

Texas Register

Volume 18, Number 4, January 12, 1993

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Texas Register



a section of the Office of the Secretary of State P.O. Box 13824 Austin, TX 78711-3824 (512) 463-5561 FAX (512) 463-5569

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How to Use the Texas Register

Information Available: The 10 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.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Sections - sections adopted by state agencies on an emergency basis.

Proposed Sections - sections proposed for adoption.

Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Sections - sections adopted following a 30-day public comment period.

Open Meetings - notices of open meetings.

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 18 (1993) is cited as follows: 18 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 "18 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 18 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, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using Texas Register indexes, the Texas Administrative Code, section numbers, or TRD number.

Texas Administrative Code

The Texas Administrative Code (TAC) is the official 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. West Publishing Company, the official publisher of the TAC, releases cumulative supplements to each printed volume of the TAC twice each year.

The TAC volumes are arranged into Titles (using Arabic numerals) and Parts (using Roman 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 Official TAC also is available on WESTLAW, West's computerized legal research service, in the TX-ADC database.

To purchase printed volumes of the TAC or to inquire about WESTLAW access to the TAC call West: 1-800-328-9352.

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
28. Insurance
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 Table of TAC Titles Affected. The table is published cumulatively in the blue-cover quarterly indexes to the Texas Register (January 22, April 16, July 13, and October 12, 1993). In its second issue each month the Texas Register contains a cumulative Table of TAC Titles Affected for the preceding month. If a rule has changed during the time period covered by the table, the rule's TAC number will be printed with one or more Texas Register page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
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The Table of TAC Titles Affected is cumulative for each volume of the Texas Register (calendar year).

Update by FAX: An up-to-date Table of TAC Titles Affected is available by FAX upon request. Please specify the state agency and the TAC number(s) you wish to update. This service is free to Texas Register subscribers. Please have your subscription number ready when you make your request. For non-subscribers there will be a fee of \$2.00 per page (VISA, MasterCard). (512) 463-5561.

