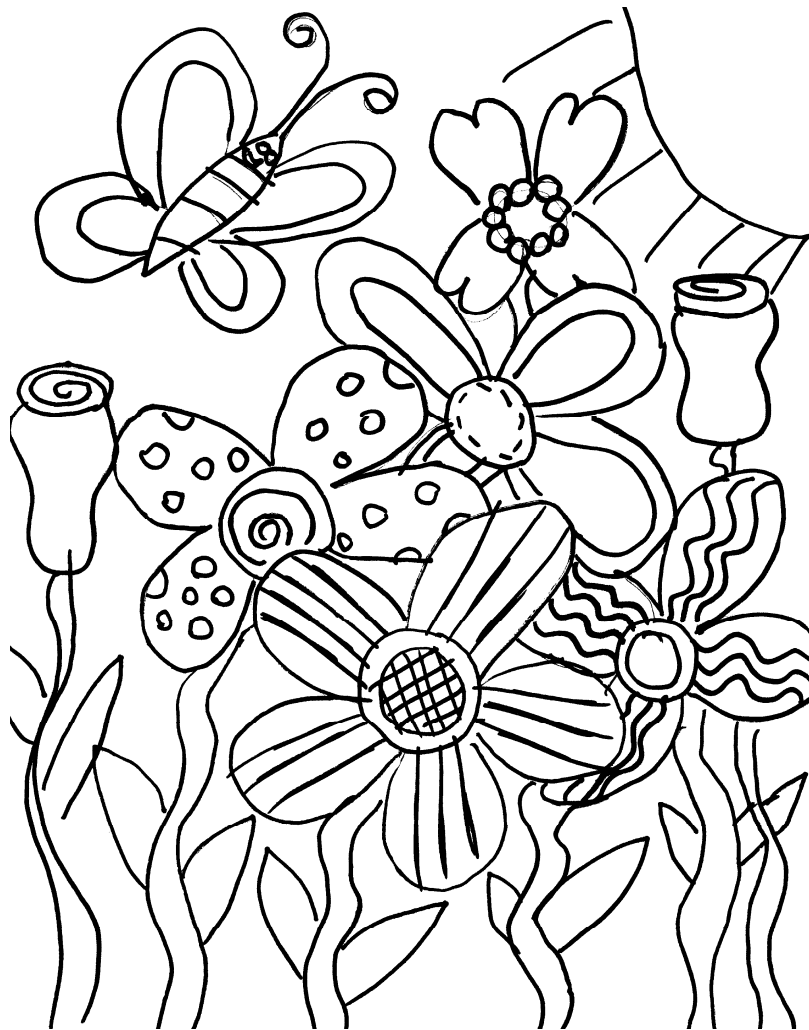

TEXAS REGISTER

Volume 44 Number 17

April 26, 2019

Pages 2121 - 2198



School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

The artwork featured on the front cover is chosen at random. Inside each issue, the artwork is published on what would otherwise be blank pages in the *Texas Register*. These blank pages are caused by the production process used to print the *Texas Register*.

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IN THIS ISSUE

GOVERNOR

Appointments.....	2125
Proclamation 41-3624.....	2126

ATTORNEY GENERAL

Requests for Opinions.....	2129
Opinions.....	2129

PROPOSED RULES

DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

TEXAS RESIDENTIAL MORTGAGE LOAN COMPANIES	
7 TAC §80.201.....	2131

MORTGAGE BANKERS AND RESIDENTIAL MORTGAGE LOAN ORIGINATORS

7 TAC §81.201.....	2132
--------------------	------

TEXAS DEPARTMENT OF LICENSING AND REGULATION

HEARING INSTRUMENT FITTERS AND DISPENSERS

16 TAC §112.25.....	2133
---------------------	------

TEXAS LOTTERY COMMISSION

CHARITABLE BINGO OPERATIONS DIVISION

16 TAC §402.403.....	2135
----------------------	------

TEXAS HIGHER EDUCATION COORDINATING BOARD

AGENCY ADMINISTRATION

19 TAC §1.152.....	2136
--------------------	------

RULES APPLYING TO PUBLIC UNIVERSITIES, HEALTH-RELATED INSTITUTIONS, AND/OR SELECTED PUBLIC COLLEGES OF HIGHER EDUCATION IN TEXAS

19 TAC §5.5.....	2137
------------------	------

STUDENT SERVICES

19 TAC §§21.789, 21.790, 21.792.....	2138
--------------------------------------	------

STUDENT FINANCIAL AID PROGRAMS

19 TAC §22.8.....	2139
-------------------	------

19 TAC §§22.128 - 22.133.....	2140
-------------------------------	------

19 TAC §22.134, §22.136.....	2142
------------------------------	------

19 TAC §22.142, §22.148.....	2143
------------------------------	------

19 TAC §22.143, §22.144.....	2143
------------------------------	------

19 TAC §22.174.....	2144
---------------------	------

FIELDS OF STUDY

19 TAC §27.203, §27.204.....	2145
------------------------------	------

19 TAC §§27.861 - 27.867.....	2145
-------------------------------	------

19 TAC §§27.881 - 27.887.....	2147
-------------------------------	------

19 TAC §§27.901 - 27.907.....	2148
-------------------------------	------

TEXAS EDUCATION AGENCY

CHARTERS

19 TAC §100.1211, §100.1212.....	2149
----------------------------------	------

TEXAS MEDICAL BOARD

TEMPORARY AND LIMITED LICENSES

22 TAC §172.20, §172.21.....	2152
------------------------------	------

ADOPTED RULES

TEXAS DEPARTMENT OF LICENSING AND REGULATION

HEARING INSTRUMENT FITTERS AND DISPENSERS

16 TAC §§112.50, 112.52, 112.53.....	2155
--------------------------------------	------

TEXAS LOTTERY COMMISSION

ADMINISTRATION OF STATE LOTTERY ACT

16 TAC §401.101, §401.105.....	2156
--------------------------------	------

TEXAS EDUCATION AGENCY

EXTRACURRICULAR ACTIVITIES

19 TAC §76.1001.....	2157
----------------------	------

DEPARTMENT OF STATE HEALTH SERVICES

LABORATORIES

25 TAC §73.41.....	2159
--------------------	------

25 TAC §73.54, §73.55.....	2159
----------------------------	------

TEXAS JUVENILE JUSTICE DEPARTMENT

AGENCY MANAGEMENT AND OPERATIONS

37 TAC §385.1101.....	2160
-----------------------	------

37 TAC §385.8181.....	2160
-----------------------	------

TEXAS WORKFORCE COMMISSION

UNEMPLOYMENT INSURANCE

40 TAC §815.134.....	2161
----------------------	------

RULE REVIEW

Proposed Rule Reviews

Texas Commission on Environmental Quality.....	2173
--	------

TABLES AND GRAPHICS

.....	2175
-------	------

IN ADDITION

Office of Consumer Credit Commissioner

Notice of Rate Ceilings.....	2185
------------------------------	------

Credit Union Department		Notice of Public Comment Hearing.....	2189
Application for a Merger or Consolidation.....	2185	Scratch Ticket Game Number 2162 "Break the Bank".....	2190
Application to Expand Field of Membership.....	2185	North Central Texas Council of Governments	
Notice of Final Action Taken.....	2185	Notice of Contract Award.....	2194
Texas Commission on Environmental Quality		Notice of Contract Award.....	2194
Agreed Orders.....	2186	Notice of Contract Award - Hosted Website and Application Solution for www.tryparkingit.com, the Regional Commute Tracking, Ride-Matching, and Commuter Reward System Website.....	2195
Texas Ethics Commission		Request for Proposals for Know Before You Fly Training.....	2195
List of Late Filers.....	2188	Texas Department of Public Safety	
Department of State Health Services		Notice of Request for Qualifications.....	2195
Notice of Public Hearings Schedule for Development and Review of Block Grant Funds.....	2188	Texas Department of Transportation	
Texas Higher Education Coordinating Board		Aviation Division - Request for Qualifications (RFQ) for Professional Engineering Services.....	2195
Notice of Public Hearing Texas Higher Education Coordinating Board State of Texas College Student Loan Refunding Bonds.....	2189	Texas Water Development Board	
Texas Department of Insurance		Applications for March 2019.....	2196
Company Licensing.....	2189		
Texas Lottery Commission			

THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Appointments

Appointments for February 14, 2019

Appointed to the Texas Commission on the Arts, for a term to expire August 31, 2021, Sean Payton of Killeen, Texas (replacing Felix N. Padron, Jr. of San Antonio who resigned).

Appointed to the Texas Commission on the Arts, for a term to expire August 31, 2023, Deborah "Debbie" Gray Marino of San Antonio, Texas (replacing Kevin Yu of Dallas who resigned).

Appointment for February 22, 2019

Appointed to the Texas Southern University Board of Regents, for a term to expire February 1, 2023, Ronald J. "Ron" Price of Mesquite, Texas (replacing Oliver J. Bell of Cleveland who resigned).

Appointments for February 27, 2019

Appointed to the Texas Board of Medical Radiologic Technology, for a term to expire February 1, 2025, Faraz A. Khan, M.D. of Houston, Texas (Dr. Khan is being reappointed).

Appointed to the Texas Board of Medical Radiologic Technology, for a term to expire February 1, 2025, Regan L.R. Landreth of Georgetown, Texas (Mr. Landreth is being reappointed).

Appointed to the Texas Board of Medical Radiologic Technology, for a term to expire February 1, 2025, Carol Waddell of West, Texas (Ms. Waddell is being reappointed).

Appointed as the State Commissioner of Education, for a term to expire January 16, 2023, Michael H. "Mike" Morath of Austin, Texas (Commissioner Morath is being reappointed).

Appointments for March 1, 2019

Appointed to the Texas Juvenile Justice Board, for a term to expire February 1, 2025, Mona Lisa Chambers of Houston, Texas (replacing Scott W. Fisher of Bedford whose term expired).

Appointed to the Texas Juvenile Justice Board, for a term to expire February 1, 2025, David "Scott" Matthew of Georgetown, Texas (Judge Matthew is being reappointed).

Appointed as the Injured Employee Public Counsel, for a term to expire February 1, 2021, Jessica C. Barta of Austin, Texas (Ms. Barta is being reappointed).

Appointments for March 5, 2019

Appointed to the Texas Holocaust and Genocide Commission as Presiding Officer and Member, for a term to expire February 1, 2023, Lynne G. Aronoff of Houston, Texas (Ms. Aronoff is being reappointed as member, and replacing Peter E. Tarlow, Ph.D. of College Station as presiding officer).

Appointed to the Texas Holocaust and Genocide Commission, for a term to expire February 1, 2023, Jeffrey L. Beck of Dallas, Texas (replacing Rebecca J. "Becky" Kennan of Pearland).

Appointed to the Texas Holocaust and Genocide Commission, for a term to expire February 1, 2023, Ilan S. Emanuel of Corpus Christi, Texas (replacing Peter E. Tarlow, Ph.D. of College Station whose term expired).

Appointment for March 6, 2019

Appointed to the Texas Tech University System Board of Regents, for a term to expire January 31, 2025, Ginger Kerrick of Webster, Texas (replacing Juan D. "John" Esparza of Austin whose term expired).

Appointment for March 7, 2019

Appointed to the University of Texas System Board of Regents, for a term to expire February 1, 2021, Nolan E. Perez, M.D. of Harlingen, Texas (replacing Sara Martinez Tucker of Dallas who resigned).

Appointments for March 18, 2019

Appointed to the Southwestern States Water Commission, for a term to expire February 1, 2021, Representative Lyle Larson of San Antonio, Texas (replacing Representative Paul Workman of Spicewood who no longer qualifies).

Appointed to the Southwestern States Water Commission, for a term to expire February 1, 2023, Senator Charles Perry of Lubbock, Texas (Senator Perry is being reappointed).

Appointed to the Specialty Courts Advisory Council, for a term to expire February 1, 2025, Carlos Y. Benavides, IV of Edinburg, Texas (replacing A. Rebecca "Becca" Crowell of Dallas whose term expired).

Appointed to the Specialty Courts Advisory Council, for a term to expire February 1, 2025, Keta R. Dickerson of Richardson, Texas (Ms. Dickerson is being reappointed).

Appointed to the Specialty Courts Advisory Council, for a term to expire February 1, 2025, Amy R. Granberry of Portland, Texas (Ms. Granberry is being reappointed).

Appointed to the Aerospace and Aviation Advisory Committee, for a term to expire September 1, 2019, Ewing E. "Eddie" Sikes, III of Brownsville, Texas (replacing Gilberto Salinas of Brownsville who resigned).

Appointed as the Border Commerce Coordinator, for a term to expire at the pleasure of the Governor, David Whitley of Austin, Texas (replacing Rolando Pablos of West Lake Hills).

Appointments for March 21, 2019

Appointed to the OneStar Foundation, for a term to expire March 15, 2020, George L. Green of New Braunfels, Texas (replacing Anna Maria Farias of San Antonio whose term expired).

Appointed to the OneStar Foundation, for a term to expire March 15, 2020, Shelley R. Rayburn of Fort Worth, Texas (replacing Alison L. Meador of Austin whose term expired).

Appointed to the OneStar Foundation, for a term to expire March 15, 2021, Maria H. Ferrier, Ed.D. of San Antonio, Texas (replacing Andres "Andy" Navarro of Tyler whose term expired).

Appointed to the Juvenile Justice Advisory Board, for a term to expire at the pleasure of the Governor, Cassandra D. "Cassie" Bering of Fort Worth, Texas (replacing David A. Whiteside, Ph.D. of Austin).

Appointed to the Juvenile Justice Advisory Board, for a term to expire at the pleasure of the Governor, Richard A. Dean of Wolfforth, Texas (pursuant to Executive Order RP-09).

Appointed to the Juvenile Justice Advisory Board, for a term to expire at the pleasure of the Governor, Ryan C. Dollinger of Beaumont, Texas (pursuant to Executive Order RP-09).

Appointments for April 3, 2019

Appointed to the Texas Health Services Authority Board of Directors as an ex-officio member, for a term to expire June 15, 2019, Calvin J. Green of Elgin, Texas (replacing Melanie A. Williams, Ph.D. of Austin whose term expired).

Appointed to the Texas Health Services Authority Board of Directors as an ex-officio member, for a term to expire June 15, 2019, Jeffrey W. "Jeff" Hoogheem of Killeen, Texas (replacing Michael D. "Mike" Maples of Liberty Hill whose term expired).

Appointed to the Texas Health Services Authority Board of Directors as presiding officer, for a term to expire at the pleasure of the Governor, Shannon S. Calhoun of Goliad, Texas (replacing David C. Fleeger, M.D. as presiding officer).

Appointments for April 4, 2019

Appointed to the State Independent Living Council, for a term to expire October 24, 2021, Leah K. Beltran of Abilene, Texas (Ms. Beltran is being reappointed).

Appointed to the State Independent Living Council, for a term to expire October 24, 2021, Jacqueline L. Clark of Manor, Texas (replacing Mack J. Marsh of Cedar Park whose term expired).

Appointed to the State Independent Living Council, for a term to expire October 24, 2021, Pamela A. "Pam" Clark of Richmond, Texas (replacing Ralph E. Jones, Sr., Ph.D. of Harlingen whose term expired).

Appointed to the State Independent Living Council, for a term to expire October 24, 2021, Joseph A. "Joe" Rogers of Amarillo, Texas (replacing James M. "Jim" Brocato of Beaumont whose term expired).

Appointed to the State Independent Living Council, for a term to expire October 24, 2021, Alejandro "Alex" San Martin of Austin, Texas (Pursuant to the U.S. Rehabilitation Act).

Appointment for April 8, 2019

Appointed to the Texas Facilities Commission as presiding officer, for a term to expire at the pleasure of the Governor, William R. Allensworth of Austin, Texas (replacing Robert D. Thomas of Austin as presiding officer).

Appointment for April 10, 2019

Appointed to the State Pension Review Board as presiding officer, for a term to expire at the pleasure of the Governor, Stephanie V. Leibe of Austin, Texas (replacing Joshua B. "Josh" McGee, Ph.D. of Houston as presiding officer).

Appointments for April 11, 2019

Appointed to the Continuing Advisory Committee for Special Education, for a term to expire February 1, 2021, Alicia Giordano of Humble, Texas (replacing Julia W. Erwin of Austin who resigned).

Appointed to the Continuing Advisory Committee for Special Education, for a term to expire February 1, 2023, Shemica S. Allen of Allen, Texas (Ms. Allen is being reappointed).

Appointed to the Continuing Advisory Committee for Special Education, for a term to expire February 1, 2023, Teresa A. Bronsky of Plano, Texas (Ms. Bronsky is being reappointed).

Appointed to the Continuing Advisory Committee for Special Education, for a term to expire February 1, 2023, Stephanie Y. Martinez of Laredo, Texas (Ms. Martinez is being reappointed).

Appointed to the Continuing Advisory Committee for Special Education, for a term to expire February 1, 2023, Jana C. McKelvey of Austin, Texas (Ms. McKelvey is being reappointed).

Appointed to the Continuing Advisory Committee for Special Education, for a term to expire February 1, 2023, Jennifer L. "Jen" Stratton of Austin, Texas (replacing Kristen K. Tassin of Missouri City whose term expired).

Appointed to the Continuing Advisory Committee for Special Education, for a term to expire February 1, 2023, Raymond "Ray" Tijerina of San Antonio, Texas (replacing Jo Ann Gama of Edinburg whose term expired).

Greg Abbott, Governor

TRD-201901117



Proclamation 41-3624

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on August 23, 2017, certifying that Hurricane Harvey posed a threat of imminent disaster for Aransas, Austin, Bee, Brazoria, Calhoun, Chambers, Colorado, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Harris, Jackson, Jefferson, Jim Wells, Karnes, Kleberg, Lavaca, Liberty, Live Oak, Matagorda, Nueces, Refugio, San Patricio, Victoria, Waller, Wharton and Wilson counties; and

WHEREAS, the disaster proclamation of August 23, 2017, was subsequently amended on August 26, August 27, August 28 and September 14 to add the following counties to the disaster proclamation: Angelina, Atascosa, Bastrop, Bexar, Brazos, Burleson, Caldwell, Cameron, Comal, Grimes, Guadalupe, Hardin, Jasper, Kerr, Lee, Leon, Madison, Milam, Montgomery, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Washington and Willacy; and

WHEREAS, on September 20, 2017, and in each subsequent month effective through today, I issued proclamations renewing the disaster declaration for all counties listed above; and

WHEREAS, due to the catastrophic damage caused by Hurricane Harvey, a state of disaster continues to exist in those same counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the disaster proclamation for the 60 counties listed above.

Pursuant to Section 418.017 of the code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016 of the code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threat-

ened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 12th day of April, 2019.

Greg Abbott, Governor

TRD-201901109





Caroline Kirsch

Lone
Star
State

THE ATTORNEY GENERAL

The *Texas Register* publishes summaries of the following:
Requests for Opinions, Opinions, Open Records Decisions.

An index to the full text of these documents is available from
the Attorney General's Internet site <http://www.oag.state.tx.us>.

Telephone: 512-936-1730. For information about pending requests for opinions, telephone 512-463-2110.

An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <http://www.oag.state.tx.us/opinopen/opinhome.shtml>.)

Requests for Opinions

RQ-0282-KP

Requestor:

The Honorable Chris Taylor

Tom Green County Attorney

122 West Harris

San Angelo, Texas 76903-5835

Re: Whether a county treasurer is authorized to use an online auction site to sell unclaimed property pursuant to chapter 76 of the Property Code (RQ-0282-KP)

Briefs requested by May 10, 2019

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-201901118

Ryan L. Bangert

Deputy Attorney General for Legal Counsel

Office of the Attorney General

Filed: April 16, 2019



Opinions

Opinion No. KP-0246

The Honorable Rod Ponton

Presidio County Attorney

Post Office Drawer M

Marfa, Texas 79843

Re: Competitive bidding requirements applied to municipal airport operation (RQ-0253-KP)

S U M M A R Y

Depending on the facts, a court could conclude that an airport operations contract meets the requirements of Transportation Code section

22.020 and is therefore not subject to the competitive bidding requirement of Local Government Code section 262.023(a). Even if an airport operations contract does not fall within Transportation Code section 22.020, it could be eligible for exemption by the commissioners court from competitive bidding pursuant to section 262.024(a)(4) as a purchase for a personal service if the contract requires a particular, named individual to perform the services.

Opinion No. KP-0247

The Honorable Bob Hall

Chair, Committee on Agriculture

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Whether a groundwater conservation district may define "agricultural crop" as "food or fiber commodities grown for resale of commercial purposes that provide food, clothing, or animal feed" and "utilize that definition to determine the applicable fee rate for 'irrigating agricultural crops'" (RQ-0274-KP)

S U M M A R Y

A court would likely conclude that a groundwater conservation district does not have the authority to define "agricultural crop" as "food or fiber commodities grown for resale of commercial purposes that provide food, clothing, or animal feed" to the extent that it excludes other products that constitute an agricultural crop under section 36.001 of the Water Code.

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-201901119

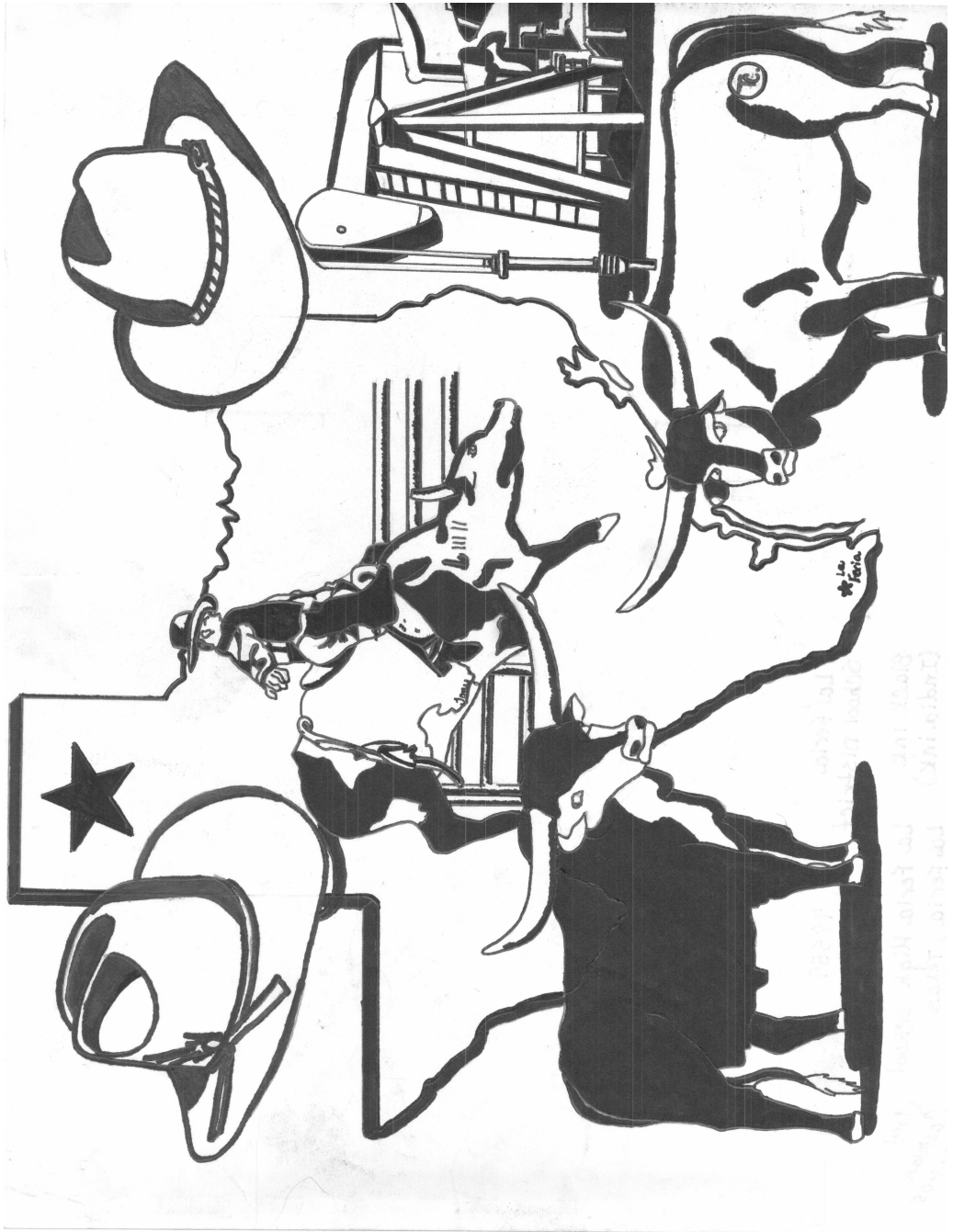
Ryan L. Bangert

Deputy Attorney General for Legal Counsel

Office of the Attorney General

Filed: April 16, 2019





PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. [~~Square brackets and strikethrough~~] indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 7. BANKING AND SECURITIES

PART 4. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

CHAPTER 80. TEXAS RESIDENTIAL MORTGAGE LOAN COMPANIES SUBCHAPTER C. DUTIES AND RESPONSIBILITIES

7 TAC §80.201

The Finance Commission of Texas (the commission) on behalf of the Department of Savings and Mortgage Lending (the department), proposes to amend 7 TAC Chapter 80, Subchapter C, §80.201 concerning loan status forms.

The proposed amendments to Section 80.201 clarify the usage of conditional pre-qualification and conditional loan approval forms, when such forms are provided by mortgage loan companies to mortgage applicants or prospective mortgage applicants. The proposed amendments also amend Graphic Form A, the conditional pre-qualification letter, and Form B, the conditional loan approval letter. Forms A and B as amended: (1) make the content of the conditional pre-qualification forms or letters used by mortgage loan companies, mortgage bankers and residential mortgage loan originators more uniform; (2) emphasize that the pre-qualification form is not a loan approval or commitment to lend; (3) make the content of the conditional loan approval forms or letters used by mortgage loan companies, mortgage bankers and residential mortgage loan originators more uniform; and (4) emphasize that the conditional loan approval form states that the applicant is in fact approved for a mortgage loan, provided that certain conditions are met prior to loan closing.

Caroline C. Jones, the Department of Savings and Mortgage Lending Commissioner, has determined that for the first five-year period the proposed rules are in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the proposed rules.

Commissioner Jones also has determined that, for each year of the first five years the rules as proposed are in effect: (a) the public benefit anticipated as a result will be to decrease consumer / borrower misunderstanding or confusion as to when they are conditionally pre-qualified for a loan in contrast to when they are actually conditionally approved for a mortgage loan and (b) there will be no economic costs to persons required to comply with the rules as proposed.

For each year of the first five years that the rules will be in effect, the rules will not:

- (1) create or eliminate a government program;
- (2) require the creation of new employee positions or the elimination of existing employee positions;
- (3) require an increase or decrease in future legislative appropriations to the agency;
- (4) require an increase or decrease in the fees paid to the agency;
- (5) create a new regulation;
- (6) expand, limit or repeal an existing regulation;
- (7) increase or decrease the number of individuals subject to the rule's applicability; and
- (8) positively or adversely affect this state's economy.

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities. There will no difference in the cost of compliance for these entities. The department has considered alternate methods of achieving the purpose of the proposed rule and has concluded that the proposed rule is the best method to achieve the purpose of decreasing consumer confusion.

Comments on the proposed amendments may be submitted in writing to Ernest C. Garcia, General Counsel, Department of Savings and Mortgage Lending, 2601 North Lamar, Suite 201, Austin, Texas 78705 or by email to smlinfo@sml.texas.gov within 30 days of publication in the *Texas Register*.

The amendments are proposed under Texas Finance Code §11.306, which provides that the Finance Commission may adopt residential mortgage loan origination rules as provided by Chapter 156 and by Texas Finance Code §156.102, which provides that the Finance Commission may adopt rules relating to Residential Mortgage Loan Companies.

§80.201. Loan Status Forms.

(a) Except as otherwise provided by subsection (d) [(e)] of this section, when provided to a mortgage applicant or prospective mortgage applicant [~~or mortgage applicant~~], written confirmation of conditional pre-qualification qualification shall include the information in Form A, Figure: 7 TAC §80.201(a). This information can be provided by utilizing Form A or an alternate form that includes all of the information found on Form A. There is no requirement to issue a written confirmation of conditional pre-qualification. Form A or an alternate form [~~Either form~~] may be modified by adding any of the following as needed:

Figure: 7 TAC §80.201(a)
[Figure: 7 TAC §80.201(a)]

- (1) Any additional aspects of the loan as long as not misleading;

(2) Any additional items that the originator has reviewed in determining conditional qualifications; or

(3) Any additional terms, conditions, and requirements.

