity of pesticides used in accordance with this chapter and the data to be filed with the commissioner.

(g) Requires that all money collected under this chapter be used solely to finance programs approved by the commissioner as consistent with this chapter.

(h) Provides that the corporation is subject to the requirements of the open meetings law, Chapter 551, Government Code; and the public information law, Chapter 552, Government Code.

(i) Prohibits a board member from voting on any matter in which the member has a direct pecuniary interest. Provides that a board member is subject to the same restrictions as a local public official under Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code.

Sec. 80.011. ADMINISTRATIVE REVIEW. (a) Requires the commissioner by rule to establish procedures for the informal review and resolution of a claim arising out of certain acts taken by the corporation under this chapter. Requires that rules established under this section include a designation of the acts that are subject to review under this subsection and the appropriate remedial action, as authorized by this chapter.

(b) Authorizes a person dissatisfied with TDA's informal resolution of a claim under procedures adopted under Subsection (a) to appeal TDA's decision to the commissioner.

(c) Provides that a decision issued by the commissioner on a claim appealed under Subsection (b) is the final administrative action of TDA and is subject to judicial review under Chapter 2001 (Administrative Procedure), Government Code.

(d) Provides that this section does not constitute a waiver of the state's immunity from liability.

Sec. 80.012. CONTRACTING. (a) Authorizes the corporation, for a purchase of goods and services under this chapter, to purchase goods and services that provide the best value for the corporation.

(b) Provides that in determining the best value for the corporation, the purchase price, and whether the goods or services meet specifications are the most important considerations, but that the corporation is authorized to consider certain other relevant factors.

Sec. 80.013. BOARD MEMBER COMPENSATION. Provides that board members serve without compensation but are entitled to reimbursement for reasonable and necessary expenses incurred in the discharge of their duties.

Sec. 80.014. DISCONTINUATION OF PROGRAM AND CORPORATION AND DISPOSITION OF FUNDS ON DISCONTINUANCE. (a) Requires the corporation, on the determination by the corporation that the Asian citrus psyllid suppression program has been completed in all zones established under this chapter, to provide notice of the completion to the commissioner along with a request for discontinuance of the control and suppression program and collection of the assessment. Requires that any request under this subsection include documentation supporting the fact that the Asian citrus psyllid is no longer a threat to the state's citrus industry and a plan for discontinuance of the program and assessment.

(b) Requires the commissioner to determine whether or not the further suppression of the Asian citrus psyllid is necessary in the zones and approve or disapprove discontinuance of the corporation and the plan for dissolution.

(c) Requires the corporation, on completion of the dissolution, to file a final report with the commissioner, including a financial report, and submit all remaining funds into the trust of the commissioner. Requires that final books of the corporation be filed with the commissioner and provides that they are subject to audit by TDA.

(d) Requires the commissioner to pay from the corporation's remaining funds all of the corporation's outstanding obligations.

(e) Requires that funds remaining after payment under Subsection (d) be returned to contributing citrus producers on a pro rata basis.

(f) Requires the commissioner, if 30 percent or more of the citrus producers eligible to vote within a zone participating in the program present to the commissioner a petition calling for a referendum of the qualified voters on the

proposition of discontinuing the program, to conduct a referendum for that purpose.

(g) Requires the commissioner to give notice of the referendum, the referendum to be conducted, and the results to be declared in the manner provided by law for the original referendum and election, with any necessary exceptions provided by rule of the commissioner.

(h) Requires the commissioner to conduct the referendum before the 90th day after the date the petition was filed, except that a referendum is prohibited from being held before the second anniversary of any other referendum in the zone pertaining to establishing or discontinuing the zone.

(i) Provides that approval of the proposition requires the same vote as required in a referendum under Section 80.016(g). Provides that if the proposition is approved, the suppression program is abolished and the zone ceases to exist on payment of all debts of the zone.

Sec. 80.015. ASSESSMENT REFERENDA. (a) Requires the commissioner to propose the assessment needed in each zone to ensure the stability of the citrus industry by suppressing the public nuisance caused by the Asian citrus psyllid.

(b) Requires the commissioner to propose in a referendum the maximum assessment to be paid by citrus producers having production in the zone and time for which the assessment will be made.

(c) Authorizes the corporation, with the commissioner's approval, to make an assessment in a zone at a level less than the assessment approved by the referendum.

(d) Requires the commissioner to conduct an assessment referendum under the procedures provided by Section 80.016.

(e) Authorizes the corporation to collect the assessment if an assessment referendum is approved.

(f) Authorizes an assessment levied on citrus producers in a zone to be applied only to pest control in that zone; the corporation's operating costs, including payments on debt incurred for a corporation activity, except that the funds of one zone may not be used to pay another zone's bank loans or debts; and the conducting of other programs consistent with the declaration of policy stated in Section 80.001.