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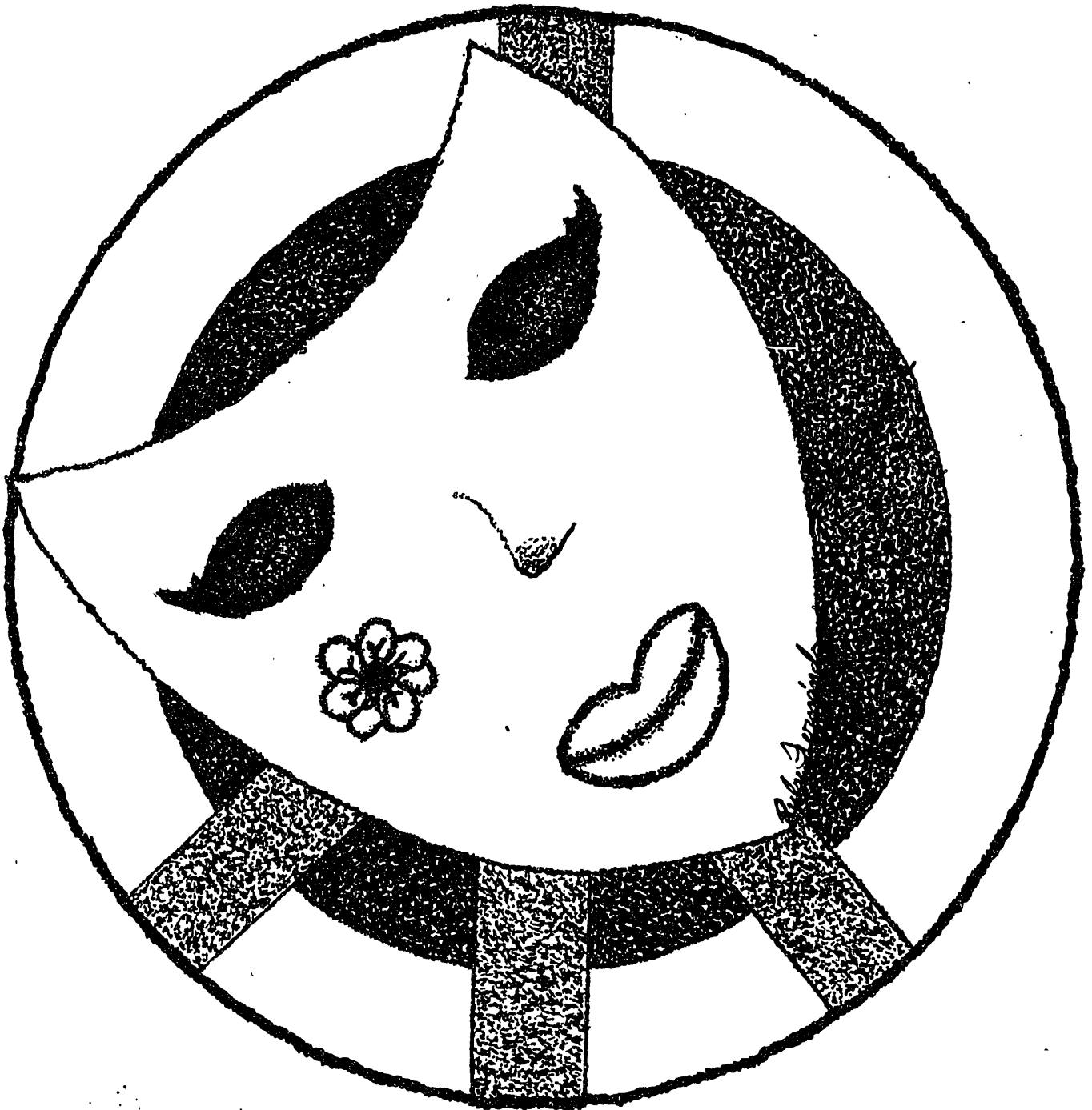
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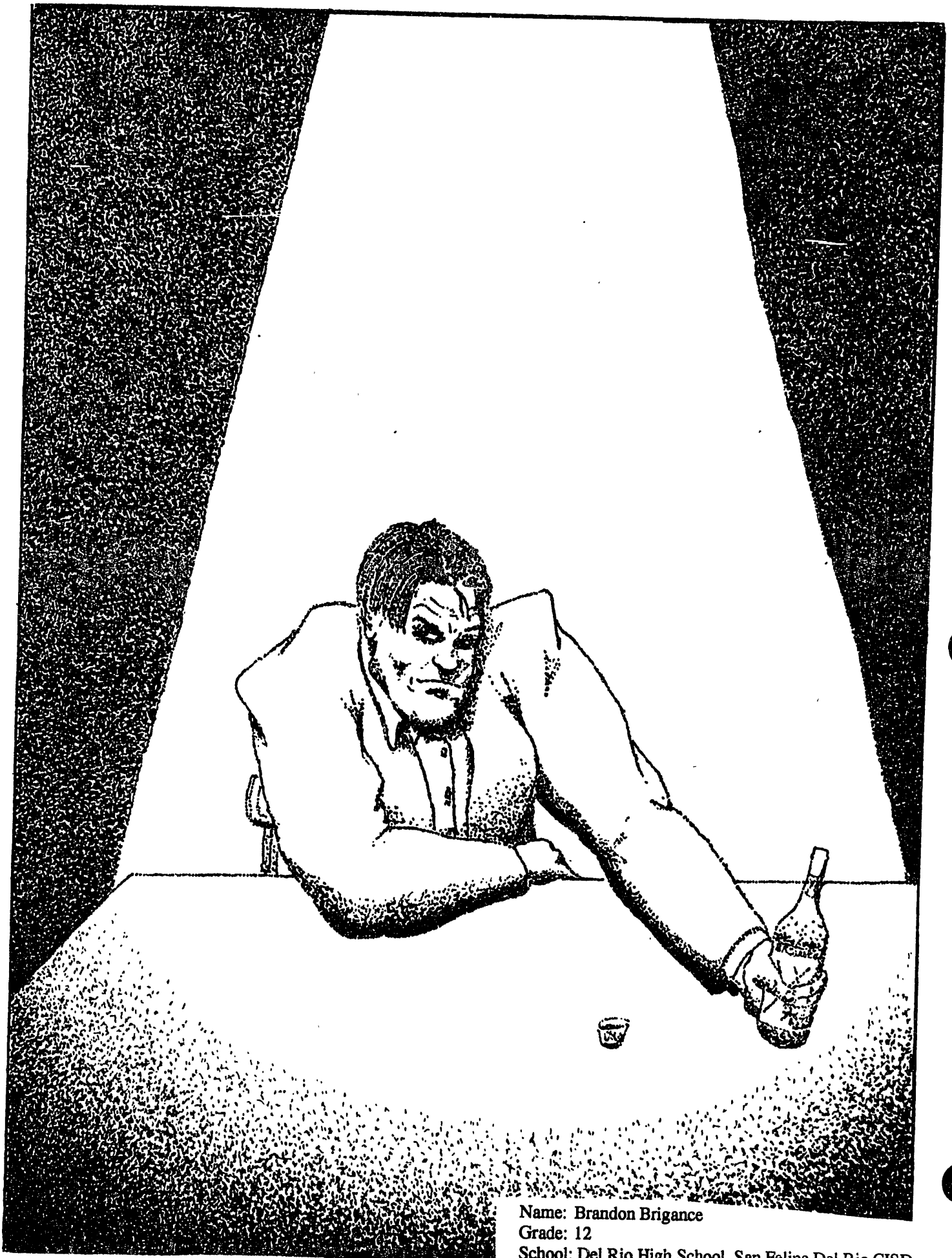