(b) When provided to a mortgage applicant or prospective mortgage applicant, written notification of conditional loan approval on the basis of credit worthiness, but not on the basis of collateral, shall include the information in Form B, Figure: 7 TAC §80.201(b). This information can be provided by utilizing Form B or an alternate form that includes all of the information found on Form B. There is no requirement to issue a written notification of conditional loan approval. Form B or an alternate form may be modified by adding the additional information permitted by subsection (a)(1) - (3) of this section, or disclosure of fees charged. A disclosure of fees charged, on Form B or an alternate form, does not serve as a substitute for any fee disclosure required by state or federal laws or regulations. A conditional loan approval should not be issued until all credit requirements have been met unless an item is not a condition of the loan. Desktop or other automated underwriting does not qualify the mortgage applicant or prospective mortgage applicant for conditional approval.

Figure: 7 TAC §80.201(b)

[Figure: 7 TAC §80.201(b)]

(c) An individual is required to be licensed under Finance Code, Chapter 157 if the individual issues or signs a conditional pre-qualification letter or conditional approval letter pursuant to 7 TAC §80.100(a)(5).

(d) [(e)] Subsection (a) of this section does not apply to "firm offers of credit," as that term is defined in 15 U.S.C. §1681a (1).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 12, 2019.

TRD-201901101

Ernest C. Garcia

General Counsel

Department of Savings and Mortgage Lending

Earliest possible date of adoption: May 26, 2019

For further information, please call: (512) 475-2534



CHAPTER 81. MORTGAGE BANKERS AND RESIDENTIAL MORTGAGE LOAN ORIGINATORS

SUBCHAPTER C. DUTIES AND RESPONSIBILITIES

7 TAC §81.201

The Finance Commission of Texas (the commission) on behalf of the Department of Savings and Mortgage Lending (the department), proposes to amend Chapter 81, Subchapter C, 7 TAC §81.201, concerning loan status forms.

The proposed amendments to §81.201, clarify the usage of conditional pre-qualification and conditional loan approval forms when such forms are provided by mortgage bankers and residential mortgage loan originators to mortgage applicants or prospective mortgage applicants. The proposed amendments amend Graphic Form A the conditional pre-qualification letter

content and Form B the conditional loan approval letter content. Forms A and B as amended: (1) make the content of the conditional pre-qualification forms or letters used by mortgage loan companies, mortgage bankers and residential mortgage loan originators more uniform; (2) emphasize that the pre-qualification form is not a loan approval or commitment to lend; (3) make the content of the conditional loan approval forms or letters used by mortgage loan companies, mortgage bankers and residential mortgage loan originators more uniform; and (4) emphasize that the conditional loan approval form states that the applicant is in fact approved for a mortgage loan, provided that certain conditions are met prior to loan closing.

Caroline C. Jones, the Department of Savings and Mortgage Lending Commissioner, has determined that for the first five-year period the proposed rules are in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the proposed rules.

Commissioner Jones also has determined that, for each year of the first five years the rules as proposed are in effect: (a) the public benefit anticipated as a result will be to decrease consumer/borrower misunderstanding or confusion as to when they are conditionally pre-qualified for a loan in contrast to when they are actually conditionally approved for a mortgage loan and (b) there will be no economic costs to persons required to comply with the rules as proposed.

For each year of the first five years that the rules will be in effect, the rules will not:

- (1) create or eliminate a government program;
- (2) require the creation of new employee positions or the elimination of existing employee positions;
- (3) require an increase or decrease in future legislative appropriations to the agency;
- (4) require an increase or decrease in the fees paid to the agency;
- (5) create a new regulation;
- (6) expand, limit or repeal an existing regulation;
- (7) increase or decrease the number of individuals subject to the rule's applicability; and
- (8) positively or adversely affect this state's economy.

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities. There will no difference in the cost of compliance for these entities. The Department has considered alternate methods of achieving the purpose of the proposed rule and has concluded that the proposed rule is the best method to achieve the purpose of decreasing consumer confusion.

Comments on the proposed amendments may be submitted in writing to Ernest C. Garcia, General Counsel, Department of Savings and Mortgage Lending, 2601 North Lamar, Suite 201, Austin, Texas 78705 or by email to smlinfo@sml.texas.gov within 30 days of publication in the *Texas Register*.

The amendments are proposed under Texas Finance Code §11.306, which provides that the Finance Commission may adopt residential mortgage loan origination rules as provided by Chapter 156 and by Texas Finance Code §157.0023, which provides that the Finance Commission may adopt rules relating to Chapter 157.

The statutory provisions affected by the proposed amendments are contained in Texas Finance Code, Chapter 157.

§81.201. *Loan Status Forms.*

(a) Except as otherwise provided by subsection (d) [(e)] of this section, when provided to a mortgage applicant or prospective mortgage applicant [or mortgage applicant], written confirmation of conditional pre-qualification [qualification] shall include the information in Form A, Figure: 7 TAC §81.201(a). This information can be provided by utilizing Form A or an alternate form that includes all of the information found on Form A. There is no requirement to issue a written confirmation of conditional pre-qualification. Form A or an alternate form [Either form] may be modified by adding any of the following as needed:

Figure: 7 TAC §81.201(a)
[Figure: 7 TAC §81.201(a)]

- (1) Any additional aspects of the loan as long as not misleading;
- (2) Any additional items that the originator has reviewed in determining conditional qualifications; or
- (3) Any additional terms, conditions, and requirements.

(b) When provided to a mortgage applicant or prospective mortgage applicant, written notification of conditional loan [application] approval on the basis of credit worthiness, but not on the basis of collateral, shall include the information in Form B, Figure 7: TAC §81.201(b). This information can be provided by utilizing Form B or an alternate form that includes all of the information found on Form B. There is no requirement to issue a written notification of conditional loan approval. Form B or an alternate [Either] form may be modified by adding the additional information permitted by subsection (a)(1) - (3) of this section, or disclosure of fees charged. A disclosure of fees charged, on Form B or an alternate form, does not serve as a substitute for any fee disclosure required by state or federal laws or regulations. A conditional loan approval should not be issued until all credit requirements have been met unless an item is not a condition of the loan. Desktop or other automated underwriting does not qualify the mortgage applicant or prospective mortgage applicant for conditional approval.

Figure: 7 TAC §81.201(b)
[Figure: 7 TAC §81.201(b)]

(c) An individual is required to be licensed under Finance Code, Chapter 157 if the individual issues or signs a conditional pre-qualification letter of conditional approval pursuant to 7 TAC §81.100(a)(5).

(d) [(e)] Subsection (a) of this section does not apply to "firm offers of credit," as that term is defined in 15 U.S.C. §1681a(1).

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 12, 2019.

TRD-201901102

Ernest C. Garcia

General Counsel

Department of Savings and Mortgage Lending

Earliest possible date of adoption: May 26, 2019

For further information, please call: (512) 475-2534



TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 112. HEARING INSTRUMENT FITTERS AND DISPENSERS

SUBCHAPTER C. EXAMINATIONS

16 TAC §112.25

The Texas Department of Licensing and Regulation (Department) proposes amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 112, Subchapter C, §112.25, regarding the Hearing Instrument Fitters and Dispensers Program.

JUSTIFICATION AND EXPLANATION OF THE RULES

The rules under 16 TAC Chapter 112 implement Texas Occupations Code, Chapter 402, Hearing Instrument Fitters and Dispensers.

This rulemaking is necessary to update existing §112.25, Examination Proctors. This rule implements Occupations Code §402.104, Powers and Duties Regarding Examination. The proposed rule amends the criteria for serving as an examination proctor. The proposed rule will allow additional qualified licensees to serve as examination proctors, while still maintaining experience and training requirements to ensure that the examination proctors are qualified to serve. The proposed rule addresses the problem of not having enough proctors to administer the practical examination, which in turn limits the number of times the practical examination can be offered during the year throughout the state.

As of June 21, 2018, the Hearing Instrument Fitters and Dispensers Program consisted of 675 hearing instrument fitter and dispenser licensees. This rulemaking only affects those hearing instrument fitter and dispenser licensees who would agree to serve as examination proctors. This is a completely voluntary task.

The proposed rule was developed by the Education & Examination Workgroup of the Hearing Instrument Fitters and Dispensers Advisory Board (HFD E&E Workgroup) and Department staff.

The HFD E&E Workgroup and Department staff met on March 13, 2018, and May 18, 2018. The HFD E&E Workgroup developed and recommended the proposed rule based on its discussions regarding the current challenges and barriers in getting licensees to serve as examination proctors; the amount of experience and training necessary for persons who will serve as examination proctors; and consideration of the Texas Hearing Aid Association's (THAA) letter to the Department dated November 16, 2017. The THAA letter supported changes to §112.25 if the Department decided to make changes to this rule. The THAA letter suggested changes to reduce the number of years a person held a license from three to two and to reduce the number of practical examinations observed from five to three.

The proposed rule was presented and discussed at the Hearing Instrument Fitters and Dispensers Advisory Board (Advisory Board) meeting on February 7, 2019. The Advisory Board did not make any changes. The Advisory Board voted and recommended that the proposed rule be published in the *Texas Register* for public comment.

SECTION-BY-SECTION SUMMARY

The proposed rule amends §112.25, Examination Proctors, by updating the proctor requirements under subsection (b). The proposed rule: (1) reduces the number of years a person must be licensed prior to serving as a proctor from three years to two years; (2) reduces the number of practical examinations to be observed prior to serving as a proctor from five examinations to three examinations; and (3) adds language recognizing any training required by the Department or its designee prior to serving as a proctor.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

State Government

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rule is in effect, there are no estimated additional costs or reductions in costs to the state as a result of enforcing or administering the proposed rule. The proposed rule impacts the requirements for examination proctors but does not impact program costs. The activities required to implement the proposed rule changes, if any, are one-time program administration tasks that are routine in nature, such as modifying or revising publications and/or website information, which will not result in an increase in program costs.

Mr. Couvillon has determined that for each year of the first five years the proposed rule is in effect, there is no estimated increase or loss in revenue to the state as a result of enforcing or administering the proposed rule. The proposed rule does not amend or impact the fees assessed by the licensing program.

Mr. Couvillon has determined that for each year of the first five years the proposed rule is in effect, enforcing or administering the proposed rule does not have foreseeable implications relating to costs or revenues of state government.

Local Government

Mr. Couvillon has determined that for each year of the first five years the proposed rule is in effect, there are no estimated additional costs or reductions in costs to local government as a result of enforcing or administering the proposed rule. Mr. Couvillon has determined that for each year of the first five years the proposed rule is in effect, there is no estimated increase or loss in revenue to local government as a result of enforcing or administering the proposed rule. Mr. Couvillon has determined that for each year of the first five years the proposed rule is in effect, there are no foreseeable implications relating to costs or revenues to local government as a result of enforcing or administering the proposed rule.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Couvillon has determined that the proposed rule will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rule is in effect, the public benefit will be that a larger percentage of the licensed population will be eligible to proctor examinations. Having a larger pool of qualified proctors will enable the Department to have greater flexibility in examination administration and will allow the agency to effectively accommodate growing numbers of examination candidates.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rule is in effect, there are no significant economic costs to persons who are licensed fitters and dispensers, to businesses, or to the general public in Texas. The proposed rule does not impose additional fees upon licensed fitters and dispensers, nor does it create requirements that would cause licensed fitters and dispensers to expend funds for equipment, staff, supplies or infrastructure. If a licensed fitter and dispenser has been licensed for at least two years and has observed at least three practical examinations, the licensee will be eligible to proctor future practical examinations. There is no cost associated with becoming a proctor, and being a proctor is voluntary.

The proposed rule also requires anyone who wants to be a proctor to meet any other proctor requirements as prescribed by the Department or its designee prior to serving as a proctor. The Department requires persons wanting to proctor or rate a practical examination to attend a training session conducted by the Department's designated exam administrator prior to proctoring or rating an examination. The training session is conducted at no cost to the training attendees.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Since the agency has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, are not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

Under Government Code §2001.0045, a state agency may not adopt a proposed rule if the fiscal note states that the rule imposes a cost on regulated persons, including another state agency, a special district, or a local government, unless the state agency: (a) repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; or (b) amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the proposed rule. There are exceptions for certain types of rules under §2001.0045(c).

The proposed rule does not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rule. For each year of the first five years the proposed rule will be in effect, the agency has determined the following:

1. The proposed rule does not create or eliminate a government program.

2. Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rule does not require an increase or decrease in fees paid to the agency.
5. The proposed rule does not create a new regulation.
6. The proposed rule does expand, limit, or repeal an existing regulation. The proposed rule expands the scope of an existing regulation to allow additional licensees to qualify as examination proctors. The proposed rule reduces the number of years a licensee must have held his or her license before proctoring and reduces the number of practical examinations a licensee must observe before becoming a proctor. Serving as a proctor is completely voluntary.
7. The proposed rule does increase the number of individuals subject to the rule's applicability. The proposed rule will increase the number of people who may serve as a proctor through the change in experience requirements. Serving as a proctor is completely voluntary.
8. The proposed rule does not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Department has determined that no private real property interests are affected by this proposal and this proposal does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

PUBLIC COMMENTS

Comments on the proposal may be submitted to Dalma Sotero, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or facsimile (512) 475-3032, or electronically: erule.comments@tdlr.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

The amendments are proposed under Texas Occupations Code, Chapters 51 and 402, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapters 51 and 402. No other statutes, articles, or codes are affected by the proposal.

§112.25. Examination Proctors.

- (a) The practical examination must be administered by one or more qualified proctors selected and assigned by the department.
- (b) Qualifications for Examination Proctor.
 - (1) A proctor must be licensed in good standing as a hearing instrument fitter and dispenser under the Act.
 - (2) A proctor must have held the license for at least two [three] years prior to the examination date.

(3) A proctor must have observed at least three [five] full practical examinations and meet any other proctor training requirements as prescribed by the Department or its designee [examination sessions] prior to serving as a proctor.

(4) Disciplinary actions or other actions that may disqualify a license holder from serving as a proctor are:

- (A) suspension or probated suspension under this chapter;
- (B) any action requiring supervision by another person licensed under this chapter; or
- (C) an administrative penalty or reprimand under this chapter within three years prior to the examination date.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 12, 2019.

TRD-201901099

Brad Bowman

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: May 26, 2019

For further information, please call: (512) 463-8179



PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 402. CHARITABLE BINGO OPERATIONS DIVISION

SUBCHAPTER D. LICENSING REQUIREMENTS

16 TAC §402.403

The Texas Lottery Commission (Commission) proposes an amendment to 16 TAC §402.403 (Licenses for Conduct of Bingo Occasions and to Lease Bingo Premises). The purpose of the proposed amendment is to establish a limit to the length of time that a lessor of bingo premises may defer rent payments owed by a licensed bingo conductor before such deferral is considered a prohibited loan rendering the lessor ineligible for licensure. The Commission is proposing the amendment in response to a recommendation from the Bingo Advisory Committee.

Kathy Pyka, Controller, has determined that for each year of the first five years the amendment will be in effect, there will be no fiscal impact for state or local governments as a result of the proposed amendment. There will be no adverse effect on small businesses or rural communities, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the amendment, as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendment will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

Michael P. Farrell, Director of the Charitable Bingo Operations Division, has determined that for each year of the first five years

the proposed amendment will be in effect, the anticipated public benefit is clearer guidance to the regulated community on agency policy.

Pursuant to Texas Government Code §2001.0221, the Commission provides the following Government Growth Impact Statement for the proposed rule. For each year of the first five years the proposed amendment will be in effect, Kathy Pyka, Controller, has determined the following:

- (1) The proposed amendment does not create or eliminate a government program.
- (2) Implementation of the proposed amendment does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed amendment does not require an increase or decrease in future legislative appropriations to the Commission.
- (4) The proposed amendment does not require an increase or decrease in fees paid to the Commission.
- (5) The proposed amendment does not create a new regulation.
- (6) The proposed amendment does not expand or limit an existing regulation.
- (7) The proposed amendment does not increase or decrease the number of individuals subject to the rule's applicability.
- (8) The proposed amendment does not positively or adversely affect this state's economy.

The Commission requests comments on the proposed amendment from any interested person. Comments may be submitted to Tyler Vance, Assistant General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. Comments must be received within thirty (30) days after publication of this proposal in the *Texas Register* in order to be considered. The Commission also will hold a public hearing to receive comments on this proposal at 10:00 a.m. on May 8, 2019, at 611 E. 6th Street, Austin, Texas 78701.

The amendment is proposed under Texas Occupations Code §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Occupations Code, Chapter 2001.

§402.403. *Licenses for Conduct of Bingo Occasions and to Lease Bingo Premises.*

(a) (No change.)

(b) License to lease bingo premises.

(1) Each location to be leased as a bingo premises must be separately licensed pursuant to separate applications.

(2) Except as required by Occupations Code, §2001.152(a), the Commission may not issue more than one license to lease bingo premises for any one location.

(3) When more organizations apply to play bingo at the premises of a commercial lessor than can be licensed for the premises, the Commission will process only the number of applications for which there are openings with the commercial lessor. The Commission will process the applications in the order in which they are received. Addi-

tional applications in excess of the number that may be licensed for the commercial lessor's premises will be denied.

(4) The commission may not issue a commercial lessor license to or renew the license of a person who has loaned money to an authorized organization. A loan shall include a commercial lessor's collection or acceptance of any rental payments from any accounting unit or any authorized organization more than 120 days from the date of the occasion for which the rent is attributed, and any payments from any accounting unit or any authorized organization for insurance, utilities, or taxes more than 120 days after the date the lessor received an invoice for the charge. This subsection is intended to prohibit a lessor from loaning money to a unit or organization by deferring their debts for more than 120 days to allow the unit or organization to demonstrate higher net proceeds than they could demonstrate if they had paid the debt. If payments are not collected within 120 days, the lessor may forgive the debt or pursue collection through a formal legal process. This rule does not apply to any payments collected or accepted by the lessor pursuant to a court order.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 12, 2019.

TRD-201901095

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: May 26, 2019

For further information, please call: (512) 344-5392



TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION

SUBCHAPTER J. FINANCIAL AID ADVISORY COMMITTEE

19 TAC §1.152

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Chapter 1, Agency Administration, §1.152 concerning the abolishment date of the Financial Aid Advisory Committee. The intent of the amendment is to continue this advisory committee until October 31, 2021. The Committee provides the Board with advice and recommendations regarding the development, implementation, and evaluation of state financial aid programs for college students and assists staff in the development of training materials for use by the Center for Financial Aid Information. Specifically, the amendment to §1.152 replaces the previous abolishment date of October 31, 2017 with the Coordinating Board's approved date of October 31, 2021. The new abolishment date was approved by the Coordinating Board on July 27, 2017.

Dr. Charles W. Puls, Deputy Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years this section is in effect there will be no additional estimated cost for state or local government as a result of amending this section.

Dr. Puls has also determined that for each of the first five years the amendments are in effect, the public benefits anticipated as a result of administering the sections will be the continuation of the committee. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment. There is no impact on small businesses, micro businesses, and rural communities.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will expand the existing regulations under TAC Title 19, Part I, Chapter 1, Subchapter J regarding the Financial Aid Advisory Committee, by extending the abolishment date to October 31, 2021;
- (7) the rules will not increase the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512) 427-6365, charles.puls@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Government Code, §2110.008, which provides the Coordinating Board with the authority to amend the abolishment date for this advisory committee.

The proposed amendments affect the implementation of Texas Education Code, §61.026 (b) and Texas Administrative Code, Subchapter J, §1.152.

§1.152. Duration.

The committee shall be abolished no later than October 31, 2021 [~~October 31, 2017~~], in accordance with Texas Government Code, Chapter 2110. It may be reestablished by the Board.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 12, 2019.

TRD-201901084

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: May 26, 2019

For further information, please call: (512) 427-6104



CHAPTER 5. RULES APPLYING TO PUBLIC UNIVERSITIES, HEALTH-RELATED

INSTITUTIONS, AND/OR SELECTED PUBLIC COLLEGES OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §5.5

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Chapter 5, Rules Applying to Public Universities, Health-Related Institutions, and/or Selected Public Colleges of Higher Education in Texas, Subchapter A, General Provisions, §5.5, concerning Uniform Admission Policy. Section 5.5(b)(1)(D)(i) is amended to accurately reflect Texas Education Code (TEC), §51.803(a)(2)(B), regarding automatic admission, specifically the mathematics college readiness benchmark on the College Board Scholastic Aptitude Test (SAT), if administered prior to March 5, 2016, for automatic admission to general academic teaching institutions.

R. Jerel Booker, J.D., Assistant Commissioner for College Readiness and Success, has determined that for each year of the first five years the section is in effect, there will not be any fiscal implications for state or local governments as a result of amending the rule. There will be minimal savings to public institutions of higher education, public and private high schools, and the agency, whose staff resources may have previously dedicated time to clarify the misaligned rule.

Mr. Booker has also determined that for each of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be clarity in the SAT college readiness benchmarks cited in Board rule concerning the Uniform Admission Policy and alignment to Board rules governing the Texas Success Initiative and TEC §51.803(a)(2)(B). There will be minimal impact on public institutions of higher education; and no impact on small businesses or rural communities as described in Texas Government Code, Chapter 2006; therefore, an Economic Impact analysis is not required.

Government Growth Impact Statement

- (1) The rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect the state's economy.

Comments on the proposal may be submitted to R. Jerel Booker, J.D., PO Box 12788, Austin, Texas 78711 or via email to cri@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under TEC, §51.803, which provides the Coordinating Board with the authority to adopt rules for the Uniform Admission Policy.

The amendments affect the implementation of TEC, §51.803.

§5.5. *Uniform Admission Policy.*

(a) (No change.)

(b) All applicants from Texas schools accredited by a generally recognized accrediting agency and who graduate in the top 10 percent of their high school class or who graduate in the top 25 percent of their high school class, to the extent the governing board of a general academic teaching institution has adopted such an admission policy, shall be admitted to a general academic teaching institution if the student meets the following conditions:

(1) The student has met one of the following:

(A) Successfully completed the distinguished level of achievement under the Foundation, Recommended, or Advanced High School Program from a Texas public high school as outlined under Texas Education Code, §28.025, as well as, 19 TAC §§74.63, 74.64, 74.73, and 74.74 (relating to the distinguished level of achievement under the Foundation, Recommended High School Program, or Distinguished Achievement High School Program--Advanced High School Program);

(B) Successfully completed a curriculum from a high school in Texas other than a public high school that is equivalent in content and rigor to the distinguished level of achievement under the Foundation, the Recommended, or Advanced High School Program as outlined under subsection (c) of this section;

(C) Satisfied ACT's College Readiness Benchmarks on the ACT assessment; or

(D) Earned on the SAT assessment:

(i) if the SAT was administered prior to March 5, 2016, a combined critical reading (formerly "verbal") and mathematics score of 1070 with a minimum of 500 on the critical reading test and a minimum of 500 on the mathematics test; or

(ii) if the SAT was administered on or after March 5, 2016, a minimum score of 480 on the Evidenced-Based Reading and Writing (EBRW) test and a minimum score of 530 on the mathematics test (no combined score); and

(2) The student submitted an official high school transcript or diploma that must, not later than the end of the student's junior year, indicate whether the student has satisfied the requirements outlined under paragraph (1)(A) or (B) of this subsection.

(3) For applicants who graduate in the top 10 percent of their high school class and want to be considered for automatic admission under Texas Education Code, §51.803, the student must:

(A) Submit a complete application defined by the institution before the expiration of the institution's established deadline; and

(B) Have graduated from high school within the two years prior to the academic year for which the student is applying for admission.

(c) - (j) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 12, 2019.
TRD-201901085

Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Earliest possible date of adoption: May 26, 2019
For further information, please call: (512) 427-6104

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CHAPTER 21. STUDENT SERVICES
SUBCHAPTER Z. EXEMPTION FOR
FIREFIGHTERS ENROLLED IN FIRE SCIENCE
COURSES

19 TAC §§21.789, 21.790, 21.792

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Chapter 21, Subchapter Z, §§21.789, 21.790, and 21.792, concerning the Exemption for Firefighters Enrolled in Fire Science Courses. Specifically, the amendments correct rules referenced within the text of the Texas Administrative Code, which had not been updated when this subchapter was moved from Chapter 22 to Chapter 21.

Dr. Charles W. Puls, Deputy Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Dr. Puls has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be a clearer understanding of the requirements of the program. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no impact on small businesses, micro businesses, and rural communities.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not increase the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512) 427-6365, charles.puls@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §54.353 which provides the Coordinating Board with the authority to adopt rules for the administration of the Exemption for Firefighters Enrolled in Fire Science Courses.

The amendments affect Texas Education Code, §54.353.

§21.789. *Eligible Firefighters.*

(a) (No change.)

(b) To receive an exemption in a subsequent semester the student must be in compliance with the institution's financial aid satisfactory academic progress requirements. If receiving a continuation award in fall 2014 or later, a student may be allowed to receive an award while holding a grade point average lower than the institution's financial aid academic progress requirements if he or she is granted an exception by the institution under §21.792 [§22.524] of this title (relating to Hardship Provisions).

§21.790. *Excess Hours.*

(a) - (b) (No change.)

(c) Unless granted a hardship exception under §21.792 [§22.524] of this title (relating to Hardship Provisions) an undergraduate student applying for a continuation exemption in fall 2014 or later and who has completed as of the beginning of the semester or term a number of semester credit hours that is considered to be excessive under Texas Education Code, §54.014, may not receive the exemption under this subchapter.

§21.792. *Hardship Provisions.*

(a) Each institution of higher education is required to adopt a policy to allow a student who fails to maintain a grade point average as required by §21.789 [§22.524] of this subchapter (relating to Eligible Firefighters) to receive an exemption in another semester or term on a showing of hardship or other good cause, including:

- (1) a showing of a severe illness or other debilitating condition that could affect the student's academic performance;
- (2) an indication that the student is responsible for the care of a sick, injured, or needy person and that the student's provision of care could affect the student's academic performance;
- (3) the student's active duty or other service in the United States armed forces or the student's active duty in the Texas National Guard; or
- (4) any other cause considered acceptable by the institution.

(b) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6104



CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS
SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §22.8

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Chapter 22, Subchapter A, §22.8, concerning General Provisions. Specifically, the repeal of this section removes duplicated and unnecessary rules in the Texas Administrative Code. The requirements outlined in statute and the individual bond resolutions are self-enacting.

Dr. Charles W. Puls, Ed.D, Deputy Assistant Commissioner for Student Financial Aid Programs, has determined that for the first five years the sections are in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Dr. Puls has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of this proposal will be the consistent administration of the loan programs. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on small businesses, micro businesses, and rural communities.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will repeal existing rule §22.8;
- (7) the rules will not increase the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512) 427-6365, charles.puls@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under the Texas Education Code (TEC), Chapter 52, Subchapter A, which authorizes the Coordinating Board to administer the student loan program authorized by Chapter 52 pursuant to §§50b-4, 50b-5, 50b-6, and 50b-7, Article III, Texas Constitution and TEC, Chapter A which authorizes the Coordinating Board to adopt rules to implement the General Provisions of the Student Financial Assistance Act of 1975.

The repeal affects Texas Education Code, Chapter §52.17.

§22.8. *Fund Requirements for Student Loan Bonds Interest and Sinking Fund.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 12, 2019.

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SUBCHAPTER G. TEXAS COLLEGE
WORK-STUDY PROGRAM

19 TAC §§22.128 - 22.133

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Chapter 22, Subchapter G, §§22.128 - 22.133, concerning the Texas College Work-Study Program.

Specifically, the amendment to §22.128 removes definitions that are either not used in the subchapter or are already defined in Subchapter A, §22.1.

The amendment to §22.129(a)(1) eliminates language that is addressed in Chapter 4, Subchapter J, and the amendment to §22.129(a)(3) aligns the rule with TEC §56.077(b). The amendment to §22.129(c)(3) incorporates uniform reporting language into the rule.

Throughout Subchapter G language was amended to align with the definitions formatted in §22.128.

Dr. Charles W. Puls, Deputy Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Dr. Puls has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be a clearer understanding of the requirements of the program. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no impact on small businesses, micro businesses, and rural communities.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) this proposed rulemaking will not repeal a rule;
- (7) the rules may increase the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512)

427-6365, charles.puls@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §56.077, which provides the Coordinating Board with the authority to adopt rules for the administration of the Texas College Work-Study Program.