(g) Requires that the assessment be adequate and necessary to achieve the goals of this chapter and the amount determined by certain criteria established by the commissioner.

(h) Requires the commissioner to give notice of and hold a public hearing in the zone regarding the proposed assessment referendum. Requires the commissioner, before the referendum, to review and approve certain information.

(i) Requires the commissioner to, on a zone-by-zone basis, set the date on which assessments are due and payable.

(j) Requires the commissioner, each year, to review and approve the corporation's operating budget.

(k) Requires the corporation to prepare and mail billing statements to each citrus producer subject to the assessment that state the amount due and the due date. Requires that the assessments be sent to the corporation.

Sec. 80.016. CONDUCT OF BOARD ELECTIONS AND REFERENDA; BALLOTING. (a) Requires the commissioner to conduct a referendum or board election authorized under this chapter.

(b) Requires the corporation to bear all expenses incurred in conducting a referendum or board election.

(c) Requires the commissioner to adopt rules for voting in board elections and referenda to establish zones. Requires that rules adopted under this subsection include provisions for determining who is a citrus producer eligible to vote in an election or referendum; whether a board member is elected by a plurality or a majority of the votes cast; and the area from which each board member is elected.

(d) Entitles a citrus producer having citrus production in a proposed or established zone to vote in a referendum concerning the zone, and elect board members to represent the zone.

(e) Authorizes an eligible citrus producer to vote only once in a referendum or board election.

(f) Requires that ballots in a referendum or board election be mailed directly to a central location, as determined by the commissioner. Requires a citrus producer eligible to vote in a referendum or board election who has not received a ballot from the commissioner, corporation, or another source be offered the option of requesting a ballot by mail or obtaining a ballot at the office of the Texas AgriLife Extension Service or a government office distributing ballots in a county in the proposed or established zone in which the referendum or board election is conducted.

(g) Provides that a referendum is approved if at least two-thirds of those voting vote in favor of the referendum; or those voting in favor of the referendum cultivate more than 50 percent, as determined by the commissioner, of the citrus acreage in the relevant zone.

(h) Authorizes the commissioner, if a referendum under this chapter is not approved, to conduct another referendum, which is prohibited from being held before the first anniversary of the date on which the previous referendum on the same issue was held.

(i) Authorizes a public hearing regarding the proposed suppression program, including information regarding regulations to be promulgated by the commissioner, to be held by the commissioner in each of several locations in each Asian citrus psyllid zone.

(j) Provides that individual voter information, including an individual's vote in a referendum or board election conducted under this section, is confidential and is not subject to disclosure under Chapter 552, Government Code.

Sec. 80.017. PAYMENT OF ASSESSMENTS; ASSESSMENT LIENS. (a) Provides that a citrus producer who fails to pay an assessment levied under this chapter when due may be subject, after reasonable notice and opportunity for hearing, to a penalty set by the commissioner. Requires the commissioner, in determining the amount of the penalty to be assessed, to consider certain information.

(b) Authorizes the corporation to develop a compliance certificate program to manage the payment and collection of an assessment levied under this chapter. Authorizes the corporation, under the program, subject to TDA rules, to issue a compliance certificate for citrus for which an assessment has been paid.

(c) Authorizes the commissioner, in addition to any other remedies for the collection of assessments and penalties, to adopt rules relating to the compliance

certificate program for suppression assessments. Authorizes the rules to include certain provisions.

(d) Provides that in addition to any other remedies for the collection of assessments and penalties, an assessment lien in favor of the corporation attaches and is perfected 60 days after the date the corporation mails notice of the assessment on citrus produced and harvested that year from the acreage that is subject to the assessment that is due and unpaid. Provides that an assessment lien is not an agricultural lien for the purposes of Chapter 9 (Secured Transactions), Business & Commerce Code, and is not subject to the provisions of that chapter. Provides that an assessment lien is subject to and preempted by the Food Security Act of 1985 (7 U.S.C. Section 1631 et seq.) and is required to be treated under that Act in the same manner as a security interest created by the seller. Provides that a buyer of citrus takes free of the assessment lien if the buyer meets certain requirements.

(e) Authorizes the corporation to assign, with the approval of the commissioner, assessments or liens in favor of the corporation as collateral for a loan to the corporation only if the proceeds of the loan are designated for use in the zone from which the assessments or liens originated.

(f) Authorizes TDA, if TDA believes that a violation of this section or a rule adopted under this section has occurred, to investigate and, during normal business hours, audit and inspect the records of the person who is the subject of the investigation.