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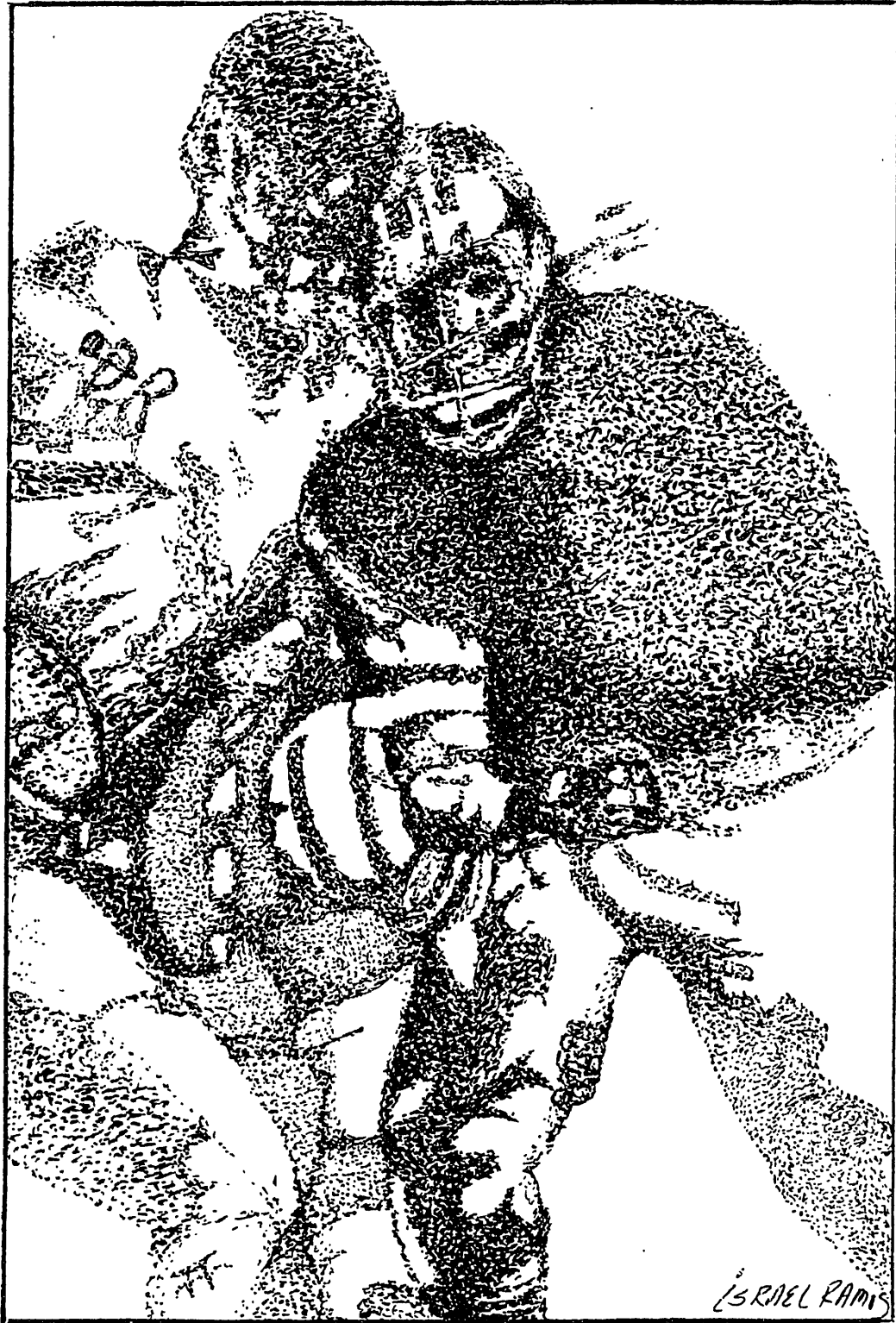
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Grade: 12
School: Del Rio High School, San Felipe Del Rio CISD