The amendment affects Texas Education Code, §56.077 and §56.082 and Texas Administrative Code, Chapter 22, Subchapter G.

§22.128. *Definitions.*

In addition to the words and terms defined in Texas Administrative Code, §22.1, the [The] following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

[(1) Board--The Texas Higher Education Coordinating Board.]

[(2) Commissioner--The Commissioner of Higher Education, the Chief Executive Officer of the Board.]

[(3) Cost of attendance--A Board-approved estimate of the expenses incurred by a typical financial aid student in attending a particular college or university. It includes direct educational costs (tuition, fees, books, and supplies) as well as indirect costs (room and board, transportation, and personal expenses).]

(1) [(4)] Encumbered funds--Program funds that have been offered to a specific student, which offer the student has accepted, and which may or may not have been disbursed to the student.

[(5) Expected family contribution--The amount of discretionary income that should be available to a student from his or her resources and that of his or her family, as determined following the federal methodology.]

[(6) Financial need--The cost of attendance at a particular public or private institution of higher education less the expected family contribution. The cost of attendance and family contribution are to be determined in accordance with Board guidelines. Federal and state veterans' educational and special combat pay benefits are not to be considered in determining a student's financial need.]

[(7) General academic teaching institution--The University of Texas at Austin; The university of Texas at El Paso; The University of Texas of the Permian Basin; The University of Texas at Dallas; The University of Texas at San Antonio; Texas A&M University, Main University; The University of Texas at Arlington; Tarleton State University; Prairie View A&M University; Texas Maritime Academy (now Texas A&M University of Galveston); Texas Tech University; University of North Texas; Lamar University; Lamar State College--Orange; Lamar State College--Port Arthur; Texas A&M University--Kingsville; Texas A&M University--Corpus Christi; Texas Woman's University; Texas Southern University; Midwestern State University; University of Houston; University of Texas--Pan American; the University of Texas at Brownsville; Texas A&M University--Commerce; Sam Houston State University; Texas State University--San Marcos; West Texas A&M University; Stephen F. Austin State University; Sul Ross State University; Angelo State University; The University of Texas at Tyler; and any other college, university, or institution so classified as provided in this chapter or created and so classified, expressly or impliedly, by law.]

[(8) Half-time student--For undergraduates, a person who is enrolled or is expected to be enrolled for the equivalent of six or more semester credit hours. For graduate students, a person who is enrolled

or is expected to be enrolled for the equivalent of 4.5 or more semester credit hours.}]

(2) [(9)] Institution of Higher Education or Institution--Any public technical institute, public junior college, public senior college or university, medical or dental unit or other agency of higher education as defined in Texas Education Code, §61.003(8).

(3) [(40)] Program--The Texas College Work-Study Program.

[(11) Program Officer--The individual named by each participating institution's chief executive officer to serve as agent for the Board. The Program Officer has primary responsibility for all ministerial acts required by the program, including maintenance of all records and preparation and submission of reports reflecting program transactions. Unless otherwise indicated by the administration, the director of student financial aid shall serve as Program Officer.}]

[(12) Resident of Texas--A resident of the State of Texas as determined in accordance with Chapter 21, Subchapter B of this title (relating to Determination of Resident Status). Nonresident students who are eligible to pay resident tuition rates are not residents of Texas.}]

§22.129. *Institutions.*

(a) Eligibility.

(1) Any public, private, or independent institution of higher education as defined by Texas Education Code, §61.003, except a theological or religious seminary, is eligible to participate in the Program [general work-study program. Only general academic teaching institutions may participate in the mentorship program.]

(2) No institution may, on the grounds of race, color, national origin, gender, religion, age, or disability exclude an individual from participation in, or deny the benefits of the program described in this subchapter.

(3) Each participating institution must follow the Civil Rights Act of 1964, Title VI (Public Law 88-353) in avoiding discrimination in admissions or employment.

(b) (No change.)

(c) Responsibilities.

(1) Probation Notice. If the institution is placed on public probation by its accrediting agency, it must immediately advise the Board and work-study award recipients of this condition and maintain evidence in each student's file to demonstrate that the student was so informed.

(2) Disbursements to Students.

(A) Documentation. The institution must maintain records to prove the receipt of program funds by the student or the crediting of such funds to the student's school account.

(B) Procedures in Case of Illegal Disbursements. If the Commissioner has reason for concern that an institution has disbursed funds for unauthorized purposes, the Board will notify the Program Officer and financial aid director and offer an opportunity for a hearing pursuant to the procedures outlined in Chapter 1 of this title (relating to Agency Administration). Thereafter, if the Board determines that funds have been improperly disbursed, the institution shall become primarily responsible for restoring the funds to the Board. No further disbursements of work-study funds shall be permitted to students at that institution until the funds have been repaid.

(3) Reporting Requirements/Deadlines. All institutions must meet Board reporting requirements in accordance with stated deadlines in the Board's published materials. [a timely fashion. Such

reporting requirements shall include reports specific to allocation and reallocation of grant funds (including the Financial Aid Database Report) as well as progress and year-end reports of program activities.}]

(4) Program Reviews. If selected for such by the Board, participating institutions must submit to program reviews of activities related to the [Texas College Work-Study] Program.

(5) Publicizing Work-Study Employment Opportunities. Institutions participating in the [Texas College Work-Study] Program must establish and maintain an online list of work-study employment opportunities available on campus, sorted by department as appropriate, and ensure that the list is easily accessible to the public and prominently displayed on the institution's website.

§22.130. *Eligible Student Employees.*

(a) To be eligible for employment in the Program [general work-study program] a person shall:

(1) be a Texas resident as defined by Board rules;

(2) be enrolled for at least the number of hours required of a half-time student, and be seeking a degree or certification in an eligible institution;

(3) establish financial need in accordance with Board procedures; and

(4) have a statement on file with the institution of higher education indicating the student is registered with the Selective Service System as required by federal law or is exempt from Selective Service registration under federal law.

(b) A person is not eligible to participate in the Program [work-study program] if the person:

(1) concurrently receives an athletic scholarship;

(2) is enrolled in a seminary or other program leading to ordination or licensure to preach for a religious sect or to be a member of a religious order.

§22.131. *Eligible Employers.*

(a) An eligible institution may enter into agreements with outside employers to participate in the Program [general work-study program]. To be eligible to participate, an employer must:

(1) provide part-time employment to an eligible student in nonpartisan and nonsectarian activities;

(2) provide, insofar as is practicable, employment to an eligible student that is related to the student's academic interests;

(3) use Program [Texas college work-study program] positions only to supplement and not to supplant positions normally filled by persons not eligible to participate in the work-study program; and

(4) unless eligible for a waiver of matching funds under subsection (b) of this section, provide not less than 25 percent of an employed student's wages and 100 percent of other employee benefits for the employed student from sources other than federal college work-study program funds, if the employer is a nonprofit entity; or

(5) provide not less than 50 percent of an employed student's wages and 100 percent of other employee benefits for the employed student, if the employer is a profit-making entity.

(b) Institutions eligible to receive Title III funds from the U. S. Department of Education are exempted from the Program [general work-study program] requirement to provide 25 percent of an employed student's wages, if they provide the Board with a copy of a current Title III eligibility letter from the U. S. Department of Education.

(c) Beginning with the 2016-2017 academic year, each eligible institution shall ensure that at least 20 percent, but not more than 50 percent of the employment positions provided through the work-study program in an academic year are provided by eligible employers who are providing off-campus employment.

§22.132. *Award Amounts and Uses.*

(a) - (b) (No change.)

(c) Uses. No ~~[general work-study]~~ funds earned through this program may be used for any purpose other than for meeting the cost of attending an approved institution.

(d) Over awards. If, at a time after an award has been offered by the institution and accepted by the student, the student receives assistance that was not taken into account in the student's estimate of financial need, so that the resulting sum of assistance exceeds the student's financial need, the institution is not required to adjust the award under this program unless the sum of the excess resources is greater than \$300.

§22.133. *Allocation and Disbursement of Funds.*

(a) Allocations. Allocations for the ~~[Texas College Work-Study]~~ Program are to be determined on an annual basis as follows:

(1) All eligible institutions will be invited to participate; those choosing not to participate will be left out of the calculations for the relevant year.

(2) The allocation base for each institution choosing to participate will be the number of students it reported in the most recent financial aid database report who met the following criteria:

(A) were classified as Texas residents;

(B) were enrolled at least half-time, with full-time students weighted as 1 and part-time students weighted as .5;

(C) completed either the FAFSA or TASFA; and

(D) have a 9-month Expected Family Contribution less than the simple average in-district 9-month cost of attendance for community college students enrolled for 30 semester credit hours while living off campus, as reported in the most recent year's College Student Budget Report.

(3) Each institution's share of the available funds will equal its share of the state-wide total of students who meet the criteria in paragraph (2) of this subsection.

(b) - (e) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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19 TAC §22.134, §22.136

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Chapter 22, Subchapter G,

§22.134 and §22.136 concerning Texas College Work-Study Programs.

Specifically, §22.134 concerning Dissemination of Information and Rules is redundant with Subchapter A, Section §22.7 and is being repealed.

Section 22.136 concerning Biennial Report and Data Collection is repealed since the statute itself is self-enacting and thus a rule is unnecessary.

Dr. Charles W. Puls, Ed.D, Deputy Assistant Commissioner for Student Financial Aid Programs, has determined that for the first five years the sections are in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Dr. Puls has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of this proposal will be clearer understanding of program requirements. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on small businesses, micro businesses, and rural communities.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will repeal Chapter 22, Subchapter G, §22.134 and §22.136;

(7) the rules may increase the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512) 427-6365, charles.puls@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under the Texas Education Code, §61.608, which provides the Coordinating Board with the authority to adopt rules for the administration of the Texas College Work-Study Program.

The repeal affects Texas Education Code, §56.077, and §56.082.

§22.134. *Dissemination of Information and Rules.*

§22.136. *Biennial Report and Data Collection.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 12, 2019.

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Bill Franz
General Counsel
Texas Higher Education Coordinating Board
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SUBCHAPTER H. PROVISIONS FOR THE LICENSE PLATE INSIGNIA SCHOLARSHIP PROGRAM

19 TAC §22.142, §22.148

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Chapter 22, Subchapter H, §22.142 and §22.148, concerning Provisions for the License Plate Insignia Scholarship Program. Specifically, the repeal of §22.142 removes definitions that are either not used in the subchapter or are already defined in Subchapter A, §22.1.

Section 22.148, concerning dissemination of information and rules, is currently under the authority of the Texas Department of Motor Vehicles Board, and therefore is being repealed in Texas Administrative Code, Chapter 22, Subchapter H.

Dr. Charles W. Puls, Ed.D, Deputy Assistant Commissioner for Student Financial Aid Programs, has determined that for the first five years the sections are in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Dr. Puls has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of this proposal will be the institutions' improved ability to effectively administer state grant and scholarship programs. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on small businesses, micro businesses, and rural communities.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512) 427-6365, charles.puls@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will repeal §22.142 and §22.148;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

The repeals are proposed under Texas Transportation Code §504.615 which authorizes the Coordinating Board to adopt rules to implement provisions for collegiate license plates.

The repeal affects TTC §504.615, as well as Texas Administrative Code, §22.142 and §22.148.

§22.142. *Definitions.*

§22.148. *Dissemination of Information and Rules.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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19 TAC §22.143, §22.144

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Chapter 22, Subchapter H, §22.143 and §22.144, concerning Provisions for the License Plate Insignia Scholarship Program. Specifically, the amendment to §22.143(c)(3) is proposed to incorporate uniform reporting language into the rule, thereby eliminating references to specific reports. Amendment to §22.144 concerning "Eligible Students" removes language which excludes students who attend a public community college to provide proof of meeting Selective Service registration requirements.

Dr. Charles W. Puls, Ed.D, Deputy Assistant Commissioner for Student Financial Aid Programs, has determined that for the first five years the sections are in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Dr. Puls has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of this proposal will be the institutions' improved ability to meet the needs of their student populations. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on small businesses, micro businesses, and rural communities.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the amendment to rule §22.144 may increase the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512) 427-6365, charles.puls@thecb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Transportation Code §504.615 which authorizes the Coordinating Board to adopt rules to implement provisions for collegiate license plates.

The amendment affects Texas Administrative Code, §22.143 and §22.144

§22.143. *Institutions.*

- (a) - (b) (No change.)
- (c) Responsibilities.

(1) Probation Notice. If the institution is placed on public probation by its accrediting agency, it must immediately advise grant recipients of this condition and maintain evidence in each student's file to demonstrate that the student was so informed.

(2) Disbursements to Students.

(A) Documentation. The institution must maintain records to prove the receipt of program funds by the student or the crediting of such funds to the student's school account.

(B) Procedures in Case of Illegal Disbursements. If the Commissioner has reason for concern that an institution has disbursed funds for unauthorized purposes, the Board will notify the institution and offer an opportunity for a hearing pursuant to the procedures outlined in Chapter 1 of this title (relating to Agency Administration). Thereafter, if the Board determines that funds have been improperly disbursed, the institution shall become primarily responsible for restoring the funds to the Board. No further disbursements of grants or scholarships shall be permitted to students at that institution until the funds have been repaid.

(3) Reporting Requirements/Deadlines. All institutions must meet Board reporting requirements in accordance with stated deadlines in the Board's published materials. ~~[a timely fashion. Such reporting requirements shall include the Financial Aid Database Report as well as progress and year-end reports of program activities.]~~

(4) In addition, the institution must meet the Department of Transportation's requirements for designing and issuing license plates bearing the institution's insignia.

§22.144. *Eligible Students.*

In order to qualify for an award through this program a student must demonstrate financial need and ~~[unless attending a public community college (for which tuition is local revenue),]~~ provide the institution proof that the student meets Selective Service registration requirements or is exempt.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Bill Franz

General Counsel

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SUBCHAPTER I. TEXAS ARMED SERVICES SCHOLARSHIP PROGRAM

19 TAC §22.174

The Texas Higher Education Coordinating Board (Coordinating Board) proposes to Chapter 22, Subchapter I, a new §22.174 concerning Texas Armed Services Scholarship Program. Specifically, this new section concerning Hardship Provisions clarifies the Coordinating Board's ability to provide an extension for filing the required demonstration of a commitment to service in situations where hardship or other matters support the extension.

Dr. Charles W. Puls, Ed.D, Deputy Assistant Commissioner for Student Financial Aid Programs, has determined that for the first five years the new section is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Dr. Puls has also determined that for each year of the first five years the new section is in effect, the public benefit anticipated as a result of this proposal will be clearer understanding of program requirements. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on small businesses, micro businesses, and rural communities.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will create a new §22.174;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512) 427-6365, charles.puls@thecb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new rule is proposed under the Texas Education Code, §61.9774, which authorizes the Coordinating Board to adopt rules for the administration of the Provisions for the Texas Armed Services Scholarship Program.

The new section affects Texas Education Code, §§61.9771 - 61.9774.

§22.174. *Hardship Provisions.*

(a) In the event of a hardship or for other good cause, Board staff may allow an otherwise eligible person who is awarded a scholarship to maintain eligibility for forgiveness in situations where the verification requirements of §22.167(3)(C) of this title (relating to Initial Award Eligibility and Agreement Requirements) are not completed

within six months after graduation. Such conditions are not limited to, but include:

(1) a showing of a severe illness or other debilitating condition that may affect the scholarship recipient's timely completion of the verification requirements; or

(2) a natural disaster or other event of similar magnitude that may affect the scholarship recipient's or military personnel's timely completion of the verification requirements.

(b) The hardship provisions outlined in this rule allow for an extension of the six-month provision for submitting the required verification. The hardship provisions in this rule do not allow for alteration of the required service commitment in the Texas Army National Guard, Texas Air National Guard, Texas State Guard, United States Coast Guard, or United States Merchant Marine, or any branch of the armed services of the United States.

(c) The scholarship recipient must provide acceptable documentation of the circumstances supporting the request for the extension, which shall be maintained in agency records for monitoring of the person's period of eligibility.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: May 26, 2019

For further information, please call: (512) 427-6104



CHAPTER 27. FIELDS OF STUDY SUBCHAPTER F. ENGINEERING TECHNOLOGY FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §27.203, §27.204

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Chapter 27, Subchapter F, §27.203 and §27.204 concerning the duration and committee membership terms for the Engineering Technology Field of Study Advisory Committee. The proposed amendments renew the committee for another four years and align the membership terms with the projected meeting schedule.

Dr. Rex C. Peebles, Assistant Commissioner for Academic Quality and Workforce, has determined that for the first five years there will be no fiscal implications for state or local governments as a result of revising the sections.

Dr. Peebles has also determined that for the first five years the rules are in effect, the public benefits anticipated as a result of administering the sections will be that the Engineering Technology Field of Study can be reviewed and revised every 3-5 years, as needed. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

There will be no impact on small businesses or rural communities, as described in Texas Government Code, Chapter 2006, and therefore an Economic Impact analysis is not required.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will positively affect the state's economy.

Comments on the proposed amendments may be submitted by mail to Rex C. Peebles, Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or via email at AQWComments@THECB.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Government Code, Chapter 61, §61.823, which provides the Texas Higher Education Coordinating Board the authority to form advisory committees to develop Field of Study curricula.

The amendments affect the implementation of Texas Education Code, Chapter 61.

§27.203. *Committee Membership and Officers.*

(a) - (f) (No change.)

(g) Members shall serve staggered terms of up to four [~~three~~] years. The terms of chairs and co-chairs (if applicable) will be two years dating from their election.

§27.204. *Duration.*

The Committee shall be abolished no later than July 31, 2023 [~~2019~~] in accordance with Texas Government Code, Chapter 2110. It may be reestablished by the Board.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Bill Franz

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SUBCHAPTER MM. MEDIA STUDIES FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.861 - 27.867

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new Chapter 27, Subchapter MM, §§27.861 - 27.867, concerning the Media Studies Field of Study Advisory Committee. The proposed new rules authorize the Board to create an advisory committee to develop a Media Studies field of study. The newly added rules will affect students when the Media Studies field of study is adopted by the Board.

Dr. Rex C. Peebles, Assistant Commissioner for Academic Quality and Workforce, has determined that for the first five years there will be no fiscal implications for state or local governments as a result of adding the new sections. There would be minimal costs to public institutions of higher education to support the expenses of committee members who may travel to the Coordinating Board in Austin for meetings.

Dr. Peebles as also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the clarification of which lower division courses are required in a Media Studies degree and the improved transferability and applicability of courses. There would be minimal costs to public institutions of higher education to support travel and other expenses of committee members who may travel to the Coordinating Board in Austin for meetings. There is no impact on local employment. There is no impact on small businesses, micro-businesses, and rural communities.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will positively affect the state's economy.

Comments on the proposal may be submitted to Rex C. Peebles, Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas, 78711 or via email at AQWComments@THECB.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under the Texas Education Code, §61.823(a), which provides the Coordinating Board with the authority to develop fields of study curricula with the assistance of advisory committees, and Texas Government Code, §2110.005, which requires a state agency that establishes an advisory committee to adopt rules that state the purpose and tasks of the committee and describe the manner in which the committee will report to the agency.

The new sections affect the implementation of Texas Education Code, Chapter 61.

§27.861. Authority and Specific Purposes of the Media Studies Field of Study Advisory Committee.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.823(a).

(b) Purpose. The Media Studies Field of Study Advisory Committee is created to provide the Commissioner and the Board with guidance regarding the Media Studies field of study curricula.

§27.862. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Board--The Texas Higher Education Coordinating Board.

(2) Commissioner--The Commissioner of Higher Education, the Chief Executive Officer of the Board.

(3) Field of Study Curricula--The block of courses which may be transferred to a general academic teaching institution and must be substituted for that institution's lower division requirements for the degree program into which the student transfers, and the student shall receive full academic credit toward the degree program for the block of courses transferred.

(4) Institutions of Higher Education--As defined in Texas Education Code, Chapter 61.003(8).

§27.863. Committee Membership and Officers.

(a) The advisory committee shall be equitably composed of representatives of institutions of higher education.

(b) Each university system or institution of higher education which offers a degree program for which a field of study curriculum is proposed shall be offered participation on the advisory committee.

(c) At least a majority of the members of the advisory committee named under this section shall be faculty members of an institution of higher education. An institution shall consult with the faculty of the institution before nominating or recommending a person to the board as the institution's representative on an advisory committee.

(d) Board staff will recommend for Board appointment individuals who are nominated by institutions of higher education.

(e) Members of the committee shall select co-chairs, who will be responsible for conducting meetings and conveying committee recommendations to the Board.

(f) The number of committee members shall not exceed twenty-four (24).

(g) Members shall serve staggered terms of up to four years. The terms of chairs and co-chairs (if applicable) will be two years dating from their election.

§27.864. Duration.

The Committee shall be abolished no later than July 31, 2023, in accordance with Texas Government Code, Chapter 2110. It may be reestablished by the Board.

§27.865. Meetings.

The Committee shall meet as necessary. Special meetings may be called as deemed appropriate by the presiding officer. Meetings shall be open to the public and broadcast via the web, unless prevented by technical difficulties, and minutes shall be available to the public after they have been prepared by the Board staff and reviewed by members of the Committee.

§27.866. Tasks Assigned to the Committee.

Tasks assigned to the Committee include:

(1) Advise the Board regarding the Media Studies Field of Study Curricula;

(2) Provide Board staff with feedback about processes and procedures related to the Media Studies Field of Study Curricula; and

(3) Any other issues related to the Media Studies Field of Study Curricula as determined by the Board.

§27.867. Report to the Board; Evaluation of Committee Costs and Effectiveness.

The Committee shall report recommendations to the Board. The Committee shall also report Committee activities to the Board to allow the Board to properly evaluate the Committee's work, usefulness, and the costs related to the Committee's existence. The Board shall report its evaluation to the Legislative Budget Board in its biennial Legislative Appropriations Request.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Bill Franz

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SUBCHAPTER NN. ADVERTISING AND PUBLIC RELATIONS FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.881 - 27.887

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new Chapter 27, Subchapter NN, §§27.881 - 27.887, concerning the Advertising and Public Relations Field of Study Advisory Committee. The proposed new rules authorize the Board to create an advisory committee to develop an Advertising and Public Relations field of study. The newly added rules will affect students when the Advertising and Public Relations field of study is adopted by the Board.

Dr. Rex C. Peebles, Assistant Commissioner for Academic Quality and Workforce, has determined that for the first five years there will be no fiscal implications for state or local governments as a result of adding the new sections. There would be minimal costs to public institutions of higher education to support the expenses of committee members who may travel to the Coordinating Board in Austin for meetings.

Dr. Peebles as also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the clarification of which lower division courses are required in an Advertising and Public Relations degree and the improved transferability and applicability of courses. There would be minimal costs to public institutions of higher education to support travel and other expenses of committee members who may travel to the Coordinating Board in Austin for meetings. There is no impact on local employment. There is no impact on small businesses, micro-businesses, and rural communities.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rulemaking will create new rules;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will positively affect the state's economy.

Comments on the proposal may be submitted to Rex C. Peebles, Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas, 78711 or via email at AQWComments@THECB.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under the Texas Education Code, §61.823(a), which provides the Coordinating Board with the authority to develop fields of study curricula with the assistance of advisory committees, and Texas Government Code, §2110.005, which requires a state agency that establishes an advisory committee to adopt rules that state the purpose and tasks of the committee and describe the manner in which the committee will report to the agency.

The new sections affect the implementation of Texas Education Code, Chapter 61.

§27.881. Authority and Specific Purposes of the Advertising and Public Relations Field of Study Advisory Committee.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.823(a).

(b) Purpose. The Advertising and Public Relations Field of Study Advisory Committee is created to provide the Commissioner and the Board with guidance regarding the Advertising and Public Relations field of study curricula.

§27.882. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Board--The Texas Higher Education Coordinating Board.

(2) Commissioner--The Commissioner of Higher Education, the Chief Executive Officer of the Board.

(3) Field of Study Curricula--The block of courses which may be transferred to a general academic teaching institution and must be substituted for that institution's lower division requirements for the degree program into which the student transfers, and the student shall receive full academic credit toward the degree program for the block of courses transferred.

(4) Institutions of Higher Education--As defined in Texas Education Code, Chapter 61.003(8).

§27.883. Committee Membership and Officers.

(a) The advisory committee shall be equitably composed of representatives of institutions of higher education.

(b) Each university system or institution of higher education which offers a degree program for which a field of study curriculum is proposed shall be offered participation on the advisory committee.

(c) At least a majority of the members of the advisory committee named under this section shall be faculty members of an institution of higher education. An institution shall consult with the faculty of the institution before nominating or recommending a person to the board as the institution's representative on an advisory committee.

(d) Board staff will recommend for Board appointment individuals who are nominated by institutions of higher education.

(e) Members of the committee shall select co-chairs, who will be responsible for conducting meetings and conveying committee recommendations to the Board.

(f) The number of committee members shall not exceed twenty-four (24).

(g) Members shall serve staggered terms of up to four years. The terms of chairs and co-chairs (if applicable) will be two years dating from their election.

§27.884. Duration.

The Committee shall be abolished no later than July 31, 2023, in accordance with Texas Government Code, Chapter 2110. It may be reestablished by the Board.

§27.885. Meetings.

The Committee shall meet as necessary. Special meetings may be called as deemed appropriate by the presiding officer. Meetings shall be open to the public and broadcast via the web, unless prevented by technical difficulties, and minutes shall be available to the public after they have been prepared by the Board staff and reviewed by members of the Committee.

§27.886. Tasks Assigned to the Committee.

Tasks assigned to the Committee include:

(1) Advise the Board regarding the Advertising and Public Relations Field of Study Curricula;

(2) Provide Board staff with feedback about processes and procedures related to the Advertising and Public Relations Field of Study Curricula; and

(3) Any other issues related to the Advertising and Public Relations Field of Study Curricula as determined by the Board.

§27.887. Report to the Board; Evaluation of Committee Costs and Effectiveness.

The Committee shall report recommendations to the Board. The Committee shall also report Committee activities to the Board to allow the Board to properly evaluate the Committee's work, usefulness, and the costs related to the Committee's existence. The Board shall report its evaluation to the Legislative Budget Board in its biennial Legislative Appropriations Request.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Bill Franz

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SUBCHAPTER OO. NUTRITION AND
DIETETICS FIELD OF STUDY ADVISORY
COMMITTEE

19 TAC §§27.901 - 27.907

The Texas Higher Education Coordinating Board (Coordinating Board) proposes to Chapter 27, a new Subchapter OO, §§27.901 - 27.907, concerning the Nutrition and Dietetics Field of Study Advisory Committee. The proposed new rules authorize the Board to create an advisory committee to develop a Nutrition and Dietetics field of study. The newly added rules will affect students when the Nutrition and Dietetics field of study is adopted by the Board.

Dr. Rex C. Peebles, Assistant Commissioner for Academic Quality and Workforce, has determined that for the first five years there will be no fiscal implications for state or local governments as a result of adding the new sections. There would be minimal costs to public institutions of higher education to support the expenses of committee members who may travel to the Coordinating Board in Austin for meetings.

Dr. Peebles as also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the clarification of which lower division courses are required in a Nutrition and Dietetics degree and the improved transferability and applicability of courses. There would be minimal costs to public institutions of higher education to support travel and other expenses of committee members who may travel to the Coordinating Board in Austin for meetings. There is no impact on local employment. There is no impact on small businesses, micro businesses, and rural communities.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will positively affect the state's economy.

Comments on the proposal may be submitted to Rex C. Peebles, Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or via email at AQWComments@THECB.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under the Texas Education Code, §61.823(a), which provides the Coordinating Board with the authority to develop fields of study curricula with the assistance of advisory committees and Texas Government Code, §2110.005, which requires a state agency that establishes an

advisory committee to adopt rules that state the purpose and tasks of the committee and describe the manner in which the committee will report to the agency.

The new sections affect the implementation of Texas Education Code, Chapter 61.

§27.901. Authority and Specific Purposes of the Nutrition and Dietetics Field of Study Advisory Committee.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.823(a).

(b) Purpose. The Nutrition and Dietetics Field of Study Advisory Committee is created to provide the Commissioner and the Board with guidance regarding the Nutrition and Dietetics field of study curricula.

§27.902. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Board--The Texas Higher Education Coordinating Board.

(2) Commissioner--The Commissioner of Higher Education, the Chief Executive Officer of the Board.

(3) Field of Study Curricula--The block of courses which may be transferred to a general academic teaching institution and must be substituted for that institution's lower division requirements for the degree program into which the student transfers, and the student shall receive full academic credit toward the degree program for the block of courses transferred.

