

1-1 By: Duncan S.B. No. 2038
1-2 (In the Senate - Filed March 12, 2009; March 31, 2009, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 16, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 16, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2038 By: Duncan

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the construction of nonsubstantive codifications and
1-11 revisions of statutes.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Section 22.001, Government Code,
1-14 is amended to read as follows:

1-15 (a) The supreme court has appellate jurisdiction, except in
1-16 criminal law matters, coextensive with the limits of the state and
1-17 extending to all questions of law arising in the following cases
1-18 when they have been brought to the courts of appeals from appealable
1-19 judgment of the trial courts:

1-20 (1) a case in which the justices of a court of appeals
1-21 disagree on a question of law material to the decision;

1-22 (2) a case in which one of the courts of appeals holds
1-23 differently from a prior decision of another court of appeals or of
1-24 the supreme court on a question of law material to a decision of the
1-25 case;

1-26 (3) subject to Section 22.0011, a case involving the
1-27 construction or validity of a statute necessary to a determination
1-28 of the case;

1-29 (4) a case involving state revenue;

1-30 (5) a case in which the railroad commission is a party;
1-31 and

1-32 (6) any other case in which it appears that an error of
1-33 law has been committed by the court of appeals, and that error is of
1-34 such importance to the jurisprudence of the state that, in the
1-35 opinion of the supreme court, it requires correction, but excluding
1-36 those cases in which the jurisdiction of the court of appeals is
1-37 made final by statute.

1-38 SECTION 2. Subchapter A, Chapter 22, Government Code, is
1-39 amended by adding Section 22.0011 to read as follows:

1-40 Sec. 22.0011. JURISDICTION REGARDING NONSUBSTANTIVE
1-41 REVISIONS. (a) This section applies to the exercise of the
1-42 supreme court's jurisdiction under Section 22.001(a)(3) if:

1-43 (1) the statute at issue in the case was enacted by the
1-44 legislature under the direction of Article III, Section 43, Texas
1-45 Constitution, in an enactment having the purpose, declared by the
1-46 legislature in the enactment, of codifying or revising without
1-47 substantive change statutes that individually relate to different
1-48 subjects; and

1-49 (2) the statute was prepared for the legislature's
1-50 consideration by the Texas Legislative Council under the authority
1-51 granted to the council by Section 323.007.

1-52 (b) The codification or revision of a statute to which this
1-53 section applies does not affect the meaning or effect of the
1-54 statute.

1-55 (c) In interpreting and applying a codified or revised
1-56 statute to which this section applies, the supreme court shall give
1-57 the statute the same effect and meaning that was or would have been
1-58 given the statute before its codification or revision,
1-59 notwithstanding the repeal of the prior statute and regardless of
1-60 any omission or change in the codified or revised statute that the
1-61 supreme court would otherwise find to be direct, unambiguous, and
1-62 irreconcilable with the prior version of the statute. Any omission
1-63 or change in the codified or revised statute for which the court

2-1 finds no direct express evidence of legislative intent to change
2-2 the sense, meaning, or effect of the statute shall be considered to
2-3 be unintended and shall be given no effect.

2-4 SECTION 3. Subchapter C, Chapter 311, Government Code, is
2-5 amended by adding Section 311.033 to read as follows:

2-6 Sec. 311.033. INTERPRETATION AND APPLICATION OF
2-7 NONSUBSTANTIVE REVISIONS. (a) This section applies to the
2-8 interpretation or application by a court, executive branch agency,
2-9 or other entity of a statute enacted by the legislature of this
2-10 state if:

2-11 (1) the statute at issue in the case was enacted by the
2-12 legislature under the direction of Article III, Section 43, Texas
2-13 Constitution, in an enactment having the purpose, declared by the
2-14 legislature in the enactment, of codifying or revising without
2-15 substantive change statutes that individually relate to different
2-16 subjects; and

2-17 (2) the statute was prepared for the legislature's
2-18 consideration by the Texas Legislative Council under the authority
2-19 granted to the council by Section 323.007.

2-20 (b) The codification or revision of a statute to which this
2-21 section applies does not affect the meaning or effect of the
2-22 statute.

2-23 (c) In interpreting and applying a codified or revised
2-24 statute to which this section applies, the court, executive branch,
2-25 or other entity shall give the statute the same effect and meaning
2-26 that was or would have been given the statute before its
2-27 codification or revision, notwithstanding the repeal of the prior
2-28 statute and regardless of any omission or change in the codified or
2-29 revised statute that the court, executive branch, or other entity
2-30 would otherwise find to be direct, unambiguous, and irreconcilable
2-31 with the prior version of the statute. Any omission or change in
2-32 the codified or revised statute for which the court, executive
2-33 branch, or other entity finds no direct express evidence of
2-34 legislative intent to change the sense, meaning, or effect of the
2-35 statute shall be considered to be unintended and shall be given no
2-36 effect.

2-37 SECTION 4. This Act takes effect immediately if it receives
2-38 a vote of two-thirds of all the members elected to each house, as
2-39 provided by Section 39, Article III, Texas Constitution. If this
2-40 Act does not receive the vote necessary for immediate effect, this
2-41 Act takes effect September 1, 2009.

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