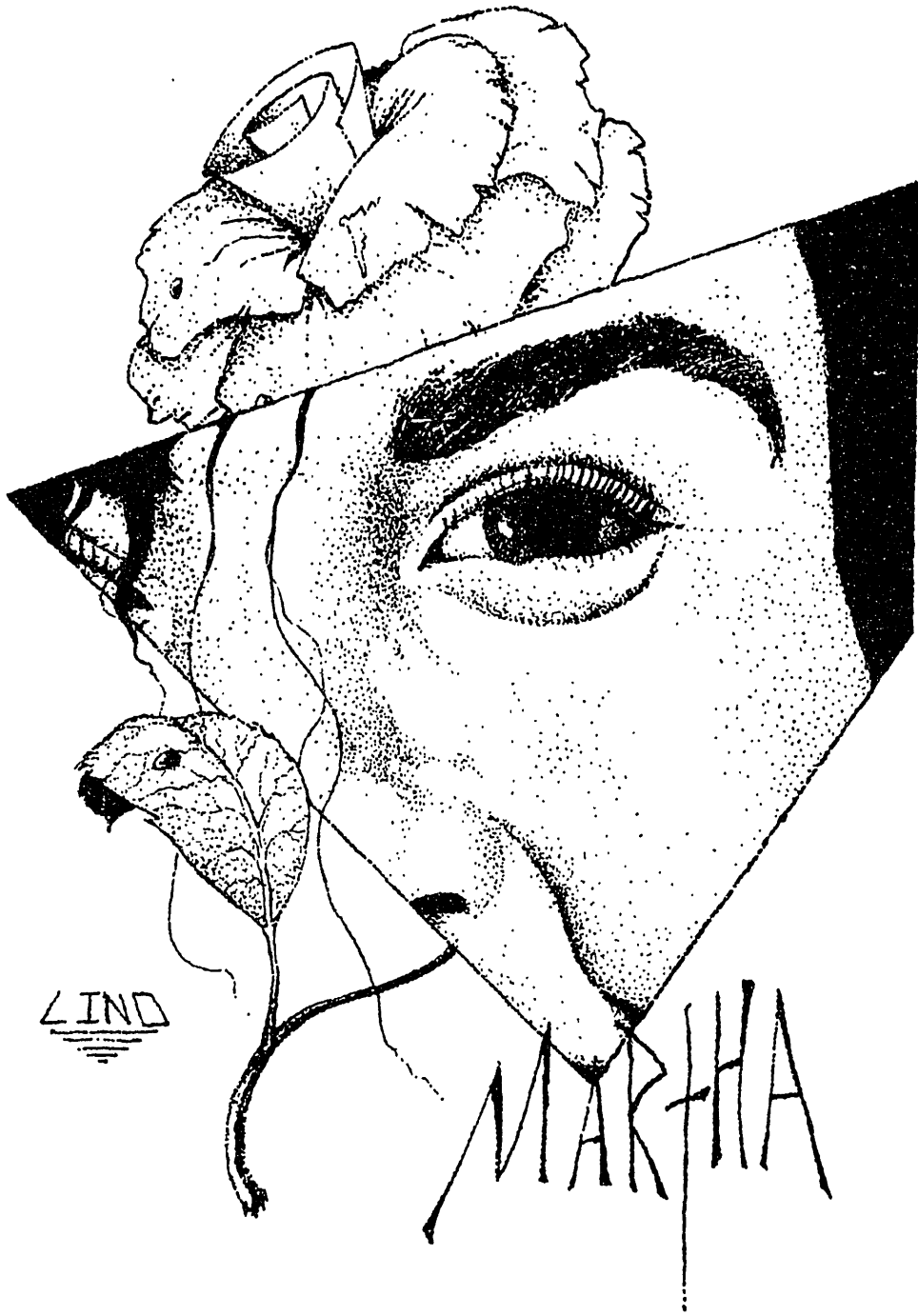
Name: Jose Hernandez
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