(4) Institutions of Higher Education--As defined in Texas Education Code, Chapter §61.003(8).

§27.903. Committee Membership and Officers.

(a) The advisory committee shall be equitably composed of representatives of institutions of higher education.

(b) Each university system or institution of higher education which offers a degree program for which a field of study curriculum is proposed shall be offered participation on the advisory committee.

(c) At least a majority of the members of the advisory committee named under this section shall be faculty members of an institution of higher education. An institution shall consult with the faculty of the institution before nominating or recommending a person to the board as the institution's representative on an advisory committee.

(d) Board staff will recommend for Board appointment individuals who are nominated by institutions of higher education.

(e) Members of the committee shall select co-chairs, who will be responsible for conducting meetings and conveying committee recommendations to the Board.

(f) The number of committee members shall not exceed twenty-four (24).

(g) Members shall serve staggered terms of up to four years. The terms of chairs and co-chairs (if applicable) will be two years dating from their election.

§27.904. Duration.

The Committee shall be abolished no later than July 31, 2023, in accordance with Texas Government Code, Chapter 2110. It may be reestablished by the Board.

§27.905. Meetings.

The Committee shall meet as necessary. Special meetings may be called as deemed appropriate by the presiding officer. Meetings shall

be open to the public and broadcast via the web, unless prevented by technical difficulties, and minutes shall be available to the public after they have been prepared by the Board staff and reviewed by members of the Committee.

§27.906. Tasks Assigned to the Committee.

Tasks assigned to the Committee include:

(1) Advise the Board regarding the Nutrition and Dietetics Field of Study Curricula;

(2) Provide Board staff with feedback about processes and procedures related to the Nutrition and Dietetics Field of Study Curricula; and

(3) Any other issues related to the Nutrition and Dietetics Field of Study Curricula as determined by the Board.

§27.907. Report to the Board; Evaluation of Committee Costs and Effectiveness.

The Committee shall report recommendations to the Board. The Committee shall also report Committee activities to the Board to allow the Board to properly evaluate the Committee work, usefulness, and the costs related to the Committee existence. The Board shall report its evaluation to the Legislative Budget Board in its biennial Legislative Appropriations Request.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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PART 2. TEXAS EDUCATION AGENCY

CHAPTER 100. CHARTERS

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING OPEN-ENROLLMENT

CHARTER SCHOOLS

DIVISION 6. CHARTER SCHOOL

OPERATIONS

19 TAC §100.1211, §100.1212

The Texas Education Agency (TEA) proposes an amendment to §100.1211 and new §100.1212, concerning charter school operations. The proposed amendment to §100.1211 would address a charter holder's admission and enrollment policy, maintenance of student records, and submission of the charter school's campus calendar to the TEA. Proposed new §100.1212 would implement state and federal law by including minimum qualifications and certification requirements for charter school personnel as well as criminal history requirements.

BACKGROUND INFORMATION AND JUSTIFICATION: The proposed revisions to 19 TAC Chapter 100, Subchapter AA, Division 6, would include an amendment to §100.1211, Students, and new §100.1212, Personnel.

In §100.1211, subsection (a) would be amended to clarify the application of TEC, §12.111(a)(3). The statute mandates that a charter granted under TEC, Chapter 12, Subchapter D, include the academic, operational, and financial performance expectations by which a school operating under the charter will be evaluated. The proposed amendment would specify that the student performance expectations must reflect the overall student performance at the school. In addition, the subsection would be amended to correct a statutory citation.

Proposed new subsection (c) would be added, requiring schools to have a non-discriminatory admission and enrollment policy. The new subsection would align with policy requirements set forth in §100.1207, Student Admission.

Proposed new subsection (f) would be added to clarify charter school responsibilities with regard to records maintenance and requests for records.

Proposed new subsection (g) would be added, requiring charter schools to submit their school year calendars to the TEA before the first day of August each year. Charter schools are currently required to submit school year beginning and ending dates to TEA at the end of the school year. Such calendar information is necessary at the beginning of each school year for purposes such as verification of charter contract compliance and amendment.

Subsection (f) would be deleted. Presently it supports TEC, §12.129, which provides that a person employed by an open-enrollment charter school as a principal or a teacher must hold a baccalaureate degree. House Bill (HB) 1469, 85th Texas Legislature, Regular Session, 2017, created an exception in TEC, §12.129: in an open-enrollment charter school that serves youth referred to or placed in a residential trade center by a local or state agency, a person may be employed as a teacher for a non-core vocational course without holding a baccalaureate degree, as long as certain criteria are met. Language regarding the minimum qualifications, as well as the exception, would be added to proposed new §100.1212.

Proposed new §100.1212 would be added to specify provisions related to charter school personnel.

Proposed new subsections (a) and (b) would set forth the existing baccalaureate degree requirement for principals and teachers and include the exception and criteria in TEC, §12.129, as added by HB 1469.

Proposed new subsections (c) and (d) would specify that charter school personnel must comply with requirements found throughout federal and state law as they relate to certification requirements for special education teachers, bilingual teachers, teachers of English as a second language, and paraprofessionals.

Proposed new subsection (e) would describe requirements for a charter school to obtain criminal history information about its personnel. This requirement is found throughout federal and state law.

FISCAL IMPACT: Joe Siedlecki, associate commissioner for improvements, innovations, and charters, has determined that for the first five-year period the proposal is in effect there is no fiscal impact to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal beyond what the authorizing statute requires. TEC, §12.129, requires charter schools employing teachers for non-core vocational courses without a baccalaureate degree to ensure that those teachers obtain 20 hours of training in classroom

management. Open-enrollment charter schools affected by proposed new §100.1212 could incur teacher training expenses.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed amendment to 19 TAC §100.1211 would both repeal part of and expand an existing regulation. The amendment would delete reference to minimum qualifications of charter school staff, which would be addressed in proposed new §100.1212, and modify the date by which charter schools must submit their calendar information to TEA.

Proposed new 19 TAC §100.1212 would create a new regulation that would provide an exception to the baccalaureate degree requirement for teachers in open-enrollment charter schools, as set forth in TEC, §12.129. This would increase the number of individuals subject to the rule's applicability.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not limit an existing regulation; would not decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Siedlecki has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be ensuring rule language is based on current law and clarifying responsibilities of open-enrollment charter schools with regard to their students. There is no anticipated economic cost to persons who are required to comply with the proposed amendment to §100.1211. There may be a nominal cost to persons who are required to comply with proposed new §100.1212, but not beyond what the authorizing statute requires. TEC, §12.129, requires charter schools employing teachers for noncore vocational courses without a baccalaureate degree to ensure that those teachers obtain 20 hours of training in classroom management.

DATA AND REPORTING IMPACT: The proposal would have no new data and reporting impact. Charter schools are currently required to submit school year beginning and ending dates to TEA at the end of the school year. The proposed amendment to §100.1211 would require the school calendar to be submitted to TEA before the first day of August each year.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: The TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins April 26, 2019, and ends May 28, 2019. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on April 26, 2019. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/). Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

STATUTORY AUTHORITY. The amendment and new section are proposed under Texas Education Code (TEC), §12.103, which establishes the general applicability of state and federal laws and rules governing public schools to open-enrollment charter schools; TEC, §12.104, which describes specific provisions in state law applicable to open-enrollment charter schools, including provisions related to criminal history records under TEC, Chapter 22, Subchapter C; TEC, §12.111, which describes the required content of a charter granted under TEC, Chapter 12, Subchapter D; TEC, §12.129, which describes minimum qualifications for principals and teachers in an open-enrollment charter school; TEC, §12.1059, which provides that charter school personnel must be approved by the TEA following a review of the person's national criminal history record information as provided by TEC, §22.0832; TEC, §22.083, which describes responsibilities of school districts, open-enrollment charter schools, and shared services arrangements with regard to any employee's criminal history record information; TEC, §22.0832, which provides that criminal history checks shall be administered to charter school personnel in the same manner the State Board for Educator Certification reviews certified educators; and TEC, §22.0833, which describes responsibilities of school districts, open-enrollment charter schools, and shared services arrangements with regard to national criminal history record information review of noncertified employees.

CROSS REFERENCE TO STATUTE. The amendment and new section implement Texas Education Code, §§12.103, 12.104, 12.111, 12.129, 12.1059, 22.083, 22.0832, and 22.0833.

§100.1211. Students.

(a) Student performance. Notwithstanding any provision in an open-enrollment charter, acceptable student performance under Texas Education Code, §12.111(a)(3) [~~§12.111(3)~~], shall at a minimum require overall student performance meeting the standards for an "academically acceptable" rating as defined by §100.1001(26) of this title (relating to Definitions).

(b) Reporting child abuse or neglect. A charter holder shall adopt and disseminate to all charter school staff and volunteers a policy governing child abuse reports required by Texas Family Code, Chapter 261. The policy shall require that employees, volunteers, or agents of the charter holder and the charter school report child abuse or neglect directly to an appropriate entity listed in Texas Family Code, Chapter 261.

(c) Admission and enrollment. A charter holder for an open-enrollment charter school shall have an admission and enrollment pol-

icy as outlined in §100.1207 of this title (relating to Student Admission), including prohibiting discrimination on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend under state law.

(d) [(e)] Notice of expulsion or withdrawal. A charter school [holder] shall notify the school district in which the student resides within three business days of any action expelling or withdrawing a student from the charter school.

(e) [(d)] Data reporting. A charter holder and its charter school shall report timely and accurate information required by the commissioner of education to the Texas Education Agency (TEA), except as expressly waived by the commissioner.

(f) Student records. Student records shall be secure and maintained physically within the state of Texas at all times. Charter school personnel shall respond to requests for records in a timely and appropriate manner. Requests for records through the Texas Records Exchange (TREx) shall be processed according to TREx protocols.

(g) [(e)] Scholastic year. A charter holder shall adopt a school year for the charter school, with fixed beginning and ending dates. The charter school shall submit a copy of the charter school's campus calendars to the TEA division responsible for charter school administration prior to the first day of August of each year.

[(f) Minimum qualifications. A person employed as a principal or a teacher by an open-enrollment charter school must hold a baccalaureate degree. To the extent that federal law applies, a person employed as a principal or teacher by a charter school must meet requirements of federal law. If federal law defers to state standards, then the standard set out in Texas Education Code, §12.129, applies.]

§100.1212. Personnel.

(a) Minimum qualifications. Except as provided by subsection (b) of this section, all persons employed as a principal or teacher by an open-enrollment charter school must hold a baccalaureate degree.

(b) Exception. In an open-enrollment charter school that serves youth referred to or placed in a residential trade center by a local or state agency, a person may be employed as a teacher for a noncore vocational course without holding a baccalaureate degree if the person has:

(1) demonstrated subject matter expertise related to the subject taught, such as professional work experience; formal training and education; holding a relevant active professional industry license, certification, or registration; or any combination of work experience, training and education, and industry license, certification, or registration; and

(2) received at least 20 hours of classroom management training, as determined by the governing body of the open-enrollment charter school. Documentation of the training is to be maintained locally and provided to the Texas Education Agency within 10 business days upon request.

(c) Certification. Special education teachers, bilingual teachers, and teachers of English as a second language must be certified in the fields in which they are assigned to teach as required by state and/or federal law.

(d) Paraprofessionals. All persons employed as paraprofessionals must be certified as required to meet state and/or federal law.

(e) Criminal history. A charter school shall obtain from the Department of Public Safety (DPS), prior to the hiring of personnel and at least every third year thereafter, all criminal history record in-

formation maintained by the DPS that the charter school is authorized to obtain.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 15, 2019.

TRD-201901105

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: May 26, 2019

For further information, please call: (512) 475-1497



TITLE 22. EXAMINING BOARDS

PART 9. TEXAS MEDICAL BOARD

CHAPTER 172. TEMPORARY AND LIMITED LICENSES

SUBCHAPTER D. DISASTER EMERGENCY RULE

22 TAC §172.20, §172.21

The Texas Medical Board (Board) proposes new Subchapter D, Disaster Emergency Rule §172.20 and §172.21.

New Rule §172.20, relating to Physician Practice and Limited License for Disasters and Emergencies, provides two methods for an out of state physician to be approved to practice in the event of a disaster. One method is hospital-to-hospital credentialing, which will not require the physician to apply for and obtain a license. This method will allow qualified out of state physicians to come to Texas and practice medicine at a Texas licensed hospital at the request of that facility. The second method allows a qualified out of state physician to obtain a limited emergency license if the physician has been requested by a Texas sponsoring physician to assist in the disaster or emergency.

New Rule §172.21, relating to Other Health Care Providers Practice and Limited License for Disasters and Emergencies, provides a method for out of state licensees, permit holders, and certificate holders, other than physicians, who practice in health-care areas subject to regulation by the Board, to obtain authority to practice in Texas during a disaster. These providers must practice under the supervision and delegation of a physician and the supervising physician must be licensed in Texas.

The public benefit anticipated as a result of enforcing this section will be to have the ability to provide medical services and care to citizens in the event of a natural disaster. The process provides a clearly delineated and expeditious process in place for out of state physicians and other health care providers responding to a disaster. The process delineated by this rule was implemented on an ad-hoc basis during Hurricane Harvey and was extremely successful at providing necessary medical personnel without compromise to patient safety.

Scott Freshour, General Counsel for the Texas Medical Board, has determined that for each year of the first five years the subsection as proposed is in effect the public benefit anticipated as a result of enforcing this proposal will be as stated above.

Mr. Freshour has also determined that for the first five-year period these sections as proposed are in effect there will be no fiscal impact or effect on government growth as a result of enforcing the sections as proposed.

Mr. Freshour has also determined that for the first five-year period the sections are in effect there will be no probable economic cost to individuals required to comply with these rules as proposed.

Pursuant to Texas Government Code §2006.002, the agency provides the following economic impact statement for the proposed rule amendments and determined that for each year of the first five years the proposed amendments will be in effect:

(1) there will be no effect on small businesses, micro businesses, or rural communities; and

(2) the agency has considered alternative methods of achieving the purpose of the proposed rule amendments and found none.

Pursuant to Texas Government Code §2001.024(a)(4), Mr. Freshour certifies that this proposal has been reviewed and the agency has determined that for each year of the first five years these rule amendments, as proposed, are in effect:

(1) the additional estimated cost to the state and to local governments expected as a result of enforcing or administering the rule is none;

(2) the estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule is none;

(3) the estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering the rule is none; and

(4) there are no foreseeable implications relating to cost or revenues of the state or local governments with regard to enforcing or administering the rule.

Pursuant to Texas Government Code §2001.024(a)(6) and §2001.022, the agency has determined that for each year of the first five years the proposed amendments will be in effect, there will be no effect on local economy and no effect on local employment.

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed amendments will be in effect, Mr. Freshour has determined the following:

(1) The proposed rules do not create or eliminate a government program.

(2) Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.

(3) Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.

(4) The proposed rules do not require an increase or decrease in fees paid to the agency.

(5) The proposed rule creates new regulations.

(6) The proposed rule does not expand, limit, or repeal an existing regulation.

(7) The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability.

(8) The proposed rule does not positively or adversely affect this state's economy.

Comments on the proposal may be submitted to Rita Chapin, P.O. Box 2018, Austin, Texas 78768-2018, or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

The amendments are proposed under the authority of the Texas Occupations Code Annotated, §153.001, which provides authority for the Board to adopt rules necessary to administer and enforce the Medical Practice Act.

No other statutes, articles or codes are affected by this proposal.

§172.20. Physician Practice and Limited License for Disasters and Emergencies.

(a) The purpose of this rule to allow the Texas Medical Board, its advisory boards and committees (collectively "Board") to provide a rapid and safe response to health care and medical needs as a result of natural disasters through an emergency licensing process. In the event of an occurrence for which the Governor of the State of Texas has declared a state of emergency, in accordance with the Texas Government Code, the Office of the Governor may temporarily suspend all necessary statutes and rules to allow health care providers to practice medicine, or within the scope of their appropriate licensure, permit, or certification in Texas to assist with disaster response operations.

(b) The Board shall, pursuant to a lawful emergency declaration, waive requirements for licensure except to the extent set forth below and after the Governor of the State of Texas has declared a disaster or state of emergency, or in the event of an occurrence for which a county or municipality has declared a state of emergency, or to protect the public health, safety or welfare of its citizens. There are two ways for physicians to practice under this rule:

(1) Hospital-to-Hospital Credentialing: A physician who holds a full, unlimited and unrestricted license to practice medicine in another U.S. state, territory or district and has unrestricted hospital credentials and privileges in any U.S. state, territory or district may practice medicine at a hospital that is licensed by the Texas Health and Human Services Commission upon the following terms and conditions being met:

(A) the licensed Texas hospital shall verify all physician credentials and privileges;

(B) the licensed Texas hospital shall keep a list of all physicians coming to practice and shall provide this list to the Board within ten (10) days of each physician starting practice at the licensed Texas hospital; and

(C) the licensed Texas hospital shall also provide the Board a list of when each physician has stopped practicing medicine in Texas under this section within ten (10) days after each physician has stopped practicing medicine under this section.

(2) Limited Emergency License: A physician who holds a full, unlimited and unrestricted license to practice medicine in another U.S. state, territory or district may qualify for a limited emergency license upon the following conditions being met:

(A) the applicant must complete a limited emergency license application;

(B) the Board shall verify that the physician holds a full, unlimited and unrestricted license to practice medicine in another U.S. state, territory or district; and

(C) the applicant must present written verification from a Texas sponsoring physician who is requesting the physician to assist in the disaster or emergency.

(c) The Board may limit the sponsored physician's practice locale and scope of practice.

(d) The sponsoring physician shall be considered the supervising physician for the sponsored physician.

(e) The Board shall have jurisdiction over all physicians practicing under this subchapter for all purposes set forth in or related to Texas Occupations Code, and all other applicable state and federal laws, and such jurisdiction shall continue in effect even after any and all physicians have stopped practicing medicine under this section related to providing medical services in Texas during the disaster.

(f) A physician license issued under this subchapter shall be valid for no more than thirty (30) days from the date the physician is licensed or until the emergency or disaster declaration has been withdrawn or ended, whichever is longer.

(g) Physicians holding limited emergency licenses under this subchapter shall not receive any compensation outside of their usual compensation for the provision of medical services during a disaster or emergency.

§172.21. Other Health Care Providers Practice and Limited License for Disasters and Emergencies.

(a) For out of state licensees, permit holders, and certificate holders, other than physicians, who practice in health care areas subject to regulation by the Board, the process for obtaining authority to practice in Texas during a disaster is set out in §172.20(b)(1) and (2), relating to Physician Practice and Limited License for Disasters and Emergencies, including all verification and reporting requirements.

(b) In addition, the following is applicable to these health care providers:

(1) the health care provider must practice under the supervision and delegation of a physician and the supervising physician must be licensed in Texas;

(2) the provisions related to supervision and delegation under §157.001, Texas Occupations Code, apply to both the health care provider and supervising physician; and

(3) the health care provider must also comply with all provisions of the applicable Texas Occupations Code for that occupation.

(c) Physician assistants and physicians practicing under this section are not required to maintain onsite documentation describing supervisory arrangements and instructions for prescriptive authority as otherwise required by Chapter 157, Texas Occupations Code.

(d) The Board shall have jurisdiction over licensees, permit holders, and certificate holders practicing under this subchapter for all purposes set forth in or related to the Texas Occupations Code, and all other applicable state and federal laws, and such jurisdiction shall continue in effect even after the licensee, permit holder, or certificate holder have stopped practicing under this section related to providing medical services in Texas during the disaster.

(e) The authority to practice issued to a licensee, permit holder, or certificate holder under this subchapter shall be valid for no more than thirty (30) days from the date the licensee, permit holder, or certificate holder is authorized to practice or until the emergency or disaster declaration has been withdrawn or ended, whichever is longer.

(f) A licensee, permit holder, and certificate holder holding limited emergency authority under this subchapter shall not receive any

compensation outside of their usual compensation for the provision of medical services during a disaster or emergency.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 9, 2019.

TRD-201901051

Scott Freshour

General Counsel

Texas Medical Board

Earliest possible date of adoption: May 26, 2019

For further information, please call: (512) 305-7016



ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 112. HEARING INSTRUMENT FITTERS AND DISPENSERS

SUBCHAPTER F. TEMPORARY TRAINING PERMIT

16 TAC §§112.50, 112.52, 112.53

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 112, Subchapter F, §§112.50, 112.52, and 112.53, regarding the Hearing Instrument Fitters and Dispensers program, without changes to the proposed text as published in the October 26, 2018, issue of the *Texas Register* (43 TexReg 7061). The rules will not be republished.

JUSTIFICATION AND EXPLANATION OF THE RULES

The rules under 16 TAC Chapter 112 implement Texas Occupations Code, Chapter 402, Hearing Instrument Fitters and Dispensers (HFD). The statute and rules govern the licensing and regulation of temporary training permit holders.

The adopted amendments implement House Bill (H.B.) 4007 (85th Leg., R.S., 2017) related to temporary training permits. This rulemaking is also necessary to make clean-up changes to the temporary training permit provisions as identified by Department staff since the HFD program was transferred from the Department of State Health Services (DSHS) to Texas Department of Licensing and Regulations (Department) effective October 3, 2016, pursuant to Senate Bill (S.B.) 202 (84th Leg., R.S., 2015). The amendments were reviewed and recommended by the Hearing Instrument Fitters and Dispensers Advisory Board (Advisory Board) at its meeting on February 7, 2019.

H.B. 4007 removed barriers and updated provisions under Occupations Code Chapter 402 for temporary training permit holders, including two significant changes. First, the bill removed the provision under §402.251(a) that an applicant may have never taken the examination if applying for a temporary training permit. Second, the bill removed the provision under §402.251(b) that a temporary training permit holder had to sit out 365 days before he or she could get a new temporary training permit. H.B. 4007 replaced the language under §402.251(b) with a provision that allowed the Commission, by rule, to provide for the issuance of a new temporary training permit after the current one expired.

The proposed rules under §§112.50, 112.52, and 112.53, regarding the temporary training permits, were developed by the Licensing Workgroup of the Hearing Instrument Fitters and Dis-

pensers Advisory Board (HFD Licensing Workgroup) and Department staff. These rule sections were part of a previous proposed rulemaking to implement all the statutory changes made by H.B. 4007 along with other clean-up changes (43 TexReg 695, February 9, 2018); however, these three rule sections were withdrawn (43 TexReg 2537, April 27, 2018). The rest of the proposed rules were adopted by the Commission on March 27, 2018, and were effective May 1, 2018 (43 TexReg 2564, April 27, 2018).

The HFD Licensing Workgroup and Department staff met on March 7, 2018, and April 2, 2018. The HFD Licensing Workgroup developed and recommended the adopted rules based on its study of Occupations Code §402.251(b), as amended by H.B. 4007; discussion of the issues regarding subsequent temporary training permits; review of some other states' laws; and consideration of the Texas Hearing Aid Association's (THAA) position paper dated November 21, 2017, and the public comments received from THAA dated March 11, 2018, regarding the previous proposed rulemaking.

The HFD Licensing Workgroup provided its recommendations regarding the adopted rules at the Hearing Instrument Fitters and Dispensers Advisory Board (Advisory Board) meeting on May 30, 2018. The Advisory Board discussion included clarifications that the total amount of time a person could hold a temporary training permit is four years and that the two temporary training permits are not required to be held consecutively. The Advisory Board voted unanimously to recommend the adopted rules.

The Executive Director/Department amended §112.50 and §112.52 to add clarifying language regarding the applicant or the temporary training permit holder successfully passing the criminal history background check. The Executive Director/Department added language specifically citing the relevant statutes, Occupations Code, Chapters 51 and 53, and the Department's criminal conviction guidelines. The Department's criminal conviction guidelines for the HFD program were published in the *Texas Register* on July 29, 2016 (41 TexReg 5618) and are posted on the Department's website.

Similar provisions regarding criminal history background checks are found in the rules affecting hearing instrument fitters and dispenser licenses and apprentice permits, but those provisions are not part of this rulemaking. Changes to those provisions may be made in a future rulemaking.

SECTION-BY-SECTION SUMMARY.

The adopted rules amend §112.50, Temporary Training Permit-Application and Eligibility Requirements. Under subsection (c), the adopted rules remove the provision that the applicant must have never taken the examination administered under this chapter. Under new subsection (e), the adopted rules establish the requirements regarding the issuance of a second temporary train-

ing permit. The adopted rules: (1) allow a person to obtain a second temporary training permit if needed; (2) require the person who has obtained a second temporary training permit to start at the beginning of the training process; (3) allow the person to obtain one extension of the second temporary training permit; and (4) limit a person to obtaining two temporary training permits. These changes will allow a person additional time, if necessary, to successfully complete the required training and pass the required examination, while still conforming with the statutory language that the permit is temporary and is required for training purposes. These changes also eliminate the concerns with persons becoming "perpetual temporary training permit holders," meaning persons who repeatedly obtain temporary training permits and continue to fit and dispense hearing instruments for the public without ever completing the required training and passing the required examination. These changes are a result of H.B. 4007.

The adopted rules amend §112.52, Temporary Training Permit--Permit Term; Extension. Under new subsection (c), the adopted rules add a provision requiring a criminal history background check for permit extensions. This change is part of the clean-up changes. Under new subsection (e), the adopted rules add a provision regarding the extension of a second temporary training permit. The extension process is the same for the second permit as it was for the first permit. This change is a result of H.B. 4007.

The adopted rules amend §112.53, Temporary Training Permit--Supervision and Temporary Training Requirements. Under subsection (i), the adopted rules remove the requirement that the supervisor and the permit holder sign the form showing completion of the supervised contact hours and that the form be notarized and mailed to the Department. The adopted rules instead provide that the supervisor and the permit holder shall submit verification of compliance to the Department in a manner prescribed by the Department. These changes are a result of H.B. 4007.

PUBLIC COMMENTS.

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the October 26, 2018, issue of the *Texas Register* (43 TexReg 7061). The deadline for public comment was November 26, 2018. During the 30-day public comment period, the Department received one public comment from the THAA. The public comments are summarized below.

Comment--The THAA stated that it supports the proposed changes to §§112.50, 112.52, and 112.53, which allow for the issuance of a second temporary training permit, establish the qualifications for a second permit, and state the requirements of the permit holder.

Department Response--The Department appreciates the comment in support of the proposed rules. The Department did not make any changes to the proposed rules based on this comment.

ADVISORY BOARD RECOMMENDATIONS AND COMMISSION ACTION.

The proposed rules were presented to and discussed by the Advisory Board at its meeting on May 30, 2018, as discussed above under "Justification and Explanation of the Rules." The Advisory Board met again on February 7, 2019, to discuss the proposed rules and the public comment and to make a recommendation

to the Commission. The Advisory Board recommended that the Commission adopt the proposed rules without changes.

At its meeting on March 22, 2019, the Commission adopted the proposed rules without changes, as recommended by the Advisory Board and the Department.

STATUTORY AUTHORITY.

The amendments are adopted under Texas Occupations Code, Chapters 51 and 402, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department. The amendments are also adopted under Texas Government Code, Chapter 411, Subchapter F, and Texas Occupations Code, Chapters 51 and 53, which establish the Department's statutory authority to conduct criminal history background checks on an applicant for or a holder of a license, certificate, registration, title, or permit issued by the Department.

The statutory provisions affected by the adoption are those set forth in Texas Occupations Code, Chapters 51, 53, and 402, and Texas Government Code, Chapter 411, Subchapter F. No other statutes, articles, or codes are affected by the adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 11, 2019.

TRD-201901077

Brad Bowman

General Counsel

Texas Department of Licensing and Regulation

Effective date: May 1, 2019

Proposal publication date: October 26, 2018

For further information, please call: (512) 463-8179



PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

SUBCHAPTER A. PROCUREMENT

16 TAC §401.101, §401.105

The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §401.101 (Lottery Procurement Procedures) and §401.105 (Major Procurement Approval Authority, Responsibilities and Reporting) without changes to the proposed text as published in the February 22, 2019, issue of the *Texas Register* (44 TexReg 765), the rules will not be republished. The purpose of the amendments to 16 TAC §401.101 is to reflect updates made to the *Texas Procurement and Contract Management Guide*, and to reflect current agency procedure. The amendments to definitions and dollar amount thresholds within the section mirror those found in the *Texas Procurement and Contract Management Guide*. Also, grammatical corrections were made to the text to increase clarity.

The purpose of the amendments to 16 TAC §401.105 is to align the language in this section with current procurement procedures

observed by the Commission, and with the definitions of like terms found in the *Texas Procurement and Contract Management Guide*.