Sec. 80.018. EXEMPTION FROM ASSESSMENT PENALTIES. (a) Requires the commissioner by rule to adopt criteria to exempt from payment of an assessment penalty under Section 80.017 a citrus producer for whom payment would impose an undue financial burden.

(b) Provides that a citrus producer is not eligible for an exemption under this section for a year in which the amount computed by subtracting the assessments and penalties due under this chapter from the citrus producer's net income subject to federal income taxation in the previous year is greater than \$15,000.

(c) Requires a citrus producer who applies for an exemption under this section to use a form prescribed by the commissioner and to file a separate application form for each year for which the citrus producer claims an exemption.

(d) Authorizes the commissioner to establish a payment plan for a citrus producer applying for an exemption under this section.

(e) Requires the commissioner to promptly notify an applicant of the determination regarding the applicant's request for an exemption.

(f) Provides that if an exemption under this section is denied, assessments and penalties for the year for which the application is made are due on the later of the date on which they would be due in the absence of an application for exemption; or 30 days after the date the applicant receives notice of the denial.

(g) Authorizes the commissioner, in addition to the authority provided under Subsections (a)-(f), to reduce or waive an assessment penalty as appropriate and necessary.

Sec. 80.019. ENTRY OF PREMISES; SUPPRESSION ACTIVITIES; INSPECTIONS. Authorizes TDA, the corporation, or a designated representative of either entity to enter citrus groves or other premises to carry out the purposes of this chapter, which include the treatment and monitoring of growing citrus or other host plants. Authorizes TDA, the corporation, or a designated representative of either entity to inspect groves or premises in this state for the purpose of determining whether the property is infested with the

Asian citrus psyllid or citrus greening. Requires that an inspection be conducted during reasonable daylight hours. Requires TDA to give notice by publication of the planned schedule of dates for entry by TDA, the corporation, or a designated representative of either entity, to the owner or occupant of the groves or premises to carry out the purposes of this chapter, including treatment, monitoring, or inspection functions. Requires TDA to publish notice of the planned schedule to enter the groves or premises in a newspaper of general circulation in the zone not less than once a week for two weeks immediately before the scheduled dates of entry. Requires the corporation, in addition to the notice published by TDA, to post notice of the planned schedule to enter groves or premises to carry out the purposes of this chapter at the county courthouse of each county in the zone not later than the 15th day before the planned dates of entry.

**Sec. 80.020. AUTHORITY TO PROHIBIT PLANTING OF CITRUS AND REQUIRE PARTICIPATION IN SUPPRESSION PROGRAM.** (a) Authorizes the commissioner to adopt reasonable rules regarding areas where citrus is prohibited from being planted in a zone if there is reason to believe planting will jeopardize the success of the program or present a hazard to public health or safety.

(b) Authorizes the commissioner to adopt rules requiring all growers of citrus in a pest management zone to participate in an Asian citrus psyllid suppression program and growers of commercial citrus to participate in pest and disease management programs that include cost sharing as required by the rules.

(c) Requires that notice of a prohibition or requirement be given by publication for one day each week for three successive weeks in a newspaper having general circulation in the affected area.

(d) Authorizes the commissioner to adopt a reasonable schedule of penalty fees to be assessed against growers in a designated zone who do not meet the requirements of the rules issued by the commissioner relating to reporting of acreage and participation in cost sharing. Prohibits a penalty fee from exceeding \$50 per acre.

**Sec. 80.021. AUTHORITY FOR DESTRUCTION OR TREATMENT OF CITRUS IN PEST MANAGEMENT ZONES; COMPENSATION PAYABLE.** Authorizes TDA to destroy or treat, and establish procedures for the purchase and destruction of, citrus plants or hosts in zones if TDA determines the action is necessary to carry out the purposes of this chapter. Provides that TDA is not liable to the owner or lessee for the destruction of or injury to any citrus that was planted in a zone after the date notice is published as required by this chapter. Provides that the corporation is liable for the destruction of citrus if the citrus was planted in a zone before the date that notice is published.

**Sec. 80.022. AUTHORITY TO ADOPT RULES.** (a) Requires the commissioner to adopt rules to protect individuals, livestock, wildlife, and honeybee colonies on any premises in a zone on which citrus plants are being grown that have been or are being treated to control or suppress the Asian citrus psyllid and citrus greening.

(b) Requires that rules adopted under this section establish the criteria by which the corporation develops certain procedures and methods of treatment.

(c) Authorizes the commissioner to adopt other reasonable rules necessary to carry out the purposes of this chapter. Requires that all rules issued under this chapter be adopted and published in accordance with the laws of this state.

(d) Authorizes an advisory committee to be established to assist the commissioner in the development of rules under this section. Authorizes the advisory committee to be composed of certain persons.