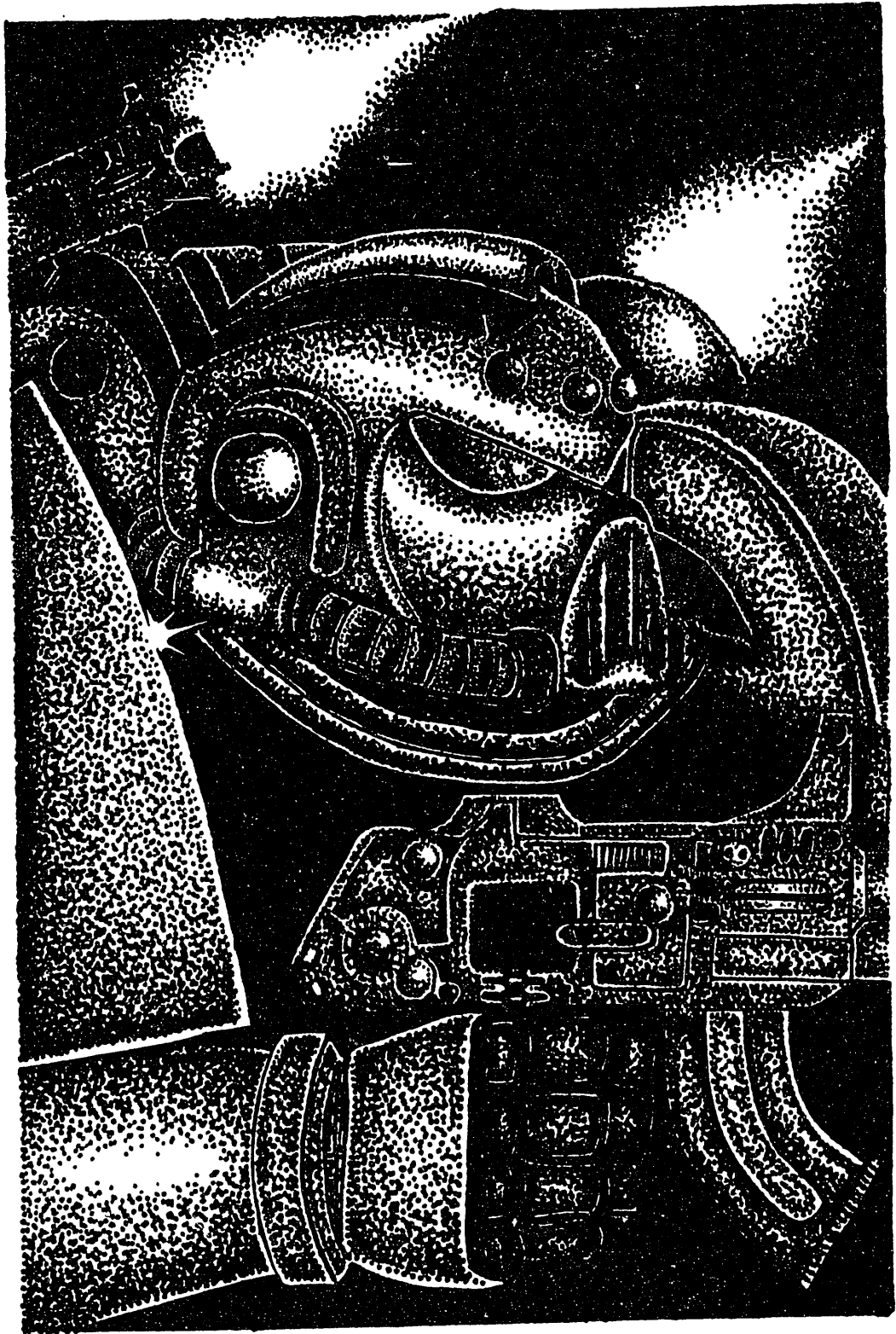
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School: Del Rio High School, San Felipe Del Rio CISD