The Commission received no written comments on the proposed amendments during the public comment period.

These amendments are adopted under Texas Government Code §466.015(c), which authorizes the Commission to adopt rules governing the operation of the lottery; under §466.1005(b), which requires the Commission to review and approve all major procurements as provided by Commission rule and, by rule, to establish a procedure to determine what constitutes a major procurement; under §466.101(a), which authorizes the Commission and executive director to establish procedures for the procurement of goods and services necessary to carry out the purposes of Chapter 466; and, under §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This adoption is intended to implement Texas Government Code Chapter 466.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2019.

TRD-201901100

Bob Biard

General Counsel

Texas Lottery Commission

Effective date: May 2, 2019

Proposal publication date: February 22, 2019

For further information, please call: (512) 344-5392



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 76. EXTRACURRICULAR ACTIVITIES

SUBCHAPTER AA. COMMISSIONER'S RULES

19 TAC §76.1001

The Texas Education Agency (TEA) adopts an amendment to §76.1001, concerning extracurricular activities. The amendment is adopted without changes to the proposed text as published in the November 9, 2018 issue of the *Texas Register* (43 TexReg 7429). The adopted amendment allows a student who has not passed all his or her classes but who is enrolled in a state-approved music course that participates in University Interscholastic League (UIL) Concert and Sightreading Evaluation to perform with the ensemble during the UIL evaluation performance.

REASONED JUSTIFICATION. Texas Education Code (TEC), §7.055(b)(41), requires the commissioner of education to adopt rules relating to extracurricular activities under TEC, §33.081, which limits the participation in and practice for extracurricular activities during the school day and the school week and establishes the parameters and exemptions of student participation

in an extracurricular activity or a UIL competition as they relate to student grades.

Section 76.1001 establishes definitions, requirements, exceptions, and procedures for participation in and practice for extracurricular activities during the school day and school week.

Section 76.1001(a) defines an extracurricular activity as one that is sponsored by the UIL, the school district board of trustees, or an organization that has been sanctioned by the board of trustees. The activity is not necessarily directly related to instruction of the essential knowledge and skills but may have an indirect relation to some areas of the curriculum.

Currently, all UIL competitions are considered extracurricular and, therefore, are subject to students meeting certain grade requirements under TEC, §33.081(c), to be eligible for participation. UIL Concert and Sightreading Evaluation for music ensembles is the only UIL event in which participants do not compete against others. Ensembles receive a rating, there are no winners named, and ensembles do not advance toward another level of competition that culminates in a state championship. Participation in the contest is the culmination of a long-term project-based-learning curricular experience that is an extension of the classroom. To emphasize the event's purpose as being evaluative rather than competitive, the UIL Legislative Council changed the name of the event from UIL Concert and Sightreading Contest to UIL Concert and Sightreading Evaluation in November 2017.

Because UIL Concert and Sightreading Evaluation is curricular in nature and is not a competition among participants, TEA has determined that the event should not be subject to the grade requirements under TEC, §33.081(c).

The adopted amendment adds new subsection (a)(3) to allow students who have not passed all their classes but who are enrolled in a state-approved music course that participates in UIL Concert and Sightreading Evaluation to perform with the ensemble during the UIL evaluation performance.

SUMMARY OF COMMENTS AND AGENCY RESPONSES. The public comment period on the proposal began November 9, 2018, and ended December 10, 2018. Following is a summary of the public comments received and responses.

Comment. The Texas Theatre Association, the Texas Music Educators Association, the Texas Orchestra Directors Association, the Texas Choral Directors Association, the Texas Music Administrators Conference, the Association of Texas Small School Bands, the Center for Educator Development in Fine Arts, the Texas Bandmasters Association, two teachers, and three administrators expressed support for the rule change and stated that the UIL Concert and Sightreading Evaluation is a state evaluation of the Texas Essential Knowledge and Skills (TEKS) for music. The commenters stated that the rule change is important to the musical development of all students and will allow them to fully participate in all curricular performance events.

Response. The agency agrees and has determined that the proposal was appropriate as proposed.

Comment. Six teachers and one administrator expressed support for the rule change and stated that UIL Concert and Sightreading Evaluation is a state assessment of the music TEKS and not an extracurricular contest. The commenters stated that all students should be participating regardless of eligibility.

Response. The agency agrees and has determined that the proposal was appropriate as proposed.

Comment. Two teachers, four administrators, and three parents expressed disagreement with the proposal, stating that students who cannot pass their school classes should not be allowed to participate in extracurricular activities. The commenters expressed concern that if the proposed amendment is adopted, then students who are in athletics or other extracurricular activities will soon be allowed to participate without passing all their classes.

Response. The agency disagrees and has determined that UIL Concert and Sightreading Evaluation is not a competition because groups receive a rating and do not advance to additional rounds that culminate in a statewide winner. TEC, §33.081(f), specifies that a student who has failed a class and been suspended from participation is prohibited from taking part in a competition or other public performance.

Comment. One community member expressed disagreement with the proposal, stating that if the proposal is adopted, then an argument could be made that sports, art, and career and technical education competitions are curricular in nature also. The commenter stated that schools should ensure that students are passing all their subject areas.

Response. The agency disagrees and has determined that the proposal extends only to those students who participate in UIL Concert and Sightreading Evaluation. Additionally, the agency has determined that UIL Concert and Sightreading Evaluation is not a competition because groups receive a rating and do not advance to additional rounds that culminate in a statewide winner.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §7.055(b)(41), which requires the commissioner of education to adopt rules relating to extracurricular activities under TEC, §33.081, which limits the participation in and practice for extracurricular activities during the school day and the school week and establishes the parameters and exemptions of student participation in an extracurricular activity or a University Interscholastic League competition as they relate to student grades.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §7.055(b)(41).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 11, 2019.

TRD-201901074

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: May 1, 2019

Proposal publication date: November 9, 2018

For further information, please call: (512) 475-1497



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 73. LABORATORIES

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts amendments to §73.41, concerning Sale of Laboratory Services, and the repeal of §73.54, concerning Fee Schedule for Clinical Testing and Newborn Screening and §73.55, concerning Fee Schedule for Chemical Analyses. The amendments to §73.41 and repeal of §73.54 and §73.55 are adopted without changes to the proposed text as published in the December 28, 2018, issue of the *Texas Register* (43 TexReg 8550), and therefore will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment to §73.41 informs stakeholders that future changes to the Laboratory Services Section (LSS) Public Fee Schedule will be posted on the LSS website at www.dshs.texas.gov/lab. The repeal of §73.54 and §73.55 removes the Fee Schedule for Clinical Testing and Newborn Screening, as well as Chemical Analyses, from rules in Texas Administrative Code (TAC) Title 25.

Future changes to the LSS Public Fee Schedule will be posted on the LSS website and may include: (1) the addition of new tests or deletion of low volume tests as needed, (2) fee increases for existing tests, an individual test would not be increased more than once per year, (3) decreases in fees for existing tests will be made as necessary, and (4) test changes in the event of a declared public health emergency or outbreak. These changes will be made based on the business needs of the LSS, or public health needs. Adopted changes will allow for stakeholder input prior to the implementation date as well as LSS customer communication regarding all changes to the LSS Public Fee Schedule. The only exception is in the case of a declared public health emergency or outbreak.

Senate Bill (S.B.) 80, 82nd Legislature, Regular Session, 2011, required that DSHS: (1) develop, document, and implement procedures for setting fees for laboratory services, including updating and implementing a documented cost allocation methodology that determines reasonable costs for the provision of laboratory tests and (2) analyze DSHS' costs and update the fee schedule as needed in accordance with Texas Health and Safety Code, §12.032(c). Although S.B. 80 expired in 2013, the DSHS LSS continues to use a methodology approved by DSHS Executive Management (Chief Financial Officer and Deputy Chief Financial Officer) for the determination of fees. A key component of the current fee change process is to notify all LSS stakeholders of the proposed changes and request feedback on the suggested fee increases. The LSS longstanding practice to engage stakeholders has included direct communication, LSS website and list-serve postings. Under the new adopted process, the LSS will continue to include time for stakeholder feedback and ample communication. Specifically, any changes in fees will be posted on the LSS website for at least 90 days to allow for stakeholder feedback and LSS customer communication regarding all changes to the LSS Public Fee Schedule. The LSS will continue to use the same methods of outreach and communication with stakeholders in order to ensure timely and inclusive stakeholder involvement in the fee change process.

The rule changes comply with the Texas Health and Safety Code, §§12.031, 12.032, and 12.0122 that allow DSHS to charge fees to a person who receives public health services from DSHS (which explicitly includes laboratory services), in

an amount that recovers the cost to DSHS for providing that service.

COMMENTS

The 30-day comment period ended January 28, 2019.

During this period, DSHS received comments regarding the proposed rules from two commenters, Cure Spinal Muscular Atrophy (Cure SMA) and the Texas Medical Association (TMA). A summary of comments and DSHS responses follows.

Comment: DSHS received support from Cure SMA regarding the proposed changes with the following comment: "We reiterate our support for allowing the state lab more flexibility to determine fees for its services and continue to ask that these additional resources go to quickly implementing SMA screening for Texas newborns."

Response: DSHS appreciates the supportive comment.

Comment: TMA recommended adding language to §73.41 to provide automatic notice to stakeholders and LSS customers of proposed changes to the LSS Public Fee Schedule. TMA supported the Executive Commissioner's intent to inform stakeholders and LSS customers of proposed changes to the LSS Public Fee Schedule and to provide a 90-day comment period on proposed fee changes. It is important that stakeholders and LSS customers, including Texas' physicians, receive timely notice of proposed changes to the LSS Public Fee Schedule to review and provide comment. To ensure proper notice is received, TMA proposed adding the following language to subsection (f): "Stakeholders and LSS customers will be notified automatically through an email subscription management system that provides subscribers with access to information on proposed changes to the LSS Public Fee Schedule."

Response: DSHS appreciates the comment and support but declines to revise the rule in response to this comment. The LSS longstanding practice to engage stakeholders has included direct communication, LSS website and email subscription management systems. Stakeholders have the option to sign up for email updates regarding rules and fees changes through the DSHS LSS Website at <https://www.dshs.texas.gov/lab/correspondencebulletins.shtm>. The LSS will continue to use the same methods of outreach and communication with stakeholders and LSS customers in order to ensure timely and inclusive stakeholder involvement in the fee change process.

Comment: TMA recommended providing automatic notice of final and adopted changes to laboratory services and/or fees to interested individuals (such as physicians) and entities through an email subscription management system, to the extent not already provided. TMA referenced the LSS current process of using an email subscription management system, to receive email updates related to Laboratory Correspondence and Bulletins as well as other information by signing up at <https://www.dshs.texas.gov/lab/correspondencebulletins.shtm>.

Response: DSHS appreciates the comments but declines to revise the rule in response to the comments. DSHS agrees with TMA that stakeholders and LSS customers should be notified through an email subscription management system that provides subscribers with access to information on final changes to the LSS Public Fee Schedule. The LSS plans to use the same methods of outreach and communication with stakeholders and LSS customers in order to ensure timely and inclusive stakeholder involvement in the fee change process.

25 TAC §73.41

STATUTORY AUTHORITY

The amendments are authorized under Texas Health and Safety Code, §12.031 and §12.032, which allow DSHS to charge fees to a person who receives public health services from DSHS; §12.034, which requires DSHS to establish collection procedures; §12.035, which requires the DSHS to deposit all money collected for fees and charges under §12.032 and §12.033 in the state treasury to the credit of DSHS' public health service fee fund; §12.0122, which allows DSHS to enter into a contract for laboratory services; and Texas Government Code §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the DSHS, and for the administration of Texas Health and Safety Code, Chapter 1001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2019.

TRD-201901082

Barbara L. Klein

General Counsel

Department of State Health Services

Effective date: May 2, 2019

Proposal publication date: December 28, 2018

For further information, please call: (512) 776-6191



25 TAC §73.54, §73.55

STATUTORY AUTHORITY

The repeals are authorized under Texas Health and Safety Code, §12.031 and §12.032 which allow DSHS to charge fees to a person who receives public health services from DSHS; §12.034 which requires DSHS to establish collection procedures; §12.035 which requires the DSHS to deposit all money collected for fees and charges under §12.032 and §12.033 in the state treasury to the credit of DSHS' public health service fee fund; §12.0122 which allows DSHS to enter into a contract for laboratory services; and Texas Government Code §531.0055, and Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the DSHS, and for the administration of Texas Health and Safety Code, Chapter 1001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Barbara L. Klein

General Counsel

Department of State Health Services

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For further information, please call: (512) 776-6191

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 385. AGENCY MANAGEMENT AND OPERATIONS

SUBCHAPTER A. CONTRACTS

37 TAC §385.1101

The Texas Juvenile Justice Department (TJJD) adopts amendments to §385.1101, concerning Contract Authority and Responsibilities, without changes to the proposed text as published in the February 8, 2019, issue of the *Texas Register* (44 TexReg 547). The rule will not be republished.

JUSTIFICATION FOR CHANGES

The public benefit anticipated as a result of administering the section is to ensure that more American-made iron and steel products will be used in governmental projects.

SUMMARY OF CHANGES

The amended rule clarifies that TJJD complies with statute by purchasing US-made iron and steel products for certain projects and by entering into contracts with only those businesses that have verified that they do not boycott Israel.

PUBLIC COMMENTS

TJJD did not receive any public comments on the proposed rule-making action.

STATUTORY AUTHORITY

The amended section is adopted under: Section 2252.202, Government Code, which authorizes TJJD to adopt rules to ensure that iron and steel products used in TJJD projects are produced in the United States; Section 2270.002, Government Code, which requires TJJD to enter into contracts with only those companies that are not boycotting Israel and will not boycott Israel for the term of the contract; and Section 242.003, Human Resources Code, which authorizes TJJD to adopt rules appropriate to the proper accomplishment of its functions and to adopt rules for governing TJJD schools, facilities, and programs.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 11, 2019.

TRD-201901075

Christian von Wupperfeld

General Counsel

Texas Juvenile Justice Department

Effective date: May 1, 2019

Proposal publication date: February 8, 2019

For further information, please call: (512) 490-7278

SUBCHAPTER B. INTERACTION WITH THE PUBLIC

37 TAC §385.8181

The Texas Juvenile Justice Department (TJJD) adopts amendments to §385.8181, concerning Background Checks, without changes to the proposed text as published in the February 8, 2019, issue of the *Texas Register* (44 TexReg 549). The rule will not be republished.

JUSTIFICATION FOR CHANGES

The public benefit anticipated as a result of administering the section as amended is increased safety and security within TJJD facilities through improvements to the system of vetting all persons who visit or volunteer their services at a facility.

SUMMARY OF CHANGES

The amended rule: 1) no longer excludes special event visitors from the rule's applicability; 2) adds that a criminal history check must be conducted before each visit by a special event visitor but does not require fingerprints and employment references for these checks; 3) adds that a special event visitor must provide fingerprints and enroll as a volunteer if he/she wishes to participate in a fifth event within a 12-month period; and 4) clarifies that the only applicants subject to a background check are applicants for positions as employees, volunteers, or ombudsman staff.

PUBLIC COMMENTS

TJJD did not receive any public comments on the proposed rule-making action.

STATUTORY AUTHORITY

The amended section is adopted under: Section 242.003, Human Resources Code, which authorizes TJJD to adopt rules appropriate to the proper accomplishment of its functions and to adopt rules for governing TJJD schools, facilities, and programs; Section 242.010, Human Resources Code, which requires TJJD to adopt rules necessary to administer a system of background checks for employees, volunteers, ombudsman staff, advocates, and contractors; and Section 411.083, Government Code, which allows TJJD's Office of the Inspector General, as a criminal justice entity, to access criminal history record information for criminal justice purposes.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 11, 2019.

TRD-201901076

Christian von Wupperfeld

General Counsel

Texas Juvenile Justice Department

Effective date: May 1, 2019

Proposal publication date: February 8, 2019

For further information, please call: (512) 490-7278

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 20. TEXAS WORKFORCE COMMISSION

CHAPTER 815. UNEMPLOYMENT INSURANCE

SUBCHAPTER C. TAX PROVISIONS

40 TAC §815.134

The Texas Workforce Commission (TWC) adopts amendments to the following section of Chapter 815, relating to Unemployment Insurance, with changes, as published in the December 21, 2018, issue of the *Texas Register* (43 TexReg 8277) and will be republished:

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the Chapter 815 rule change is to develop an employment status analysis for workers who use a marketplace platform's digital network to conduct their own independent businesses. Excluded from this employment status analysis would be marketplace platforms regulated as Professional Employer Organizations and professional employer services under Labor Code §91.001(14) and (15); temporary employees and temporary help firms as defined in Labor Code §201.011(20) and (21); governmental entities, not-for-profit organizations, and Indian tribes pursuant to the Federal Unemployment Tax Act; and services explicitly exempted under any other state law. Also excluded would be employers or employment as described in Texas Unemployment Compensation Act (TUCA) Labor Code §§201.027, 201.028, 201.042, 201.047, and 204.009.

TUCA (Chapter 201, Subchapter E) currently excludes from the definition of employment certain workers whose personal services may be performed under the control or direction of the contractor. Such workers may or may not be in employment under TWC's analysis for determining the employment status of workers as set forth in TWC's Chapter 821 Texas Payday Rules §821.5, which is used in determining employment status for the purposes of unemployment insurance through Unemployment Insurance §815.134. Labor Code §201.041 tasks TWC with determining if the service of an individual "has been and will continue to be free from control or direction under the contract and in fact."

However, by creating these exemptions from employment in Subchapter E, the legislature has recognized that the unique nature of certain services requires a more tailored evaluation to determine worker status. Of note, several employment exceptions enacted by the legislature under TUCA, for example, Labor Code §§201.070 and 201.073, provide for modified versions of the status analysis in §821.5. In adopting §821.5, TWC also contemplated that the 20-factor analysis may need to be clarified in certain circumstances by including language that specifically provides that "Depending upon the type of business and the services performed, not all 20 common law factors may apply."

The employment status analysis is generally predicated on determining whether direction and control could exist in fact or in contract. Because marketplace platforms' business models are becoming increasingly prevalent in our economy, clarification, through rule, of how direction and control apply in these instances is needed as it applies to unemployment insurance.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND RESPONSES

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER C. TAX PROVISIONS

TWC adopts the following amendments to Subchapter C:

§815.134. Employment Status: Employee or Independent Contractor.

§815.134 is amended by designating existing rule language as subsection (a) and adding new subsection (b), relating to an employment status analysis for marketplace platform contractors, providing for conditions under which a marketplace contractor shall be treated as not in employment.

New subsection (b) defines the terms "digital network," "marketplace platform," and "marketplace contractor," as follows:

--"Digital network" means an online-enabled application, software website, or system offered by a marketplace platform for the public (including third-party individuals and entities) to use to find and contact a marketplace contractor to perform one or more needed services.

--"Marketplace platform" means a corporation, partnership, sole proprietorship, or other entity operating in this state that:

--uses a digital network to connect marketplace contractors to the public (including third-party individuals and entities) seeking the type of service or services offered by the marketplace contractors;

--accepts service requests from the public (including third-party individuals and entities) only through its digital network, and does not accept service requests by telephone, by facsimile, or in person at physical retail locations; and

--does not perform the services offered by the marketplace contractor at or from a physical business location that is operated by the platform in the state.

--"Marketplace contractor" or "contractor" means any individual, corporation, partnership, sole proprietorship, or other entity that enters into an agreement with a marketplace platform to use the platform's digital network to provide services to the public (including third-party individuals and entities) seeking the type of service or services offered by the marketplace contractor.

New subsection (b) also provides for conditions under which a marketplace contractor shall be treated as not in employment. Those conditions are as follows:

--All or substantially all of the payment paid to the contractor shall be based on a per-job or transaction basis;

--The marketplace platform does not unilaterally prescribe specific hours during which the marketplace contractor must be available to accept service requests from the public (including third-party individuals and entities) submitted through the marketplace platform's digital network;

--The marketplace platform does not prohibit the marketplace contractor from using a digital network offered by any other marketplace platform;

--The marketplace platform does not restrict the contractor from engaging in any other occupation or business;

--The marketplace contractor is free from control by the marketplace platform as to where and when the marketplace contractor

works and when the marketplace contractor accesses the marketplace platform's digital network;

--The marketplace contractor bears all or substantially all of the contractor's own expenses that are incurred by the contractor in performing the service or services;

--The marketplace contractor is responsible for providing the necessary tools, materials, and equipment to perform the service or services;

--The marketplace platform does not control the details or methods for the services performed by a marketplace contractor by requiring the marketplace contractor to follow specified instructions governing how to perform the services; and

--The marketplace platform does not require the contractor to attend mandatory meetings or mandatory training.

New subsection (b) stipulates that this employment status analysis does not apply to required coverage under §3304(a)(6)(A) of the Federal Unemployment Tax Act and recognizes that when the marketplace platform is a state or local governmental entity, not-for-profit organization, or Indian tribe, the work must be deemed "in employment."

Finally, amended §815.134 is effective no earlier than April 29, 2019.

Summary of comments and agency responses.

The public comment period on the proposal began December 21, 2018, and ended January 21, 2019. There were 211 timely comments received by TWC. Of those, 13 expressed support for the proposal, 2 comments were neutral, and 196 expressed concerns about the proposal. Of those comments expressing concern, approximately 130 comments contained identical text. The following is a summary of all public comments received, in aggregate, and corresponding agency responses:

Comment: Some commenters have noted that they believe the proposed rules will have a negative impact as it relates to the Fair Labor Standards Act, Workers Compensation, Social Security, and Medicare.

Response: Chapter 815 of TWC's administrative rules only pertain to its administration of the unemployment insurance program. Therefore, §815.134(b) only authorizes TWC to utilize this clarification of the Employee or Independent Contractor test solely related to TWC's administration of the unemployment insurance program.

Comment: Multiple commenters have stated their belief that this rulemaking is not within the purview of TWC.

Response: Through Labor Code §301.001(a), the Texas legislature has tasked TWC with administering the state's unemployment compensation insurance program. Labor Code §201.041 tasks TWC with determining if the service of an individual "has been and will continue to be free from control or direction under the contract and in fact."

Through Labor Code §301.0015(a)(6) and in accordance with Labor Code §201.041, TWC has the same authority to provide further clarification concerning this emerging business model as it did to adopt §821.5, applied to unemployment through §815.134, as its official guideline for use in determining employment status.

Section 815.134(b) operates to provide clarification and a more tailored evaluation to determine worker status as it relates to the

unemployment compensation insurance program. Therefore, this amendment is within the purview of TWC's administration of the program.

Comment: Multiple commenters have stated their belief that §815.134(b) exceeds TWC's rulemaking authority.

Response: Through Labor Code §301.001(a), the Texas legislature has tasked TWC with administering the state's unemployment compensation insurance program. Labor Code §201.041 tasks TWC with determining if the service of an individual "has been and will continue to be free from control or direction under the contract and in fact."

Through Labor Code §301.0015(a)(6), the Texas legislature has granted TWC broad authority to adopt rules it deems necessary to administer Title 4, Employment Services and Unemployment. In accordance with Labor Code §201.041, TWC has the same authority to provide further clarification concerning this emerging business model as it did to adopt §821.5, applied to unemployment through §815.134, as its official guideline for use in determining employment status.

As part of this administration, TWC has determined that the marketplace platform business model has become increasingly prevalent in the Texas economy, and that all parties involved would be better served by a clarification of §821.5, adapted to address this growing sector as it relates to unemployment insurance.

Comment: Several commenters referenced the coverage of ride sharing concerns under §815.134(b), including in relation to the provisions of Subtitle C, Title 14, Texas Occupations Code, Chapter 2402, specifically, §2402.114.

Response: The rules would not apply to parties covered under this section of the Texas Occupations Code because of the exemption provided in §815.134(b)(3)(E), that is, services explicitly exempted under any other law.

Comment: Multiple commenters stated that they believe the status test in §821.5, as applied to unemployment through §815.134, is already adequate to address the marketplace economy.

Response: TWC has determined that the marketplace platform business model has become increasingly prevalent in the Texas economy, and that all parties involved would be better served by a clarification of §821.5, adapted to address this growing sector as it relates to unemployment insurance. Section 815.134(b) will better serve the parties involved in the novel and expanding "gig economy" by providing a more tailored clarification of §821.5.

Comment: Some commenters believed that the proposed rules would cause harm to workers.

Response: Section 815.134(b) provides clarity to the parties involved in a marketplace platform business model as it pertains to unemployment compensation benefits. By removing ambiguity, §815.134(b) enhances the understanding of all parties entering into an arrangement under a marketplace platform business model. Section 815.134(b) is designed to ensure a consistent application of the considerations relevant and applicable to this working relationship. Whether the individual's performance of the service has been and will continue to be free from control or direction under §815.134(b) will be determined on a case-by-case basis by TWC based upon the facts of each marketplace contractor/platform working relationship.

Comment: One commenter believed that the proposed rule would cause harm to immigrant workers.

Response: The commenter has not explained how the clarification in §815.134(b) would incentivize the hiring of undocumented workers. Section 815.134(b) only authorizes TWC to utilize this clarification of the Employee or Independent Contractor test solely related to TWC's administration of the unemployment insurance program. There are no changes to residency/citizenship requirements as they pertain to the unemployment insurance program.

Comment: Multiple commenters stated their concern that the proposed rules would allow employers to escape liability.

Response: TWC respectfully disagrees. Marketplace platforms and contractors potentially subject to §815.134(b) will still be required to meet each of the nine specified conditions, which in themselves are a clarification of the test in §821.5.

Comment: Several commenters stated the proposed rules are not consistent with federal status tests.

Response: The Federal government does not dictate which test for TWC to use to determine a worker's status. TWC has adopted the test in §821.5 for this determination. TWC, however, has also determined that all parties involved would be better served by a clarification of §821.5, adapted to address this new and growing sector of the economy as it relates to unemployment insurance. To that end, §815.134(b) provides clarification and a more tailored evaluation to determine worker status as it relates to the unemployment compensation insurance program.

Comment: Some commenters were concerned that TWC would deem a worker to be a contractor simply because the marketplace platform had a website or other online presence.

Response: Section 815.134(b) would require more than the existence of a marketplace platform's website for a marketplace contractor to be considered not in employment. For example, there are additional restrictions as to what constitutes a marketplace contractor, nine conditions that must be met, and certain exclusions.

These rules will provide for a robust consideration of all facts and circumstances applicable to the marketplace platform/contractor working relationship and help ensure a consistent approach while preserving a case-by-case analysis on the precise aspects present in a particular case. Whether an individual's performance of the service has been and will continue to be free from control or direction under the contract and in fact under §815.134(b) will be determined by TWC based upon the unique facts of each relationship.

Additionally, the following entities made specific comments that identified additional issues. These comments are summarized below with TWC's responses.

The United States Department of Labor:

Comment: The US Department of Labor (Department) reviewed the proposed rules as required by federal regulations and determined that they do not present a conformity issue vis-à-vis federal unemployment compensation law. The Department thanked TWC for taking into account the informal feedback that was provided when TWC sought technical guidance from the Department with respect to federal-law conformity and compliance at the inception of the proposed rule drafting process. That technical guidance noted the following:

"We have consulted with the Division of Legislation in the Office of Unemployment Insurance regarding your request for an informal opinion whether an amendment to Commission Rule §815.134 that would clarify which elements of the TWC's current employment status test applies to marketplace platform companies would create an issue. We would not have an issue with TWC pursuing this clarification on marketplace platform companies via rulemaking as opposed to amending the state's UI law.

States are free to designate marketplace contractors as independent contractors, and thus exclude them from coverage under the state's (Unemployment Compensation) UC law, so long as the services are not performed for a governmental entity, Indian tribe, or non-profit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. Any services performed for the aforementioned entities must be covered.

Although the Commission has given a lot of thought to this proposal, we need to provide some important reminders. If a state excludes marketplace contractors from coverage, contributions would not be due to the unemployment fund based on the services, and the individuals would not be eligible to receive UC. States must be aware that such a designation may result in negative tax consequences for employers. For purposes of the Federal unemployment tax imposed by Section 3301 of FUTA, whether these services are in an employer/employee relationship is determined under Federal, not state law. As such, if under the 20-factor "direction and control" test used by the IRS to determine an employer/employee relationship *and* if the services by a marketplace contractor are employment, the employer would be required to pay the full FUTA tax (currently 6.0 percent on the first \$7,000 paid) without any credit against the tax as no state contributions would have been paid on the services. Whether the services are determined to be in an independent contractor relationship under state law is not relevant to the IRS determination."