**Sec. 80.023. REPORTS.** Requires each person in an active zone growing citrus in this state to furnish to the corporation on forms supplied by the corporation information that the corporation requires concerning the size and location of all commercial citrus

orchards and of noncommercial citrus grown for ornamental or other purposes. Authorizes the corporation to provide an incentive for early and timely reporting.

Sec. 80.024. DOCUMENTING REGULATED ARTICLES. Authorizes TDA, to implement this chapter, to issue or authorize issuance of a certificate that indicates that a regulated article is not infested with the Asian citrus psyllid; and a permit that provides for the movement of a regulated article to a restricted destination for limited handling, use, or processing.

Sec. 80.025. COOPERATIVE PROGRAMS AUTHORIZED. (a) Authorizes the corporation to carry out programs to destroy and manage the Asian citrus psyllid and citrus greening in this state by cooperating through written agreements, as approved by the commissioner, with certain groups or agencies.

(b) Authorizes an agreement entered into under this section to provide for cost sharing and for division of duties and responsibilities under this chapter and to include other provisions to carry out the purposes of this chapter.

Sec. 80.026. ORGANIC CITRUS PRODUCERS. (a) Requires the commissioner to develop rules and procedures to protect the eligibility of organic citrus producers to be certified by the commissioner; ensure that organic and transitional certifications by the commissioner continue to meet national certification standards in order for organic citrus to maintain international marketability; and in all events maintain the effectiveness of the Asian citrus psyllid suppression program and citrus greening management administered under this chapter.

(b) Prohibits the board from treating or requiring treatment of organic citrus groves with chemicals that are not approved for use on certified organic citrus. Authorizes rules adopted under Subsection (a) to provide indemnity for the organic citrus producers for reasonable losses that result from a prohibition of production of organic citrus or from any requirement of destruction of organic citrus.

Sec. 80.027. PENALTIES. (a) Provides that a person who violates this chapter or a rule adopted under this chapter or who alters, forges, counterfeits, or uses without authority a certificate, permit, or other document issued under this chapter or under a rule adopted under this chapter commits an offense.

(b) Provides that an offense under this section is a Class C misdemeanor.

(c) Authorizes the commissioner, if the commissioner determines that a violation of this chapter or a rule adopted under this chapter has occurred, to request that the attorney general or the county or district attorney of the county in which the alleged violation occurred or is occurring file suit for civil, injunctive, or other appropriate relief.

Sec. 80.028. SUNSET PROVISION. (a) Provides that the board of directors of the official citrus producers' pest and disease management corporation is subject to Chapter 325 (Texas Sunset Act), Government Code, and unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2021.

(b) Authorizes the commissioner to order the dissolution of the corporation at any time the commissioner determines that the purposes of this chapter have been fulfilled or that the corporation is inoperative and abandoned. Requires that dissolution be conducted in accordance with Section 80.014.

(c) Provides that if the corporation is abolished or the suppression program discontinued for any reason, assessments approved, levied, or otherwise collectible on the date of abolishment remain valid as necessary to pay the financial obligations of the corporation.

Sec. 80.029. ANNUAL REPORT. Requires the board to issue to the commissioner and the appropriate oversight committee in the house of representatives an annual report detailing its efforts to carry out the purposes of this chapter.

Sec. 80.030. EXEMPTION FROM TAXATION. Exempts all payments, contributions, funds, and assessments received or held by the corporation under this chapter from state or local taxation, levies, sales, and any other process and are unassignable.

Sec. 80.031. USE OF BIO-INTENSIVE CONTROLS. (a) Requires the commissioner to develop and adopt rules to allow a citrus producer in a suppression program to use biological, botanical, or other nonsynthetic pest control methods. Requires the commissioner, in developing rules, to consider scientific studies and field trials of the effectiveness of a proposed alternative control method; the feasibility of using a proposed alternative control technique within a particular region; the degree of monitoring necessary to establish the success of the use of a proposed alternative control; and methods to prevent the use of substances that would impede the use of alternative controls and the promotion of beneficial insect populations.

(b) Requires a citrus producer that chooses to use an alternative method of control as provided in Subsection (a) to notify the board. Requires the board and the citrus producer to coordinate their actions to prevent the use of substances that would impede the use of alternative controls and the promotion of beneficial insect populations.

(c) Requires the citrus producer to pay any additional cost of bio-intensive control in addition to any assessment.

Sec. 80.032. VENUE. (a) Provides that venue for an action arising out of this chapter in which the corporation is a party is in Travis County.

#### ARTICLE 11. EFFECTIVE DATE

SECTION 11.01. Effective date: September 1, 2009.