Name: Orlando Najero
Grade: 12
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The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, 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 Made December 22, 1992

To be a member of the Texas Water Development Board for a term to expire December 31, 1993: Othon Medina, Jr., 10204 Khyber, El Paso, Texas 79927. Mr. Medina will be filling the unexpired term of Luis Chavez of El Paso, who resigned.

Appointments Made December 31, 1992

To be Judge of the 289th Judicial District Court, until the next General Election and until her successor shall be duly elected and qualified: Carmen Young Kelsey, 5355 Peppermint Drive, San Antonio, Texas 78219. Ms. Kelsey will be replacing Judge Tom Rickhoff of San Antonio, who was

elected to the Fourth Court of Appeals. Her appointment will be effective January 1, 1993.

To be Justice of the Court of Appeals, Second Supreme Judicial District, until the next General Election and until her successor shall be duly elected and qualified: MaryEllen Hicks, P.O. Box 19165, Fort Worth, Texas 76119. Judge Hicks will be replacing Justice Larry Meyers of Fort Worth, who was elected to the Court of Criminal Appeals. Her appointment will be effective January 1, 1993.

To be Judge of the 263rd Judicial District Court, Harris County, until the next General Election and until his successor shall be duly elected and qualified: Ruben Guerrero, 11635 Kirkhollow Drive, Houston, Texas 77089. Mr. Guerrero will be replacing

Judge Charles J. Hearn of Houston, who resigned. His appointment will be effective January 1, 1993.

To be Judge of the 257th Judicial District Court, Harris County, until the next General Election and until her successor shall be duly elected and qualified: Linda Motheral, 8103 Greenbush Drive, Houston, Texas 77025. Judge Motheral will be replacing Judge Norman Lee of Houston, who was elected to the Fourteenth Court of Appeals. Her appointment will be effective January 1, 1993.

Issued in Austin, Texas, on January 4, 1993.

TRD-9317161

Ann W. Richards
Governor of Texas

◆ ◆ ◆



Name: Elizabeth White
Grade: 11
School: Del Rio High School, San Felipe Del Rio CISD

Attorney General

Description of Attorney General submissions. Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042 and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies maybe held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record.

Requests for Opinions

(RQ-464). Will be issued as Attorney General Opinion DM-185.

(RQ-465). Request from Honorable Bob Bullock, Lieutenant Governor of Texas, P.O. Box 12068, Austin, concerning the authority of the Texas Department of Health to enact rules regarding nursing homes.

(RQ-466). Request from Honorable Tom Craddick, Chairman, Committee on Public Health, Texas House of Representatives, P.O. Box 2910, Austin, concerning whether a municipality's "additional sales and use tax" may be used to finance a homestead exemption, and related questions.

(RQ-467). Request from Merrill E. Nunn, City Attorney, City of Amarillo, P.O. Box

1971, Amarillo, concerning whether the identities of juvenile victims of crimes or accidents are protected from required public disclosure under the Texas Open Records Act, §3(a)(1). Texas Civil Statutes, Article 6252-17a.

(RQ-468). The reconsideration of DM-17. Will be DM-191.

(RQ-469). Request from Honorable Wiley L. Cheatum, District Attorney, 24th Judicial District, P.O. Box 587, Cuero, concerning the use of drug forfeiture funds.