Response: TWC appreciates the review and findings from the US Department of Labor in accordance with their responsibility under federal law.

Daniel Guzman, Managing Counsel, NeighborFavor, Inc., Austin, Texas and David Edmonson, Executive Director, Tech-Net, Austin, Texas:

Comments: TWC received substantive comments from two commenters supporting the proposed rules that raise additional issues. These comments express appreciation for the rules stating they give marketplace platforms the certainty needed to continue investing in Texas.

These commenters also requested clarification and offered suggestions to amend the proposed rules. Their comments are as follows:

1. Amend §815.134(b)(1)(B)(ii) to allow for additional means of submission for individuals with a disability.

Response: TWC appreciates the commenters' support and responses. No changes have been made in response to this comment. The suggested change to allow telephone or additional communication methods would exceed the scope of coverage contemplated by these rules under the definitions in §815.134(b)(1). The marketplace platform is encouraged to incorporate or develop accessible technology within the constraints of a marketplace platform's digital network that supports individuals with a disability such as use of a smart phone's

accessibility features to integrate with a marketplace platform's app.

2. Amend §815.134(b) to use the language "the public (including third-party individuals or entities)" instead of using "public" and "third-party individuals or entities" interchangeably.

Response: TWC has made a change in response to this comment. To address the concern of consistency, TWC has changed references to "the public (including third-party individuals and entities)."

3. Amend §815.134(b)(2)(A) to address *completion* of services instead of *performance* of services.

Response: This provision is a clarification of §821.5 #12 "PAYMENT BY THE HOUR, WEEK OR MONTH," which states in part: "An Independent Contractor is normally paid by the job, either a negotiated flat rate or upon submission of a bid." Because the core element that §815.134(b)(2)(A) seeks to address is the basis of payment, TWC will remove the reference to "on the performance of services" from §815.134(b)(2)(A) as originally proposed.

4. Amend §815.134(b)(2)(B) to clarify that allowing a contractor to "voluntarily schedule themselves does not constitute a prescription of hours."

Response: No changes have been made in response to this comment. This provision is a clarification of §821.5 #7 "SET HOURS OF WORK," which states in part: "A true Independent Contractor is the master of his or her own time and works the days and hours he or she chooses." Any voluntary scheduling would be considered within these parameters as clarified by §815.134(b)(2)(B).

5. One commenter expressed concern that §815.134(b)(2)(H) would not allow contractors to utilize in-app maps and guidance tools, and would disallow community behavior standards for contractors. The commenter suggested language "(f)or the purposes of this section, a marketplace platform shall not be deemed to control the detail or methods for the services performed by a marketplace contractor by maintaining deactivation standards related to health and safety, the completion of services, and customer ratings; facilitating the provision of instructions between marketplace participants; or enabling the marketplace contractor to follow maps-based directions."

Response: No changes have been made in response to this comment. TWC will determine whether a particular marketplace platform controls the details or methods for services performed in such a manner that a marketplace contractor is required to follow specified instructions governing performance on a case-by-case basis based upon the facts of each marketplace contractor/platform working relationship. Considerations in reaching this conclusion will include whether a contractor is given instructions, sets its own order of work, is required to perform the services personally, and can hire helpers, though no individual weight is given to a particular consideration. TWC will balance all relevant details in reaching its determination under §815.134(b)(2)(H); however, TWC is unable to make a predetermination on all potential permutations in rule.

6. One commenter expressed concern that under §815.134(b)(2)(G), an insulated bag may be considered a tool and suggested amending the language to read "(t)he marketplace contractor is *substantially* responsible for providing the necessary tools."

Response: No changes have been made in response to this comment. A contractor ordinarily provides the tools, materials, and equipment necessary for the job. TWC will determine whether a particular marketplace contractor has provided items which are tools, materials, and equipment necessary to perform a service on a case by case basis based upon the facts of each marketplace contractor/platform working relationship. TWC will consider all relevant details in reaching its determination under §815.134(b)(2)(G).

7. One commenter requested clarification that under §815.134(b)(2)(I) basic orientation or "education on the use of the marketplace platform" not be considered training.

Response: No changes have been made in response to this comment. This provision is a clarification of §821.5 #2 "TRAINING" and as such TWC must make its evaluation under these parameters. TWC will determine whether a particular orientation or "education" session would qualify as a "mandatory meeting" or "mandatory training" on a case-by-case basis based upon the facts of each marketplace contractor/platform working relationship. TWC will consider all relevant details in reaching its determination under §815.134(b)(2)(I).

8. One commenter suggested making an allowance under §815.134(b)(2)(A) to allow for payment by the hour.

Response: No changes have been made in response to this comment. This provision is a clarification of §821.5 #12 "PAYMENT BY THE HOUR, WEEK OR MONTH," which states in part: "An Independent Contractor is normally paid by the job, either a negotiated flat rate or upon submission of a bid."

Ana Gonzalez, Workers Defense Project, Austin, Texas; Kathryn J. Youker, Texas Rio Grande Legal Aid and the Equal Justice Center, Brownsville, Texas; and Rebecca Smith, the National Employment Law Project, Seattle, Washington:

Comments: TWC received substantive comments from three commenters against the proposed rules that raise additional issues. These comments express concern with the rules. Their comments are as follows:

1. Commenters expressed concern that §815.134(b) relaxes employment classification standards and that it is less rigorous than the 20-factor test in §821.5. There was also concern that it creates an entirely new status test that examines only nine factors instead of 20. One commenter stated his or her belief that the proposed rules are arbitrary, capricious, and contrary to law.

Response: Labor Code §201.041 contains a presumption of employment. TWC previously utilized its authority under Labor Code §201.041 to adopt §821.5, applied to unemployment through §815.134, as its official guideline for use in determining employment status. Section 815.134(b) is a clarification of §821.5. The presumption of employment in Labor Code §201.041 remains as the conditions in §815.134(b) must still be met to the satisfaction of TWC before it is determined a marketplace contractor is not in the employment of a marketplace platform.

Section 815.134(b)(2) is not less rigorous than the standard test in §821.5. As part of the adoption of §821.5, TWC included language specifying that, "Depending upon the type of business and the services performed, not all 20 common law factors may apply." The rule does not require that all 20 factors apply to every business model and service, nor does it designate what weight should be given to a particular factor. TWC evaluated the factors applicable to the marketplace platform/contractor working rela-

tionship and determined that §821.5 should be clarified to assist the parties in determining employment status for this emerging economy sector.

Section 815.134(b)(2) requires that all nine conditions must be met, in contract and in fact, before a marketplace contractor is not treated as being in employment for purposes of the Texas Unemployment Compensation Act. Although nine mandatory conditions are listed, some of these conditions integrate multiple factors from §821.5 into a single element (see below). The result is a comprehensive, yet tailored, test that provides clarification for the parties.

Condition 1:

(A) That all or substantially all of the payment paid to the contractor shall be on a per-job or transaction basis;

Factor(s):

Payment by Hour, Week, Month

Condition 2:

(B) The marketplace platform does not unilaterally prescribe specific hours during which the marketplace contractor must be available to accept service requests from the public (including third-party individuals and entities) submitted through the marketplace platform's digital network;

Factor(s):

Set Hours of Work

Condition 3:

(C) The marketplace platform does not prohibit the marketplace contractor from using a digital network offered by any other marketplace platform;

Factor(s):

Working for More than one Firm at a Time

Full Time Required

Making Service Available to the Public

Condition 4:

(D) The marketplace platform does not restrict the contractor from engaging in any other occupation or business;

Factor(s):

Working for More than one Firm at a Time

Full Time Required

Making Service Available to the Public

Condition 5:

(E) The marketplace contractor is free from control by the marketplace platform as to where and when the marketplace contractor works and when the marketplace contractor accesses the marketplace platform's digital network;

Factor(s):

Location Where Services Performed

Full Time Required

Condition 6:

(F) The marketplace contractor bears all or substantially all of the contractor's own expenses that are incurred by the contractor in performing the service or services;

Factor(s):

Payment of Business and Travel Expenses

Realize Profit or Loss

Condition 7:

(G) The marketplace contractor is responsible for providing the necessary tools, materials, and equipment to perform the service or services;

Factor(s):

Furnishing Tools and Equipment

Condition 8:

(H) The marketplace platform does not control the details or methods for the services performed by a marketplace contractor by requiring the marketplace contractor to follow specified instructions governing how to perform the services; and

Factor(s):

Instructions

Order of Sequence Set

Services Rendered Personally

Hiring Helpers

Condition 9:

(I) The marketplace platform does not require the contractor to attend mandatory meetings or mandatory training.

Factor(s):

Training

2. Some commenters believe the proposed rules will increase misclassification, and that workers who would be considered employees under §821.5 will now be considered independent contractors.

Response: TWC respectfully notes that this comment lacks the specificity necessary to address it in a substantive manner. TWC will continue to analyze employment status on a case by case basis; however, that analysis will now be informed by the clarifications provided under §815.134(b). Whether an individual's performance of the service has been and will continue to be free from control or direction under the contract and in fact under §815.134(b) will be determined by TWC based upon the unique facts of each relationship. No changes have been made based on this comment.

3. Commenters stated that TWC does not have the statutory authority to exempt certain sectors of the Texas workforce from the definition of employment. In a similar vein, commenters noted their belief that the proposed rules create a broad exception to the statutory definition in Labor Code §201.041 by removing the presumption of employment and shifting the burden of establishing whether an employment relationship exists from the employer to the employee. There was also a statement that the rules would displace the centrality of the right to control.

Response: Section 815.134(b) does not create any exemptions from the definition of employment. The rules provide clarification as to how the factors in §821.5 apply to a marketplace contrac-

tor/platform working relationship. Simply put, the rule outlines the considerations TWC will undertake when making a case-by-case determination on the issue of direction and control within this unique marketplace platform economic sector.

Through Labor Code §301.0015(a)(6) and in accordance with Labor Code §201.041, TWC has the same authority to provide further clarification concerning this emerging business model as it did to adopt §821.5, applied to unemployment through §815.134, as its official guideline for use in determining employment status.

TWC will not grant a platform any form of automatic exception from employment. A worker would be found to be in the employment of any marketplace platform that does not meet the required nine conditions in contract and in fact. The presumption of employment in Labor Code §201.041 remains as the conditions in §815.134(b) must still be met to the satisfaction of TWC before it is determined a marketplace contractor is not in the employment of a marketplace platform.

Whether the individual's performance of the service has been and will continue to be free from control or direction, under §815.134(b) will be determined on a case-by-case basis by TWC based upon the facts of each marketplace contractor/platform working relationship.

4. Some commenters expressed that only the legislature has authority to clarify how "direct & control" apply in the context of unemployment insurance to workers who use marketplace platforms. They stated these rules should be done through law and not rule.

Response: The legislature specifically delegated the authority to determine direction and control to TWC by passing Labor Code §201.041:

"Sec. 201.041. GENERAL DEFINITION OF EMPLOYMENT. In this subtitle, "employment" means a service, including service in interstate commerce, performed by an individual for wages or under an express or implied contract of hire, *unless it is shown to the satisfaction of the commission that the individual's performance of the service has been and will continue to be free from control or direction under the contract and in fact.*"

Furthermore, through Labor Code §301.0015(a)(6), the legislature has bestowed TWC with the broad authority to adopt rules to administer the Texas Unemployment Compensation Act. TWC previously utilized this authority to adopt §821.5, applied to unemployment through §815.134, as its official guideline for use in determining employment status. This has greatly assisted TWC in fulfilling its statutory obligation and provided clarity to the parties, just as §815.134(b) will achieve for the newly emerging marketplace economy.

5. Comments also referenced existing case law, *Critical Health Connection, Inc. v. Tex. Workforce Comm'n*, 338 S.W.3d 758 (2011) *Tochril, Inc. v. Tex. Workforce Comm'n*, No. 06-15-00078-CV, 2016 Tex. App. LEXIS 6444 (Tex. App.--Texarkana June 17, 2016), stating that Texas courts have found workers in similar situations to marketplace contractors to be employees. The proposed rules would therefore be contrary to law.

Response: TWC respectfully notes that *Critical Health Connection, Inc. v. Tex. Workforce Comm'n*, 338 S.W.3d 758 (2011) *Tochril, Inc. v. Tex. Workforce Comm'n*, No. 06-15-00078-CV, 2016 Tex. App. LEXIS 6444 (Tex. App.--Texarkana June 17, 2016), concern employers that are temporary help firms. Because of their status as temporary help firms, these employers

would not be eligible for consideration under the new rules because they would be excluded under §815.134(b)(3)(D).

6. Some commenters stated the proposed rules are contrary to the purpose of the Unemployment Insurance program.

Response: In accordance with a clear reading of the Labor Code §201.041, §815.134(b) is a proper and necessary part of TWC's administration of the state's unemployment compensation insurance program. Section 815.134(b) clarifies the application of §821.5, providing a more tailored evaluation to determine worker status for this emerging marketplace economy as it relates to the unemployment program. TWC is furthering its responsibility to administer an effective program by providing this clarification which will assist the parties in determining employment status for this emerging economy.

7. Some commenters asserted that an agency's interpretation of a statute it is charged with enforcing must be reasonable and not contradict the plain language of the statute. Their belief is that these rules are unreasonable because they establish a different definition of employment for network-based and brick-and-mortar businesses without justification or explanation.

Response: The presumption of employment in Labor Code §201.041 remains for both network-based and brick-and-mortar businesses. As currently stated in §821.5, "Depending upon the type of business and the services performed, not all 20 common law factors may apply." The rule does not require that all 20 factors apply to every business model and service, nor does it designate what weight should be given to a particular factor. Since different business models and services will have different factors and weights that apply to them, it is reasonable for TWC to create §815.134(b), which clarifies the status test for this new sector of the economy.

TWC evaluated the factors applicable to the marketplace platform/contractor working relationship and determined that §821.5 should be clarified to assist the parties in determining employment status for this emerging economy.

Section 815.134(b)(2) requires that all nine conditions must be met, in contract and in fact, before a marketplace contractor is not treated as being in employment for purposes of the Texas Unemployment Compensation Act. Although nine mandatory conditions are listed, some of these conditions integrate multiple factors from §821.5 into a single element (see below). The result is a comprehensive, yet tailored, test that provides clarification for the parties.

Condition 1:

(A) That all or substantially all of the payment paid to the contractor shall be on a per-job or transaction basis;

Factor(s):

Payment by Hour, Week, Month

Condition 2:

(B) The marketplace platform does not unilaterally prescribe specific hours during which the marketplace contractor must be available to accept service requests from the public (including third-party individuals and entities) submitted through the marketplace platform's digital network;

Factor(s):

Set Hours of Work

Condition 3:

(C) The marketplace platform does not prohibit the marketplace contractor from using a digital network offered by any other marketplace platform;

Factor(s):

Working for More than one Firm at a Time

Full Time Required

Making Service Available to the Public

Condition 4:

(D) The marketplace platform does not restrict the contractor from engaging in any other occupation or business;

Factor(s):

Working for More than one Firm at a Time

Full Time Required

Making Service Available to the Public

Condition 5:

(E) The marketplace contractor is free from control by the marketplace platform as to where and when the marketplace contractor works and when the marketplace contractor accesses the marketplace platform's digital network;

Factor(s):

Location Where Services Performed

Full Time Required

Condition 6:

(F) The marketplace contractor bears all or substantially all of the contractor's own expenses that are incurred by the contractor in performing the service or services;

Factor(s):

Payment of Business and Travel Expenses

Realize Profit or Loss

Condition 7:

(G) The marketplace contractor is responsible for providing the necessary tools, materials, and equipment to perform the service or services;

Factor(s):

Furnishing Tools and Equipment

Condition 8:

(H) The marketplace platform does not control the details or methods for the services performed by a marketplace contractor by requiring the marketplace contractor to follow specified instructions governing how to perform the services; and

Factor(s):

Instructions

Order of Sequence Set

Services Rendered Personally

Hiring Helpers

Condition 9:

(I) The marketplace platform does not require the contractor to attend mandatory meetings or mandatory training.

Factor(s):

Training

8. Commenters also stated that the proposed rules are not expressly authorized in state law and TWC has not attempted to explain why marketplace platforms are sufficiently different from other companies and that a separate test is necessary or desirable. Furthermore, TWC has not explained why the current test does not work to determine "employment" for marketplace platform companies. Commenters also pointed out their belief that many of the 20 factors listed in §821.5 were valuable and excluded from the proposed rules.

Response: Through Labor Code §301.0015(a)(6), the legislature has bestowed TWC with the broad authority to adopt rules to administer the Texas Unemployment Compensation Act. In accordance with Labor Code §201.041, TWC previously utilized this authority to adopt §821.5, applied to unemployment through §815.134, as its official guideline for use in determining employment status. This has greatly assisted TWC in fulfilling its statutory obligation and provided clarity to the parties, just as §815.134(b) will achieve for the newly emerging marketplace economy.

As currently stated in §821.5, "Depending upon the type of business and the services performed, not all 20 common law factors may apply." The rule does not require that all 20 factors apply to every business model and service, nor does it designate what weight should be given to a particular factor. Since different business models and services will have different factors and weights that apply to them, it is reasonable for TWC to create §815.134(b), which clarifies the status test for this new sector of the economy.

TWC evaluated the factors applicable to the marketplace platform/contractor working relationship and determined that §821.5 should be clarified to assist the parties in determining employment status for this emerging economy.

Section 815.134(b)(2) requires that all nine conditions must be met, in contract and in fact, before a marketplace contractor is not treated as being in employment for purposes of the Texas Unemployment Compensation Act. Although nine mandatory conditions are listed, some of these conditions integrate multiple factors from §821.5 into a single element (see below). The result is a comprehensive, yet tailored, test which provides clarification for the parties.

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Factor(s):

Payment by Hour, Week, Month

Condition 2:

(B) The marketplace platform does not unilaterally prescribe specific hours during which the marketplace contractor must be available to accept service requests from the public (including third-party individuals and entities) submitted through the marketplace platform's digital network;

Factor(s):

Set Hours of Work

Condition 3:

(C) The marketplace platform does not prohibit the marketplace contractor from using a digital network offered by any other marketplace platform;

Factor(s):

Working for More than one Firm at a Time

Full Time Required

Making Service Available to the Public

Condition 4:

(D) The marketplace platform does not restrict the contractor from engaging in any other occupation or business;

Factor(s):

Working for More than one Firm at a Time

Full Time Required

Making Service Available to the Public

Condition 5:

(E) The marketplace contractor is free from control by the marketplace platform as to where and when the marketplace contractor works and when the marketplace contractor accesses the marketplace platform's digital network;

Factor(s):

Location Where Services Performed

Full Time Required

Condition 6:

(F) The marketplace contractor bears all or substantially all of the contractor's own expenses that are incurred by the contractor in performing the service or services;

Factor(s):

Payment of Business and Travel Expenses

Realize Profit or Loss

Condition 7:

(G) The marketplace contractor is responsible for providing the necessary tools, materials, and equipment to perform the service or services;

Factor(s):

Furnishing Tools and Equipment

Condition 8:

(H) The marketplace platform does not control the details or methods for the services performed by a marketplace contractor by requiring the marketplace contractor to follow specified instructions governing how to perform the services; and

Factor(s):

Instructions

Order of Sequence Set

Services Rendered Personally

Hiring Helpers

Condition 9:

(I) The marketplace platform does not require the contractor to attend mandatory meetings or mandatory training.

Factor(s):

Training

Comments were received from:

Keith Ribnick, US Department of Labor

Rene Lara, Texas AFL-CIO, Austin, Texas

Gary Warren, Political Director, Central South Carpenters Regional Council, Austin, Texas

Alejandro Sills

Ben Brenneman, Business Manager, IBEW Local 520, Austin, Texas

Christian Brooks, General Counsel, FieldFocus, Austin, Texas

Al Hergenroeder

Virginia Clark, Houston, Texas

Greg Devenish, Houston, Texas

Anne Pearson, San Antonio, Texas

Marc LaRoe

Dennis Keel

R. K. Entrekin, Houston, Texas

Laura Stokes

Joshua Karam, CEO, Hyr Inc., New York, NY

Steven Kimbrell

Judy Hummel, San Antonio, Texas

Richard Elliott, San Antonio, Texas

Glenna Dawson, Houston, Texas

Edward Castor, San Antonio, Texas

Murry Cohen, Arbitrator and Appellate Advocate, First Court of Appeals Justice (Ret.)

Patrick T. Fogarty

Joe B., Houston, Texas

Bryan Domning

William B. Cockran

Rick Morneau

James Franklin, San Antonio, Texas

Mark Turpin, CEO, The HT Group, Austin, Texas

Aintre Antonoff

Roy A. Bobo II, League City, Texas

Garry Hammit, MBA

Tony Galaviz, San Antonio, Texas

J. S. Fernandi

Stephen P. Amberg, Associate Professor, Department of Political Science, UT-San Antonio, San Antonio, Texas

David Schubert, Houston, Texas

Chris Trimmer

Tobias Read

John Hull
 Todd Phillips, DVM
 Cynthia Wine, San Antonio, Texas
 Nancy Edwards, Houston, Texas
 Paula Traffas, Austin, Texas
 David Goldweitz, Co-Founder and Chief Strategy Officer, Glam-squad, New York, NY
 Mary Needham, President, Reserve Technology Institute, Houston, Texas
 Xuan Yong, CEO, RigUp, Austin, Texas
 Amber Gunst, CEO and Head of Sales & Member Services, Austin Technology Council, Austin, Texas
 Justin Yancy, President, Texas Business Leadership Council, Austin, Texas
 Viviano Flores
 Rosa Flores
 Pamela Bratton, VP Contracts & Compliance, Meador Staffing Services, Inc., Pasadena, Texas
 John Glover, Attorney, Sheiness, Glover & Grossman, LLP, Houston, Texas
 Michael Clark & Sarah Morian, Houston, Texas
 Jeff Moseley, President and CEO, The Texas Association of Business, Austin, Texas
 David Edmonson, Executive Director, Texas & Southeast, Tech-Net, Austin, Texas
 Melanie Goggins, Compliance Manager, Lyft, San Francisco, CA
 Rebecca Smith, Director of Work Structures, National Employment Law Project, Seattle, WA
 Glenn Whitcomb, Baytown, Texas
 Bill Smith, Founder and CEO, Shipt, Inc., Birmingham, AL
 Daniel Guzman, Managing Counsel, NeighborFavor, Inc., Austin, Texas
 Glenn Laumeister, CEO, AllWork Inc., New York, NY
 Michael Inman, Owner, Auto Rescue, Lewisville, Texas
 Kathryn Youker, Labor & Employment Group Coordinator, Texas RioGrande Legal Aid, Brownsville, Texas, and Rebecca Eisenbrey, Staff Attorney, Equal Justice Center
 Susan Motley, Lawyer, Texas Employment Lawyers Association
 Ana Gonzalez, Policy Director, Workers Defense Project, Austin, Texas
 Jason Boulette, Attorney, Boulette Golden & Marin L.L.P., Austin, Texas
 Amy Kamp, Austin, Texas
 Margaret Garza, San Antonio, Texas
 Roel Cantu, Mission, Texas
 A Patterson, Dallas, Texas
 Heather Buen, Hurst, Texas
 Summer Lollie, DeSoto, Texas

Mark Maldonado, Austin, Texas
 Jessie Casteel, Houston, Texas
 Bob Rankin, Austin, Texas
 Traci Dunlap, Austin, Texas
 Robert Maldonado, Cypress, Texas
 David Edmonds, Cameron, Texas
 Clyff Curry, Waco, Texas
 Sharon Salih, Fort Worth, Texas
 Rick Potthoff, Houston, Texas
 Jack Janow, Lubbock, Texas
 Dallas Windham, Irving, Texas
 Carolyn Burton, Lewisville, Texas
 Michele Chapman, Georgetown, Texas
 Joshua Seff, McKinney, Texas
 Bonnie MacKinnon, Georgetown, Texas
 Elmer McKeegan, Flower Mound, Texas
 Rusty Kuciemba, Woodville, Texas
 Sean Mendoza, Fort Worth, Texas
 Mary Schmidt, Devine, Texas
 Paul Garza, San Antonio, Texas
 Gene Lantz, Dallas, Texas
 Lori Sustaita, Longview, Texas
 Robert Parrott, San Antonio, Texas
 Nancy Crowther, Austin, Texas
 Amy Mullin, Austin, Texas
 Sonia Lara, Austin, Texas
 Amanda Cavazos Weems, Austin, Texas
 Jacob Aronowitz, Austin, Texas
 Pauline Mims, Grand Prairie, Texas
 Cynthia Sanders, Pearland, Texas
 Latife Bechara-Medina, Corpus Christi, Texas
 Justin Bautista, Houston, Texas
 Tara Havner, Abilene, Texas
 Emily Carter, Wimberley, Texas
 Pamela Bendix, Bainbridge Island, Washington
 Greg Lahner, La Marque, Texas
 Kenneth Dearing, Pasadena, Texas
 Jason Lopez, Austin, Texas
 Rick Levy, Austin, Texas
 Ellen Wakefield, Watauga, Texas
 Angela Orr Heath, Dallas, Texas
 Kris Bentley, Dallas, Texas
 William Jordan, San Antonio, Texas

Carl Webb, Austin, Texas
Sophia Castillo, Houston, Texas
Joanna Vaughn, Austin, Texas
Erica Robinson
Phyllis Goines, Fort Worth, Texas
Enrique Mata, Houston, Texas
Rose Brown, Dallas, Texas
Jeffrey Darby, Nederland, Texas
Marsaleene Nesmith, Beaumont, Texas
Kristen O'Brien, Austin, Texas
Howard Haralson, Lipan, Texas
Phil Bunker, Austin, Texas
Daniel Stender, Seguin, Texas
Kimberly Hildreth, Dallas, Texas
Albert Dirla, Irving, Texas
Shwe Aung, Houston, Texas
Pam Evans, Kemp, Texas
Sean Forkner, Austin, Texas
Gary Peterson, Fort Worth, Texas
Stevan Ruiz, Hurst, Texas
Sam Bortnick, Dallas, Texas
Mason Cutchins, Midlothian, Texas
Bob Cash, Austin, Texas
Debra Birkholz, El Paso, Texas
Barbara Mayo, Cedar Park, Texas
James Ryan, Galveston, Texas
Linda Durden, Beaumont, Texas
Sarah Jarratt, New Braunfels, Texas
Timothy Jorgensen, Lubbock, Texas
Beverly Deutsch, Austin, Texas
Laurel Hays, Houston, Texas
Steven Sprenger, Dallas, Texas
Mary Fitzgibbon, Copperas Cove, Texas
Cathy Hazzard, San Antonio, Texas
Jo-El Onstad, San Antonio, Texas
Kay Burnett, Sunset, Texas
Earl Ehlers, La Porte, Texas
Eldon Ehlers, Houston, Texas
Daniel Wedelich, Lake Jackson, Texas
Darrell Garza, Pleasanton, Texas
Paul Arebalo Jr., Austin, Texas
Michelle Quiter, San Antonio, Texas
Jennifer Trybom

Jim Vogas, Friendswood, Texas
Scott Emerson, Communities Organized for Public Service and the Metro Alliance, San Antonio, Texas
Montserrat Garibay, Austin, Texas
Ashley Hammitt, Cedar Park, Texas
Craig Deats, Austin, Texas
James David, San Antonio, Texas
Thomas Jones, San Antonio, Texas
Michael Botson, Houston, Texas
Mark Mckim, Austin, Texas
Martha Eberle, Dripping Springs, Texas
Jenette Champagne, The Woodlands, Texas
Jim Washington, Pearland, Texas
Sarah Swallow, Austin, Texas
Gary Martinez, Cedar Creek, Texas
Mary Cato, Arlington, Texas
Erik Garcia, Clint, Texas
Ben Lilienfeld, Baytown, Texas
Amanda Vermillion, Seabrook, Texas
Ed Perry, New Braunfels, Texas
Tom Cummins, San Antonio, Texas
Linda Palomo, La Marque, Texas
Craig Miller, Waco, Texas
Larry Chamberlain, Midlothian, Texas
Elizabeth ODear, Bellaire, Texas
Henry Dietz, Austin, Texas
Taneaia Lednicky, Irving, Texas
Diana Adamson, Austin, Texas
William Mason, Fort Worth, Texas
Paul Sawyer, Dallas, Texas
Jana Reid, Granbury, Texas
Rebecca Rodriguez
Leslie Cunningham
Michael T. Milligan, Attorney, El Paso, Texas
Sheri Reiter, El Paso, Texas
Ruben Garza, Baytown, Texas
Brian McClusky
Michelle Lehman, Austin, Texas
Richard Lee Griffin, Attorney, Fort Worth, Texas
Tina Harris, Arlington, Texas
Maria Thomas, Austin, Texas
Gary Buresh, Arlington, Texas
Joe Arabie, Austin, Texas

Leonard Aguilar, San Antonio, Texas

Joseph Arabie, Director of Field Ed and Research, Texas AFL-CIO, Austin, Texas

Annette Spanhel, Driftwood, Texas

Delan Decker, Thorndale, Texas

Thomas Lessner, San Antonio, Texas

Silvia Chicas, Houston, Texas

Chris Wager Saldivar, Houston, Texas

Elaine Lantz, Dallas, Texas

Synthia Almanza, Baytown, Texas

Peg and Bernie Jezercak, Carrollton, Texas

Brian J. Miller, General Counsel, Handy Technologies, New York, New York

Constance Heiland, Huntsville, Texas

The rule is adopted under Texas Labor Code §301.0015, which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

These rule amendments are adopted pursuant to TWC's broad rulemaking authority under Labor Code §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rule affects Texas Labor Code, Title 4.

§815.134. *Employment Status: Employee or Independent Contractor.*

(a) Subject to specific inclusions and exceptions to employment enumerated in Chapter 201 of the Act, the Agency and the Commission shall use the guidelines referenced in §821.5 of this title as the official guidelines for use in determining employment status.

(b) Notwithstanding subsection (a) of this section, in Title 4, Subtitle A of the Texas Labor Code, "employment" does not include a marketplace contractor that satisfies the requirements of paragraph (2) of this subsection.

(1) For purposes of this subsection:

(A) The term "digital network" means an online-enabled application or website offered by a marketplace platform for the public (including third-party individuals and entities) to use to find and contact a marketplace contractor to perform one or more needed services.

(B) The term "marketplace platform" means a corporation, partnership, sole proprietorship, or other entity operating in this state that:

(i) uses a digital network to connect marketplace contractors to the public (including third-party individuals and entities) seeking the type of service or services offered by the marketplace contractors;

(ii) accepts service requests from the public (including third-party individuals and entities) only through its digital network, and does not accept service requests by telephone, by facsimile, or in person at physical retail locations; and

(iii) does not perform the services offered by the marketplace contractor at or from a physical business location that is operated by the platform in the state.

(C) The term "marketplace contractor" or "contractor" means any individual, corporation, partnership, sole proprietorship, or other entity that enters into an agreement with a marketplace platform to use the platform's digital network to provide services to the public (including third-party individuals or entities) seeking the type of service or services offered by the marketplace contractor.

(2) A marketplace contractor shall not be treated as being in employment of the marketplace platform for the purposes of Title 4, Subtitle A of the Texas Labor Code, if in contract and in fact all of the following conditions are met:

(A) That all or substantially all of the payment paid to the contractor shall be on a per-job or transaction basis;

(B) The marketplace platform does not unilaterally prescribe specific hours during which the marketplace contractor must be available to accept service requests from the public (including third-party individuals or entities) submitted through the marketplace platform's digital network;

(C) The marketplace platform does not prohibit the marketplace contractor from using a digital network offered by any other marketplace platform;

(D) The marketplace platform does not restrict the contractor from engaging in any other occupation or business;

(E) The marketplace contractor is free from control by the marketplace platform as to where and when the marketplace contractor works and when the marketplace contractor accesses the marketplace platform's digital network;

(F) The marketplace contractor bears all or substantially all of the contractor's own expenses that are incurred by the contractor in performing the service or services;

(G) The marketplace contractor is responsible for providing the necessary tools, materials, and equipment to perform the service or services;

(H) The marketplace platform does not control the details or methods for the services performed by a marketplace contractor by requiring the marketplace contractor to follow specified instructions governing how to perform the services; and

(I) The marketplace platform does not require the contractor to attend mandatory meetings or mandatory training.

(3) This section shall not apply to any of the following:

(A) Services performed in the employ of a state, or any political subdivision of the state, or in the employ of an Indian tribe, or any instrumentality of a state, any political subdivision of a state, or any Indian tribe that is wholly owned by one or more states or political subdivisions or Indian tribes, but only if the services are excluded from employment as defined in the Federal Unemployment Tax Act, 26 U.S.C. §3301 - 3311, solely by reason of §3306(c)(7) of that Act.

(B) Services performed by an individual in the employ of a religious, charitable, educational, or other organization, but only if the services are excluded from employment as defined in the Federal Unemployment Tax Act, 26 U.S.C. §§3301 - 3311, solely by reason of §3306(c)(8) of that Act.

(C) Services performed by marketplace platforms regulated as Professional Employer Organizations and professional employer services under §§91.001(14) and (15) of the Texas Labor Code.

(D) Services performed by temporary employees and temporary help firms as defined in §§201.011(20) and (21) of the Texas Labor Code.

(E) Services explicitly exempted under any other state law.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 9, 2019.

TRD-201901054

Jason Vaden

Director, Workforce Program Policy

Texas Workforce Commission

Effective date: April 29, 2019

Proposal publication date: December 21, 2018

For further information, please call: (512) 689-9855



REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 11, Contracts.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re-adoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 11 continue to exist.

Comments regarding suggested changes to the rules in Chapter 11 may be submitted but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rule-making action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 11. Written comments may be submitted to Derek Baxter, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2019-081-011-AS. Comments must be received by May 28, 2019. For further information, please contact Chris Gobert, Financial Administration Division, at (512) 239-0382.

TRD-201901111

David Timberger

Director, General Law Division

Texas Commission on Environmental Quality

Filed: April 16, 2019



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 314, Toxic Pollutant Effluent Standards.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rule in Chapter 314 continues to exist.

Comments regarding suggested changes to the rule in Chapter 314 may be submitted but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rule-making action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rule in Chapter 314. Written comments may be submitted to Ms. Kris Hogan, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2019-027-314-OW. Comments must be received by May 28, 2019. For further information, please contact Laurie Fleet, Water Quality Division, at (512) 239-5445.

TRD-201901115

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: April 16, 2019



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 319, General Regulations Incorporated into Permits.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 319 continue to exist.

Comments regarding suggested changes to the rules in Chapter 319 may be submitted, but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rulemaking action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 319. Written comments may be submitted to Derek Baxter, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system.

tem. All comments should reference Non-Rule Project Number 2019-028-319-OW. Comments must be received by May 28, 2019. For further information, please contact Laurie Fleet, Water Quality Division, at (512) 239-5445.

TRD-201901112
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: April 16, 2019



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 328, Waste Minimization and Recycling.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 328 continue to exist.

Comments regarding suggested changes to the rules in Chapter 328 may be submitted, but will not be considered for rule amendments as

part of this review. Any such comments may be considered in a future rulemaking action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 328. Written comments may be submitted to Derek Baxter, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Non-Rule Project Number 2019-017-328-AD. Comments must be received by May 28, 2019. For further information, please contact Susan Synatschk, Project Manager, Environmental Assistance Division, at (512) 239-3106.

TRD-201901121
Robert Martinez
Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: April 16, 2019



*T*ABLES & *G*RAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Form A

Conditional Pre-Qualification Letter

This is not a loan approval or commitment to lend

Date:

~~[Residential Mortgage Loan Originator:]~~
~~[License Number: _____]~~

Prospective Applicant(s)/ Applicant(s):
[Address: _____]
[Phone #: _____]

Mortgage Company:

NMLS ID #:

Loan Details [~~(describe as follows)~~]:

Loan Amount:

Qualifying Interest Rate:

Term:

Maximum Loan-to-Value Ratio:

Loan Type and Description:

~~[Residential mortgage loan originator ___ has ___ has not received a signed application for the Loan from the prospective applicant]~~

Mortgage company [~~Residential mortgage loan originator~~] ___ has ___ has not reviewed the prospective applicant's / applicant's credit report and credit score

~~[Residential mortgage loan originator ___ has ___ has not reviewed the prospective applicant's credit score]~~

~~[Residential mortgage loan originator has reviewed the following additional items (list):]~~

The prospective applicant(s) / applicant(s) has provided the mortgage company [~~residential mortgage loan originator ___ verbally ___ in writing~~] with the following information [~~about the prospective applicant~~]:

Income ___ Yes ___ No ___ Not applicable

Available cash to close [~~for down payment and payment of closing costs~~] ___ Yes ___ No ___ Not applicable

Debts ___ Yes ___ No ___ Not applicable

Assets ____ Yes ____ No ____ Not applicable

Based on the information that the prospective applicant(s) / applicant(s) has provided, ~~the mortgage company [to the residential mortgage loan originator as described above, the residential mortgage loan originator]~~ has determined that the prospective applicant(s) / applicant(s) is eligible and qualified to meet the financial requirements of the loan.

This is not a loan approval or a commitment to lend on the terms described in the Loan Details section [an approval for the Loan].

Approval of the loan [~~Loan~~] requires:

1. Receipt of a complete loan application and all supporting documents requested [~~(1) the residential mortgage loan originator to verify the information that the prospective applicant has provided;~~]

2. Lender verification of the information that the prospective applicant(s) / applicant(s) has provided [~~(2) the prospective applicant's financial status and credit report to remain substantially the same until the loan closes;~~]

3. The prospective applicant's / applicant's financial status and credit report to remain substantially the same until the loan closes [~~(3) the collateral for the loan (the subject property) to satisfy the lender's requirements (for example, appraisal, title, survey, condition, and insurance);~~]

4. The collateral for the loan to satisfy the lender's requirements [~~(4) the loan, as described, to remain available in the market;~~]

5. The loan, as described, to remain available in the market [~~(5) the prospective applicant to execute loan documents the lender requires; and~~]

6. The prospective applicant(s) / applicant(s) to execute loan documents the lender requires [~~(6) the following additional items (list);~~]

7. The following additional items (list):

This conditional pre-qualification expires on: _____

Residential Mortgage Loan Originator Name

NMLS ID #

Form B

Conditional Approval Letter

Date:

~~[Residential Mortgage Loan Originator:]~~
~~[License Number: _____]~~

Prospective Applicant(s) / Applicant(s):

Mortgage Company:

NMLS ID #:

~~[Address: _____]~~
~~[Phone #: _____]~~

Loan Details [~~(describe as follows)~~]:

Loan Amount:

Interest Rate*:

Term:

Interest Rate Lock Expires (if applicable):

Maximum Loan-to-Value Ratio:

Loan Type and Program:

*Interest rate is subject to change unless it has been locked

~~[Secondary financing terms (if applicable): —~~

~~Optional Information: Points: Origination: _____ Discount: _____~~
~~Commitment: _____ Other (describe): _____]~~

Has a subject property been identified? [Subject Property:] ___ Yes ___ No

~~[Residential mortgage loan originator has received a signed application from the applicant.]~~

Mortgage company [~~Residential mortgage loan originator~~] has:

Reviewed prospective applicant's / applicant's credit report and credit score ___ Yes ___ No ___ Not applicable

Verified prospective applicant's / applicant's income ___ Yes ___ No ___ Not applicable

Verified prospective applicant's / applicant's available cash to close [~~for down payment and closing costs~~]
___ Yes ___ No ___ Not applicable

Reviewed prospective applicant's / applicant's debts and other assets ___ Yes ___ No ___ Not applicable

Prospective applicant(s) / applicant(s) [~~Applicant~~] is approved [~~approved~~] for the loan provided that [~~the applicant's~~] creditworthiness and financial position do not materially change prior to closing and provided that [~~provided that~~]:

1. The subject property is appraised for an amount not less than \$ _____ [?]
2. The lender does not object to encumbrances to title shown in the title commitment [~~or survey~~]
3. The subject property's survey shows no encroachments[?]
4. [~~3-~~] The subject property's condition meets lender's requirements[?]
5. [~~4-~~] The subject property is insured in accordance with lender's requirements[?]
6. [~~5-~~] The prospective applicant(s) / applicant(s) executes the loan documents lender requires[?] and
7. [6] The following additional conditions are complied with (list):

This conditional approval expires on _____.

Residential Mortgage Loan Originator Name

NMLS ID #

Form A

Conditional Pre-Qualification Letter

This is not a loan approval or commitment to lend

Date:

Prospective Applicant(s) / Applicant(s):

Mortgage Banker:

NMLS ID # [Registration Number _____]

[Address _____]

[Phone # _____]

Loan Details [~~describe as follows~~]:

Loan Amount:

Qualifying Interest Rate:

Term:

Maximum Loan-to-Value Ratio:

Loan Type and Description:

[Mortgage banker ____ has ____ has not received a signed application for the loan from the prospective applicant]

Mortgage banker ____ has ____ has not reviewed the prospective applicant's / applicant's credit report and credit score

[Mortgage banker ____ has ____ has not reviewed the prospective applicant's credit score]

[Mortgage banker has reviewed the following additional items (list):]

The prospective applicant(s) / applicant(s) has provided the mortgage banker [____ verbally ____ in writing] with the following information [~~about the prospective applicant~~]:

Income ____ Yes ____ No ____ Not applicable

Available cash to close [for down payment and payment of closing costs] ____ Yes ____ No ____ Not applicable

Debts ____ Yes ____ No ____ Not applicable

[Other] Assets ____ Yes ____ No ____ Not applicable

Based on the information that the prospective applicant(s) / applicant(s) has provided, ~~[to the mortgage banker, as described above,]~~ the mortgage banker has determined that the prospective applicant(s) / applicant(s) is eligible and qualified to meet the financial requirements of the loan ~~[Loan]~~.

This is not a loan approval or a commitment to lend on the terms described in the Loan Details section [an approval for the loan].

Approval of the loan requires:

1. Receipt of a complete loan application and all supporting documents requested ~~[(1) the mortgage banker to verify the information that the prospective applicant has provided;]~~

2. Lender verification of the information that the prospective applicant(s) / applicant(s) has provided ~~[(2) the prospective applicant's financial status and credit report to remain substantially the same until the loan closes;]~~

3. The prospective applicant's / applicant's financial status and credit report to remain substantially the same until the loan closes ~~[(3) the collateral for the loan (the subject property) to satisfy the lender's requirements (for example, appraisal, title, survey, condition, and insurance);]~~

4. The collateral for the loan to satisfy the lender's requirements ~~[(4) the loan type and terms, as described, to remain available in the market;]~~

5. The loan, as described, to remain available in the market ~~[(5) the prospective applicant to execute loan documents the lender requires, and]~~

6. The prospective applicant(s) / applicant(s) to execute loan documents the lender requires ~~[(6) the following additional items (list):]~~

7. The following additional items (list):

This conditional pre-qualification expires on _____

Residential Mortgage Loan Originator Name ~~[Mortgage Banker or Loan Officer]~~

NMLS ID #

Form B

Conditional Approval Letter

Date:

Prospective Applicant(s) / Applicant(s):

Mortgage Banker:

NMLS ID # [~~Registration Number~~ _____]

[~~Address~~ _____]

[~~Phone #~~ _____]

Loan Details [~~(describe as follows)~~]:

[~~1.~~] Loan Amount:

[~~2.~~] Interest Rate*:

Term:

[~~3.~~] Interest Rate Lock Expires (if applicable):

[~~4.~~] Maximum Loan-to-Value Ratio:

[~~5.~~] Loan Type and Program:

*Interest rate is subject to change unless it has been locked

[~~Secondary financing terms (if applicable):~~

-

~~Optional Information: Points:~~

~~Origination:~~

~~Discount:~~

~~Commitment:~~

~~Other (describe):~~

Has a subject property been identified? _____ Yes _____ No [Subject Property:]

[Mortgage banker has received a signed application from the applicant.]

Mortgage banker has:

Reviewed prospective applicant's / applicant's credit report and credit score: _____ Yes _____ No _____ Not

applicable

Verified prospective applicant's / applicant's income: ____ Yes ____ No ____ Not applicable

Verified prospective applicant's / applicant's available cash to close [~~for down payment and closing costs~~]:
____ Yes ____ No ____ Not applicable

Reviewed prospective applicant's / applicant's debts and other assets: ____ Yes ____ No ____ Not applicable

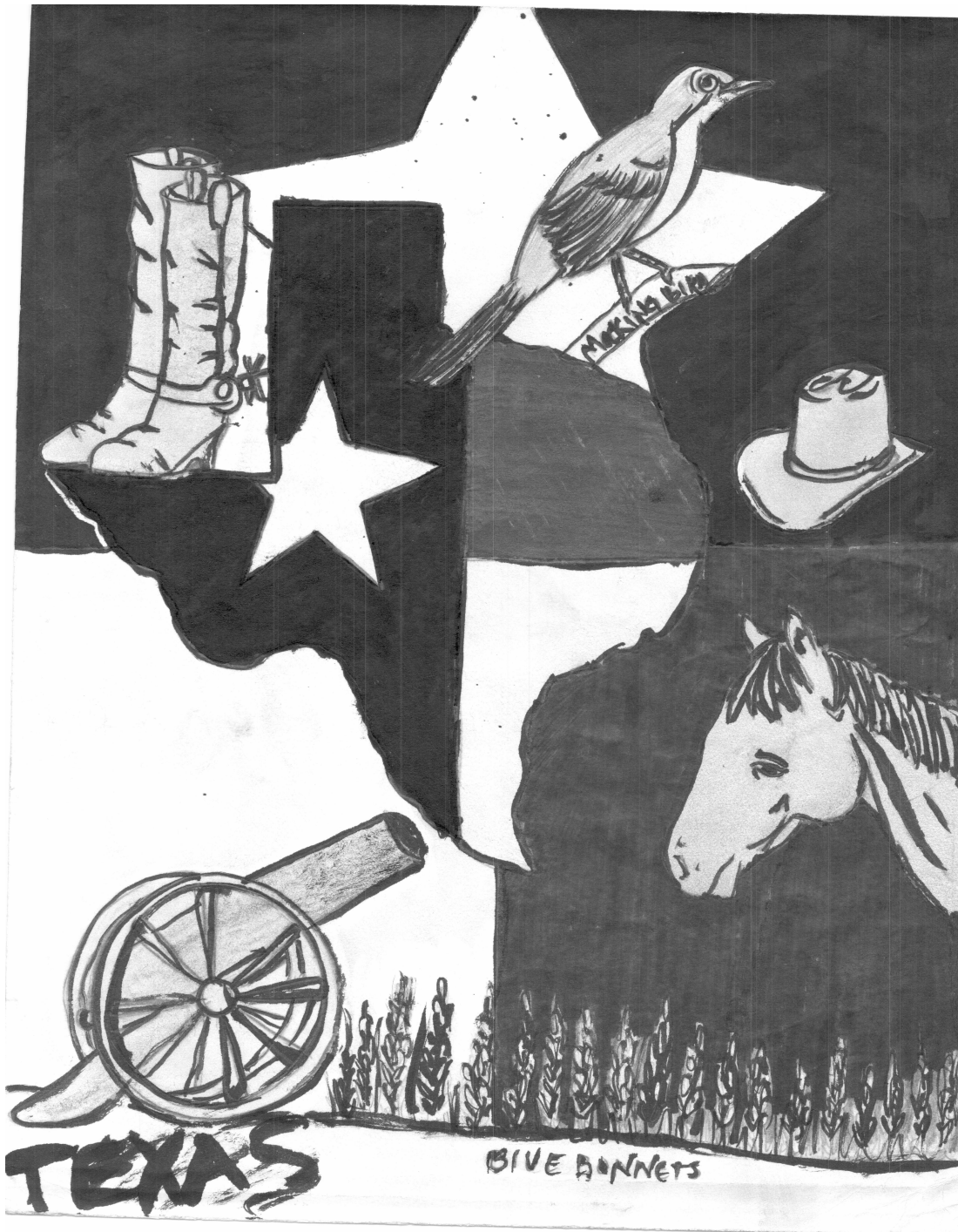
Prospective applicant(s) / applicant(s) [Applicant] is **approved** for the loan provided that [~~the applicant's~~] creditworthiness and financial position do not materially change prior to closing and **provided that** [~~the following additional conditions are fully satisfied~~]:

1. The subject property is appraised for an amount not less than \$_____ [;]
2. The lender [~~mortgage banker~~] does not object to encumbrances to title shown in the title commitment [~~or survey~~];
3. The subject property's survey shows no encroachments[;]
4. [~~3-~~] The subject property's condition meets lender's [~~mortgage banker's~~] requirements[;]
5. [~~4-~~] The subject property is insured in accordance with lender's [~~mortgage banker's~~] requirements[;]
6. [~~5-~~] The prospective applicant(s) / applicant(s) [applicant] executes the loan documents the lender [~~mortgage banker~~] requires [~~and abides by closing instructions~~]; and
7. [~~6-~~] The following additional conditions are complied with (list):

This conditional approval expires on _____.

Residential Mortgage Loan Originator Name [~~Mortgage Banker~~]

NMLS ID #



TEXAS

BIVE BONNETS

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 04/22/19 - 04/28/19 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 04/22/19 - 04/28/19 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

² Credit for business, commercial, investment or other similar purpose.

TRD-201901120

Leslie Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: April 16, 2019



Credit Union Department

Application for a Merger or Consolidation

Notice is given that the following application has been filed with the Credit Union Department (Department) and is under consideration.

An application was received from Rio Grande Valley Credit Union (Harlingen) seeking approval to merge with Sugar Growers Federal Credit Union (Santa Rosa), with Rio Grande Valley Credit Union being the surviving credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-201901129

John J. Kolhoff

Commissioner

Credit Union Department

Filed: April 17, 2019



Application to Expand Field of Membership

Notice is given that the following applications have been filed with the Credit Union Department (Department) and are under consideration.

An application was received from Texas Trust Credit Union, Mansfield, Texas to expand its field of membership. The proposal would permit persons who live, work, or attend school and businesses and other legal

entities located in Denton County and Ellis County, Texas to be eligible for membership in the credit union.

An application was received from West Texas Credit Union, Odessa, Texas to expand its field of membership. The proposal would permit persons who live, work, worship or attend school in Midland County, Texas to be eligible for membership in the credit union.

An application was received from City Credit Union #1, Dallas, Texas to expand its field of membership. The proposal would permit persons who work, worship, reside or attend school in Hunt County, Texas to be eligible for membership in the credit union.

An application was received from City Credit Union #2, Dallas, Texas to expand its field of membership. The proposal would permit persons who work, worship, reside or attend school in Parker County, Texas to be eligible for membership in the credit union.

An application was received from City Credit Union #3, Dallas, Texas to expand its field of membership. The proposal would permit persons who work, worship, reside or attend school in Johnson County, Texas to be eligible for membership in the credit union.

An application was received from City Credit Union #4, Dallas, Texas to expand its field of membership. The proposal would permit persons who work, worship, reside or attend school in Wise County, Texas to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.cud.texas.gov/page/bylaw-charter-applications>. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-201901126

John J. Kolhoff

Commissioner

Credit Union Department

Filed: April 17, 2019



Notice of Final Action Taken

In accordance with the provisions of 7 TAC §91.103, the Credit Union Department provides notice of the final action taken on the following applications.

Application to Expand Field of Membership - Approved

Mobility CU, Irving, Texas - See *Texas Register* issue dated June 29, 2018.

My Community CU, Midland, Texas - See *Texas Register* issue dated September 29, 2017.

Mobility CU, Irving, Texas - See *Texas Register* issue dated March 1, 2019.

TRD-201901124

John J. Kolhoff

Commissioner

Credit Union Department

Filed: April 17, 2019

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **May 28, 2019**. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **May 28, 2019**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: Aqua Utilities, Incorporated; DOCKET NUMBER: 2018-1547-PWS-E; IDENTIFIER: RN102675642; LOCATION: Boerne, Kendall County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(n)(1), by failing to maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; PENALTY: \$135; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 825-3425; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: Associated Group Investment Company; DOCKET NUMBER: 2019-0256-AIR-E; IDENTIFIER: RN101951895; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: concrete crusher; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$1,844; ENFORCEMENT COORDINATOR:

Soraya Bun, (512) 239-2695; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(3) COMPANY: City of Calvert; DOCKET NUMBER: 2019-0082-PWS-E; IDENTIFIER: RN101392355; LOCATION: Calvert, Robertson County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the executive director regarding the failure to submit Disinfectant Level Quarterly Operating Reports by the tenth day of the month, and failing to collect, within 24 hours of notification of the routine distribution total coliform positive samples, at least one raw groundwater source *Escherichia coli* (or other approved fecal indicator) sample from each active groundwater source in use at the time the distribution coliform-positive samples were collected; PENALTY: \$308; ENFORCEMENT COORDINATOR: Marla Waters, (512) 239-4712; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(4) COMPANY: Corix Utilities (Texas) Incorporated; DOCKET NUMBER: 2018-1715-PWS-E; IDENTIFIER: RN101266138; LOCATION: Brenham, Washington County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(K), by failing to provide a well casing vent with an opening that is covered with a 16-mesh or finer corrosion resistant screen, facing downward, elevated, and located as to minimize the drawing of contaminants into the well; 30 TAC §290.41(c)(3)(M), by failing to provide a suitable sampling cock on the discharge pipe of the well prior to any treatment; 30 TAC §290.42(l), by failing to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.45(b)(1)(D)(iii) and Texas Health and Safety Code, §341.0315(c), by failing to provide two or more pumps that have a total capacity of 2.0 gallons per minute (gpm) per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane; and 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; PENALTY: \$536; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3421; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(5) COMPANY: EnerVest Operating, L.L.C.; DOCKET NUMBER: 2018-0669-AIR-E; IDENTIFIER: RN108365305; LOCATION: Denton, Denton County; TYPE OF FACILITY: oil and natural gas handling and production site; RULES VIOLATED: 30 TAC §101.20(1), 40 Code of Federal Regulations (CFR) §60.5395(d)(1)(i), and Texas Health and Safety Code (THSC), §382.085(b), by failing to reduce volatile organic compounds emissions by 95% within 60 days after startup; 30 TAC §101.20(1), 40 CFR §60.5420(b)(2)(i) and (6), and THSC, §382.085(b), by failing to submit a complete and accurate 40 CFR Part 60, Subpart OOOO annual report; 30 TAC §101.20(1) and §106.4(c), 40 CFR §60.5412(d)(1)(ii), and THSC, §382.085(b), by failing to maintain all emission control equipment in good condition and operated properly during operation of the facility; 30 TAC §106.6(b) and §116.110(a) and THSC, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants and failing to comply with all representations with regard to construction plans, operating procedures, and maximum emission rates; and 30 TAC §122.121 and THSC, §382.054 and §382.085(b), by failing to obtain a federal operating permit prior to operating emission units at a major source; PENALTY: \$147,375; ENFORCEMENT COORDINATOR: Trina Grieco, (210) 403-4006; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: Ivan Escobar; DOCKET NUMBER: 2019-0480-WOC-E; IDENTIFIER: RN110651742; LOCATION: Roma, Starr County; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Katelyn Tubbs, (512) 239-2512; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(7) COMPANY: GEVERS INVESTMENT INC dba Stanleys Ice House; DOCKET NUMBER: 2018-1757-PST-E; IDENTIFIER: RN101378222; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.10(b)(2), by failing to assure that all underground storage tank (UST) recordkeeping requirements are met; 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the USTs for releases at a frequency of at least once every 30 days; and 30 TAC §334.606, by failing to maintain required operator training certification records and make them available for inspection upon request by agency personnel; PENALTY: \$10,350; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(8) COMPANY: INEOS Styrolution America LLC; DOCKET NUMBER: 2019-0113-AIR-E; IDENTIFIER: RN104579487; LOCATION: Texas City, Galveston County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), New Source Review Permit Numbers 8978 and PSDTX459M3, Special Conditions Number 1, Federal Operating Permit (FOP) Number O2849, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 22, and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §101.201(a)(1)(B) and §122.143(4), FOP Number O2849, GTC and STC Number 2.F, and THSC, §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of the emissions event; PENALTY: \$3,801; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$1,520; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: Lion Elastomers LLC; DOCKET NUMBER: 2018-1693-AIR-E; IDENTIFIER: RN100224799; LOCATION: Port Neches, Jefferson County; TYPE OF FACILITY: rubber manufacturing plant; RULES VIOLATED: 30 TAC §§101.4, 116.115(c), and 122.143(4), New Source Review Permit Number 9908, Special Conditions Number 1, Federal Operating Permit Number O1224, General Terms and Conditions and Special Terms and Conditions Number 13, and Texas Health and Safety Code, §382.085(a) and (b), by failing to prevent unauthorized emissions and nuisance odor conditions; PENALTY: \$15,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$6,000; ENFORCEMENT COORDINATOR: Amanda Diaz, (512) 239-2601; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(10) COMPANY: PALO DURO SERVICE COMPANY, INCORPORATED; DOCKET NUMBER: 2018-0244-PWS-E; IDENTIFIER: RN101266153; LOCATION: Weatherford, Parker County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report (DLQOR) to the executive director (ED) each quarter by the tenth day of the month following the end of each quarter, for the third quarter of 2017; 30 TAC §290.117(i)(6) and (j), by failing to provide consumer notification of lead tap water monitoring results to persons served at the site (taps) that were tested, and failing to

mail a copy of the consumer notification of tap results to the ED along with certification that the consumer notification has been distributed for the January 1, 2011 - December 31, 2013, and January 1, 2016 - December 31, 2016, monitoring periods; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the ED regarding the failure to submit a DLQOR for the fourth quarter of 2015, second quarter of 2016, and first quarter of 2017; 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st for each year, failing to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility, and failing to ensure the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ for calendar year 2016; and 30 TAC §291.76 and TWC, §5.702, by failing to pay regulatory assessment fees for the TCEQ Public Utility Account regarding Certificate of Convenience and Necessity Number 12200 for calendar years 2016 and 2017; PENALTY: \$466; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: Phillips 66 Company; DOCKET NUMBER: 2018-1437-AIR-E; IDENTIFIER: RN102495884; LOCATION: Borger, Hutchinson County; TYPE OF FACILITY: petroleum refinery; RULES VIOLATED: 30 TAC §§101.20(3), 116.715(a), and 122.143(4), Flexible Permit Numbers 9868A and PSDTX102M7, Special Conditions Number 1, Federal Operating Permit Number O1440, General Terms and Conditions and Special Terms and Conditions Number 20, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$32,814; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$13,126; ENFORCEMENT COORDINATOR: Trina Grieco, (210) 403-4006; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(12) COMPANY: Pitts Oilfield Products & Services, LLC; DOCKET NUMBER: 2018-0798-IHW-E; IDENTIFIER: RN105632376; LOCATION: San Angelo, Tom Green County; TYPE OF FACILITY: steel tanks and vessels manufacturing facility; RULES VIOLATED: 30 TAC §335.4, by failing to not cause, suffer, allow, or permit the unauthorized disposal of industrial solid waste; 30 TAC §§335.62, 335.503(a), and 335.504 and 40 Code of Federal Regulations (CFR) §262.11, by failing to conduct hazardous waste determinations and waste classifications; 30 TAC §335.262(c)(1), by failing to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received; 30 TAC §335.262(c)(2)(A) and 40 CFR §265.173(a), by failing to keep containers of paint and paint-related waste closed, except when adding or removing waste; and 30 TAC §335.262(c)(2)(F), by failing to clearly label all paint and paint-related wastes, with the words "Universal Waste - Paint and Paint-Related Wastes;" PENALTY: \$58,537; ENFORCEMENT COORDINATOR: John Paul Fennell, (512) 239-2616; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(13) COMPANY: SHORT TRIP, LLC dba Short Trip Food Mart; DOCKET NUMBER: 2018-1691-PST-E; IDENTIFIER: RN100860626; LOCATION: Houston, Harris County; TYPE OF FACILITY: inactive underground storage tank (UST) system; RULES VIOLATED: 30 TAC §334.7(d)(1)(B) and (3) and §334.54(e)(2), by failing to provide written notice to the agency of any changes or additional information concerning the UST system within 30 days from the date of the occurrence of the change or addition; 30 TAC §334.49(a)(1) and §334.54(b)(2) and (3) and TWC, §26.3475(d), by failing to provide corrosion protection to the UST system, and failing

to maintain all piping, pumps, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons; and 30 TAC §334.602(a), by failing to designate, train, and certify at least one named individual for each class of operator - Class A, Class B, and Class C for the facility; PENALTY: \$7,187; ENFORCEMENT COORDINATOR: Hailey Johnson, (512) 239-1756; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(14) COMPANY: Texas Department of Criminal Justice; DOCKET NUMBER: 2018-1676-PWS-E; IDENTIFIER: RN102317070; LOCATION: Tennessee Colony, Anderson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(D)(iv) and Texas Health and Safety Code, §341.0315(c), by failing to provide a minimum elevated storage capacity of 100 gallons per connection; PENALTY: \$190; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$152; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(15) COMPANY: TEXAS GIANT KIM'S, INCORPORATED dba Fast & Low; DOCKET NUMBER: 2019-0063-PST-E; IDENTIFIER: RN102938925; LOCATION: Texarkana, Bowie County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tanks (USTs); and 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the USTs for releases at a frequency of at least once every 30 days, and failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$7,624; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(16) COMPANY: THAMAN ENTERPRISE LLC dba Caddo Stop; DOCKET NUMBER: 2019-0065-PST-E; IDENTIFIER: RN102408317; LOCATION: Cleburne, Johnson County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §115.221 and Texas Health and Safety Code, §382.085(b), by failing to control displaced vapors by a vapor control or a vapor balance system during the transfer of gasoline from a tank-truck tank into the underground storage tanks at the station; and 30 TAC §334.51(a)(6) and TWC, §26.3475(c)(2), by failing to assure that all spill and overflow prevention devices are maintained in good operating condition; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(17) COMPANY: The Sherwin-Williams Manufacturing Company; DOCKET NUMBER: 2018-1443-AIR-E; IDENTIFIER: RN100215995; LOCATION: Garland, Dallas County; TYPE OF FACILITY: paint manufacturing plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), New Source Review Permit Number 56448, Special Conditions Number 1, Federal Operating Permit (FOP) Number O1416, General Terms and Conditions (GTC) and Special Terms and Conditions Number 9, and Texas Health and Safety Code (THSC), §382.085(b), by failing to comply with the maximum allowable emissions rate; and 30 TAC §122.143(4) and §122.145(2), FOP Number O1416, GTC, and THSC, §382.085(b), by failing to report all instances of deviations; PENALTY: \$7,494; ENFORCEMENT COORDINATOR: Robyn Babyak, (512) 239-1853; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: WORLEY WELDING WORKS, INCORPORATED; DOCKET NUMBER: 2018-1603-PWS-E; IDENTIFIER: RN102803228; LOCATION: Levelland, Hockley County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(3)(C) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 4.0 milligrams per liter for fluoride based on the running annual average; PENALTY: \$172; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

TRD-201901113
Charmaine Backens
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: April 16, 2019

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Texas Ethics Commission

List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Sue Edwards at (512) 463-5800.

Deadline: Unexpended Funds Report due January 15, 2019, for Candidates

- Marsha L. Farney, P.O. Box 99, Georgetown, Texas 78627
 - Jess A. Fields, P.O. Box 1776, College Station, Texas 77841
 - Nicole Elizalde Henning, 435 W. Nakoma St., Ste. 101, San Antonio, Texas 78216
 - The Estate of Charles F. Howard, 9300 U.S. Highway 90A, Sugar Land, Texas 77478
 - Rebeca A. Huddle, 4901 Pine St., Bellaire, Texas 77401
 - Charles R. Johnson, 815 Walker St. #1047, Houston, Texas 77002
 - Morris L. Overstreet, P.O. Box 35, Prairie View, Texas 77446
 - Fransheneka J. Watson, P.O. Box 540282, Houston, Texas 77254
- TRD-201901080
Ian M. Steusloff
Interim Executive Director
Texas Ethics Commission
Filed: April 11, 2019

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Department of State Health Services

Notice of Public Hearings Schedule for Development and Review of Block Grant Funds

Under the authority of the Preventive Health Amendments of 1992 (see 42 United States Code, §§300w et seq.) the Department of State Health Services (department) is making application to the U.S. Public Health Service for funds to continue the Preventive Health and Health Services Block Grant (PHHSBG) during federal fiscal year (FFY) 2019. Provisions in the law require the chief executive officer of each state to annually furnish a description (a work plan) of the intended use of block grant funds in advance of each FFY. Each state is required to hold public hearings and to make proposals of these descriptions in such a manner as to facilitate comments.

In FFY 2019, four activities are proposed to be funded under the block grant. These include sexual assault prevention and crisis services, local health departments, Community and Clinical Preventive Services, and the Texas Health Communities Recognition Program. The PHHSBG award for FFY 2019 is \$6,331,840. Of this amount, \$562,234 was required to be used for sexual assault prevention and crisis services. The department has prepared the following schedule for the development and review of the 2019 Work Plan for the PHHSBG.

In May of 2019, the department will hold public hearings in four Public Health Regions (PHR):

May 21, 2019, Texas Department of State Health Services, Public Health Region 1, 6302 Iola Avenue, Conference Room 201, Lubbock, Texas 79424, from 2:00 p.m. - 4:00 p.m.

May 22, 2019, Texas Department of State Health Services, Public Health Region 2/3, 1301 South Bowen Road Suite 200, Conference Room 2208, Arlington, Texas 76013, from 9:00 a.m. - 11:00 a.m.

May 22, 2019, Texas Department of State Health Services, Public Health Region 6/5S, 5425 Polk Street, Suite 4A, Houston, Texas 77023, from 9:00 a.m. - 11:00 a.m.

May 22, 2019, Texas Department of State Health Services, Public Health Region 7, 2408 South 37th Street, Large Conference Room, Temple, Texas 76504, from 9:00 a.m. - 11:00 a.m.

Following these hearings, the department will summarize and consider the impact of the public comments received. The department will then notify the public of the availability of a published summary of these hearings. Please note that the department will continuously conduct activities to inform recipients of the availability of services/benefits, the rules and eligibility requirements, and complaint procedures.

Written comments regarding the PHHSBG may be submitted through May 23, 2019, to Amy Pearson, Block Grant Coordinator, Division for Regional and Local Health Operations, MC 1908, Texas Department of State Health Services, P.O. Box 149347, Austin, Texas 78714-9347, or via email at amy.pearson@dshs.texas.gov. For further information, please contact Ms. Pearson at (512) 776-2028.

TRD-201901103
Barbara L. Klein
General Counsel
Department of State Health Services
Filed: April 12, 2019

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Texas Higher Education Coordinating Board

Notice of Public Hearing Texas Higher Education Coordinating Board State of Texas College Student Loan Refunding Bonds

NOTICE IS HEREBY GIVEN of a public hearing to be held by the Texas Higher Education Coordinating Board (the "Issuer") on May 21, 2019, at 9:00 a.m., at the offices of the Issuer, 1200 East Anderson Lane, Room 1.170/Board Room, Austin, Texas 78752, with respect to the issuance of one or more series of State of Texas College Student Loan Refunding Bonds (the "Bonds") to be issued by the Issuer in an aggregate amount of not more than \$60,000,000, the proceeds of which will be used by the Issuer to refund certain student loan bonds that were previously issued by the Issuer to originate student loans to student borrowers at eligible institutions of higher education in the State of Texas under Chapter 52, Texas Education Code (the "Loan Program") to achieve a debt service savings. A description of the Loan Program and particular bonds to be refunded have been and will be kept on file at the office of the Issuer at the address set forth above. The Bonds will be general obligations of the State of Texas.

All interested persons are invited to attend such public hearing to express their views with respect to the Loan Program and the proposed issuance of the Bonds. Questions or requests for additional information may be directed to Ken Martin, Assistant Commissioner - Financial Services / Chief Financial Officer, 1200 East Anderson Lane, Austin, Texas 78752.

Persons who plan to attend are encouraged, in advance of the public hearing, to inform the Issuer either in writing or by telephone at (512) 427-6173. Any interested persons unable to attend the hearing may submit their views in writing to the Issuer prior to the date scheduled for the hearing.

This notice is published and the above described hearing is to be held in satisfaction of the requirements of section 147(f) of the Internal Revenue Code of 1986, as amended, regarding the public hearing prerequisite to the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

Individuals who may require auxiliary aids or services for this meeting should contact Lakshmy Haridas ADA Coordinator, at (512) 427-6573 at least five days before the meeting so that appropriate arrangements can be made.

TRD-201901122
Bill Franz
General Counsel
Texas Higher Education Coordinating Board
Filed: April 17, 2019

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Texas Department of Insurance

Company Licensing

Application for Clearwater Select Insurance Company, a foreign fire and/or casualty company, to change its name to Greystone Insurance Company. The home office is in Stamford, Connecticut.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Christian Hertzberg, 333 Guadalupe Street, MC 103-CL, Austin, Texas 78701.

TRD-201901128
Norma Garcia
General Counsel
Texas Department of Insurance
Filed: April 17, 2019

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Texas Lottery Commission

Notice of Public Comment Hearing

A public hearing to receive comments regarding proposed amendments to 16 TAC §402.403 (Licenses for Conduct of Bingo Occasions and to Lease Bingo Premises) will be held on Wednesday, May 8, 2019, at 10:00 a.m., at 611 East 6th Street, Austin, Texas 78701. Persons requiring any accommodation for disability should notify Debbie Jamieson at (512) 344-5038 at least 72 hours prior to the public hearing.

TRD-201901097
Bob Biard
General Counsel
Texas Lottery Commission
Filed: April 12, 2019

Scratch Ticket Game Number 2162 "Break the Bank"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2162 is "BREAK THE BANK". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2162 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2162.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, MONEY STACK SYMBOL, \$2.00, \$4.00, \$6.00, \$10.00, \$20.00, \$50.00, \$200, \$1,000, \$3,000 and \$30,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2162 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
MONEY STACK SYMBOL	WIN
\$2.00	TWO\$
\$4.00	FOR\$
\$6.00	SIX\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$200	TOHN
\$1,000	ONTH
\$3,000	THTH
\$30,000	30TH

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2162), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2162-0000001-001.

H. Pack - A Pack of the "BREAK THE BANK" Scratch Ticket Game contains 125 Tickets. One Ticket will be folded over to expose a front and back of one ticket on each pack. Please note the packs will be in an A, B, C, and D configuration.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "BREAK THE BANK" Scratch Ticket Game No. 2162.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "BREAK THE BANK" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 19 (nineteen) Play Symbols. If the player matches any of the YOUR NUMBERS Play Symbols to any of the 3 LUCKY NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "MONEY STACK" Play Symbol, the player wins the prize for that symbol instantly. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly 19 (nineteen) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly 19 (nineteen) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch

Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 19 (nineteen) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 19 (nineteen) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. A non-winning Prize Symbol will never match a winning Prize Symbol.

D. No matching LUCKY NUMBERS Play Symbols on a Ticket.

E. There will be no correlation between the matching Play Symbols and the prize amount.

F. The "MONEY STACK" (WIN) Play Symbol will never appear more than once on a Ticket.

G. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

H. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 02 and \$2).

2.3 Procedure for Claiming Prizes.

A. To claim a "BREAK THE BANK" Scratch Ticket Game prize of \$2.00, \$4.00, \$6.00, \$8.00, \$10.00, \$12.00, \$20.00, \$50.00 or \$200, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the

claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00 or \$200 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "BREAK THE BANK" Scratch Ticket Game prize of \$1,000, \$3,000 or \$30,000, the claimant must sign the winning Scratch Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "BREAK THE BANK" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "BREAK THE BANK" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "BREAK THE BANK" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 40,080,000 Scratch Tickets in Scratch Ticket Game No. 2162. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2162 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2	3,847,680	10.42
\$4	2,244,480	17.86
\$6	480,960	83.33
\$8	160,320	250.00
\$10	801,600	50.00
\$12	320,640	125.00
\$20	320,640	125.00
\$50	160,320	250.00
\$200	16,700	2,400.00
\$1,000	501	80,000.00
\$3,000	130	308,307.69
\$30,000	25	1,603,200.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.80. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2162 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2162, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-201901114
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: April 16, 2019

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North Central Texas Council of Governments
 Notice of Contract Award

Pursuant to the provisions of Government Code, Chapter 2254, the North Central Texas Council of Governments publishes this notice of contract award. The request appeared in the October 26, 2018, issue of the *Texas Register* (43 TexReg 7260). The selected entity will perform technical and professional work for Dallas Area Rapid Transit (DART) Red and Blue Line Corridors Transit Oriented Development Survey.

The entity selected for this project is National Research Center Inc., 2955 Valmont Road, Suite 300, Boulder, CO 80301. The amount of the contract is not to exceed \$250,000.

Issued in Arlington, Texas on April 8, 2019.

TRD-201901078
 R. Michael Eastland
 Executive Director
 North Central Texas Council of Governments
 Filed: April 11, 2019

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Notice of Contract Award

Pursuant to the provisions of Government Code, Chapter 2254, the North Central Texas Council of Governments publishes this notice of contract awards. The request appeared in the October 19, 2019, issue of the *Texas Register* (43 TexReg 7004). The selected entities will perform technical and professional work for the Fort Worth/Waco/Temple-Killeen/Austin/San Antonio/Laredo High-Speed Transportation Study.

The entity selected for this project is AECOM Technical Services, Inc. 13355 Noel Road, Suite 400, Dallas, Texas 75240. The amount of the contract it is not to exceed \$500,000.

Issued in Arlington, Texas on April 8, 2019.

TRD-201901079

R. Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: April 11, 2019



Notice of Contract Award - Hosted Website and Application Solution for www.tryparkingit.com, the Regional Commute Tracking, Ride-Matching, and Commuter Reward System Website

Pursuant to the provisions of Government Code, Chapter 2254, the North Central Texas Council of Governments publishes this notice of contract award. The request appeared in the December 21, 2018, issue of the *Texas Register* (43 TexReg 8499). The selected entity will perform technical and professional work for a Hosted Website and Application Solution for www.tryparkingit.com, the Regional Commute Tracking, Ride-Matching, and Commuter Reward System Website.

The entity selected for this project is Agile Mile, Inc., 33 Main Street, Suite L, Old Saybrook, Connecticut 06475. The amount of the contract is not to exceed \$1,700,000.

Issued in Arlington, Texas on April 10, 2019

TRD-201901081

R. Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: April 11, 2019



Request for Proposals for Know Before You Fly Training

The North Central Texas Council of Governments (NCTCOG) is requesting proposals from individuals or firm(s) to conduct "Know Before You Fly" workshops throughout 2019, 2020 and 2021. The training will occur within the Dallas-Fort Worth Region and should be strategically located to provide total coverage, with the exact locations to be determined by the trainer in coordination with NCTCOG.

To safely integrate Unmanned Aircraft Systems (UAS) technology into the DFW metroplex, NCTCOG promotes the FAA's Know Before You Fly Program as a way to encourage the Recreational and Commercial UAS users to utilize their UAS platforms safely within the nation's airspace. NCTCOG is looking to follow the FAA's example by promoting their resources directly to the public and also educating the public about the various UAS initiatives and resources in the region.

Proposals must be received no later than 5:00 p.m. Central Time, on Friday, May 10, 2019, to Ernest Huffman, Principal Transportation Planner, North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas 76011. The Request for Proposals will be available at www.nctcog.org/rfp by the close of business on Friday, April 26, 2019.

NCTCOG encourages participation by disadvantaged business enterprises and does not discriminate on the basis of age, race, color, religion, sex, national origin, or disability.

TRD-201901130

R. Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: April 17, 2019



Texas Department of Public Safety

Notice of Request for Qualifications

The Department of Public Safety (Department) invites those with documented experience, qualifications, and demonstrated expertise in the field of architectural and engineering services for state governments and major construction projects to submit a Statement of Qualifications to the Department.

Statement of Qualifications must be received no later than 3:00 p.m. Central Time, on Tuesday, May 14, 2019, to Bryan Williams, Contract Specialist, Department of Public Safety, 5805 North Lamar Blvd, Austin, Texas 78752. Copies of the Request for Qualifications are available on the *Electronic State Business Daily* at: <http://www.txsmartbuy.com/sp>.

TRD-201901107

D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Filed: April 15, 2019



Texas Department of Transportation

Aviation Division - Request for Qualifications (RFQ) for Professional Engineering Services

The City of Taylor, through its agent, the Texas Department of Transportation (TxDOT), intends to engage a professional engineering firm for services pursuant to Chapter 2254, Subchapter A, of the Government Code. TxDOT Aviation Division will solicit and receive qualification statements for the current aviation project as described below.

Current Project: City of Taylor; TxDOT CSJ No.: 1914TAYLR.

The TxDOT Project Manager is Robert Johnson, P.E.

Scope: Provide engineering and design services, including construction administration, to:

1. Construct new terminal apron;
2. Relocate beacon;
3. Relocate electrical vault; and
4. Bury overhead electrical lines.

The Agent, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The proposed contract is subject to 49 CFR Part 26 concerning the participation of Disadvantaged Business Enterprises (DBE).

The DBE goal for the design phase of the current project is 8%. The goal will be re-set for the construction phase.

A voluntary pre-submittal meeting is scheduled from 10:00 a.m. - noon on Thursday, May 9, 2019, at Taylor Municipal Airport, 303 Airport Road, Suite 101, Taylor, Texas 76574. There will be an opportunity for interested firms to ask questions followed by an airport site visit. This is the only available time for interested firms to visit with local designated representatives prior to the AVN-550 submission.

Utilizing multiple engineering/design and construction grants over the course of the next five years, future scope of work items at the Taylor Municipal Airport may include the following: apron rehabilitation and drainage study.

The City of Taylor reserves the right to determine which of the services listed above may or may not be awarded to the successful firm and to initiate additional procurement action for any of the services listed above.

To assist in your qualification statement preparation, the criteria, project diagram, and most recent Airport Layout Plan are available on-line at <http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm> by selecting "Taylor Municipal Airport." The qualification statement should address a technical approach for the current scope only. Firms shall use page 4, Recent Airport Experience, to list relevant past projects.

AVN-550 Preparation Instructions:

Interested firms shall utilize the latest version of Form AVN-550, titled "Qualifications for Aviation Architectural/Engineering Services." The form may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, (800) 68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT website at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html>. The form may not be altered in any way. Firms must carefully follow the instructions provided on each page of the form. Qualifications shall not exceed the number of pages in the AVN-550 template. The AVN-550 consists of eight pages of data plus one optional illustration page. A prime provider may only submit one AVN-550. If a prime provider submits more than one AVN-550, or submits a cover page with the AVN-550, that provider will be disqualified. Responses to this solicitation WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.

ATTENTION: To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is a PDF Template.

The completed Form AVN-550 must be received in the TxDOT Aviation eGrants system no later than May 16, 2019, 11:59 p.m. (CDST). Electronic facsimiles or forms sent by email or regular/overnight mail will not be accepted.

Firms that wish to submit a response to this solicitation must be a user in the TxDOT Aviation eGrants system no later than one business day before the solicitation due date. To request access to eGrants, please complete the Contact Us web form located at <http://txdot.gov/government/funding/egrants-2016/aviation.html>.

An instructional video on how to respond to a solicitation in eGrants is available at <http://txdot.gov/government/funding/egrants-2016/aviation.html>.

Step by step instructions on how to respond to a solicitation in eGrants will also be posted in the RFQ packet at <http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm>.

The consultant selection committee will be composed of local government representatives. The final selection by the committee will

generally be made following the completion of review of AVN-550s. The committee will review all AVN-550s and rate and rank each. The Evaluation Criteria for Engineering Qualifications can be found at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html> under Information for Consultants. All firms will be notified and the top rated firm will be contacted to begin fee negotiations for the design and bidding phases. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

Please contact TxDOT Aviation for any technical or procedural questions at (800) 68-PILOT (74568). For procedural questions, please contact Anna Ramirez, Grant Manager. For technical questions, please contact Robert Johnson, P.E., Project Manager.

For questions regarding responding to this solicitation in eGrants, please contact the TxDOT Aviation help desk at (800) 687-4568 or avn-egrantshelp@txdot.gov.

TRD-201901104

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: April 15, 2019

Texas Water Development Board

Applications for March 2019

Pursuant to Texas Water Code §6.195, the Texas Water Development Board provides notice of the following applications:

Project ID #73840, a request from the City of Kerrville, 701 Main Street, Kerrville, Texas 78028, received on March 14, 2019, for \$500,000 in financial assistance, from the Clean Water State Revolving Fund for emergency relief to remove the pipe and steel support infrastructure from the river just downstream of the SH Loop 534 bridge. The City also requests urgent need funding for the planning and design of a permanent river crossing alternative for the three pipelines, and for the rehabilitation of two existing reuse and potable water lines currently hung from the SH Loop 534 bridge which will become a portion of the permanent solution.

Project ID #62852, a request from the City of Kerrville, 701 Main Street, Kerrville, Texas 78028, received on March 14, 2019, for \$500,000 in financial assistance, from the Drinking Water State Revolving Fund for emergency relief, to remove the pipe and steel support infrastructure from the river just downstream of the SH Loop 534 bridge. The City also requests urgent need funding for the planning and design of a permanent river crossing alternative for the three pipelines, and for the rehabilitation of two existing reuse and potable water lines currently hung from the SH Loop 534 bridge which will become a portion of the permanent solution.

Project ID #21781, a request from the North Plains Groundwater Conservation District, P.O. Box 795, Dumas, Texas 79029-0795, received on March 18, 2019, for \$1,000,000 in financial assistance, from the Agricultural Water Conservation Loan to upgrade water delivery, irrigation, and monitoring systems.

TRD-201901106

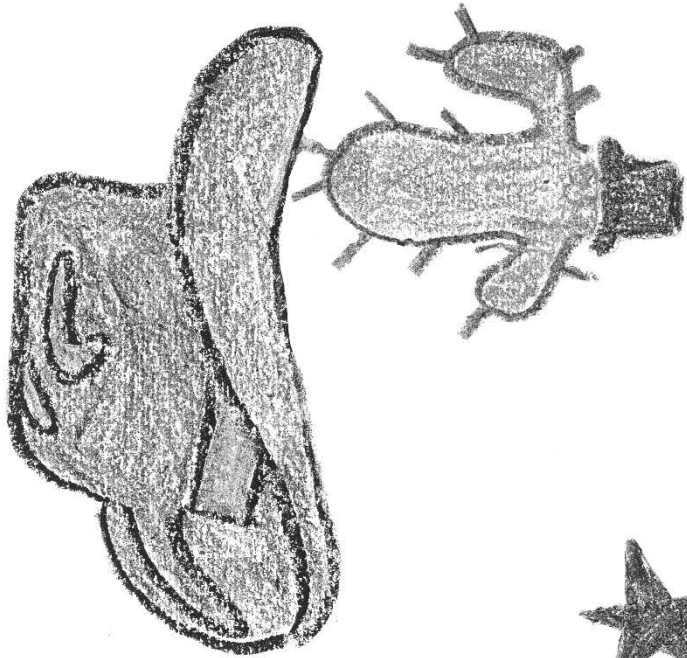
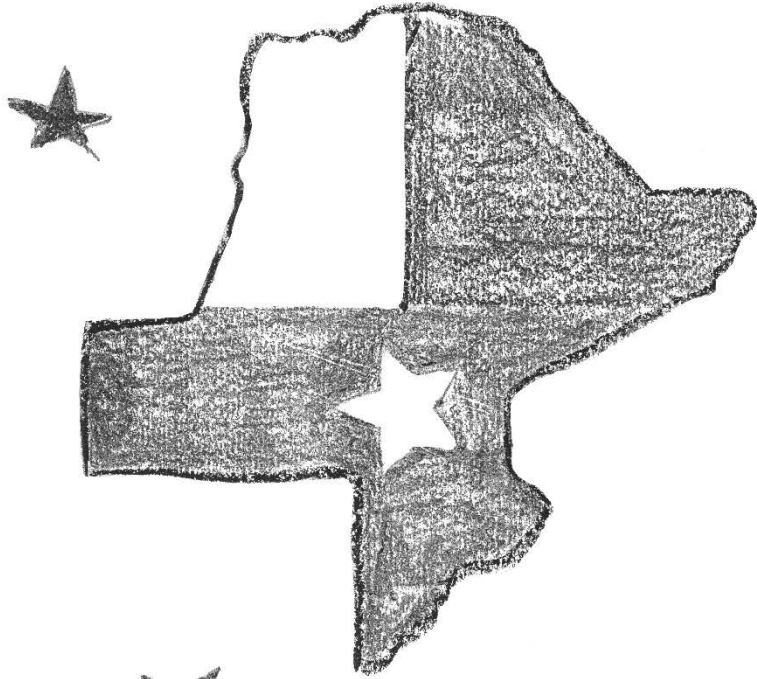
Todd Chenoweth

General Counsel

Texas Water Development Board

Filed: April 15, 2019

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How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 43 (2018) is cited as follows: 43 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "43 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 43 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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