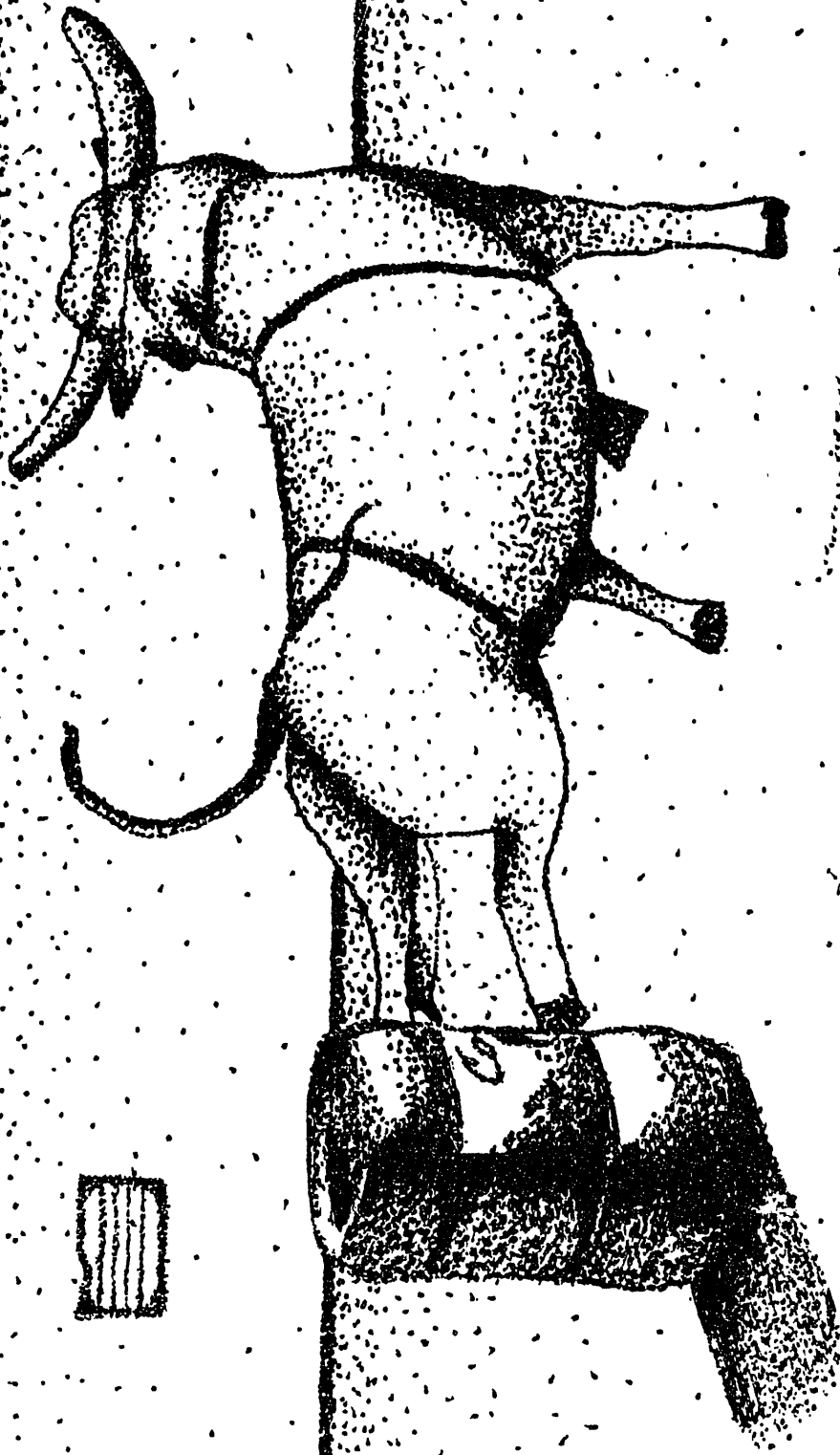
(RQ-470). Request from Honorable John D. "Jack" Whitlow, Criminal District Attorney, Calhoun County, P.O. Box 1001, Port Lavaca, concerning whether motor vehicles carrying hazardous materials are subject to

regulation if they merely cross, rather than travel on, a public highway.

(RQ-471). Request from Honorable James E. Nugent, Commissioner, Railroad Commission of Texas, P.O. Box 12967, Austin, concerning whether certain motor carriers must provide workers compensation and/or accident insurance.

(RQ-472). Request from Honorable Marcos Hernandez, Jr., Criminal District Attorney, Hays County Courthouse, Room 208, San Marcos, concerning whether a local chamber of commerce, economic development council, and convention and visitors bureau are subject to the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17.

◆ ◆ ◆



David Hughes

Name: David Hughes
Grade: 11
School: Del Rio High School, San Felipe Del Rio CISD

Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

Symbology in proposed amendments. New language added to an existing section is indicated by the use of bold text. [Brackets] indicate deletion of existing material within a section.

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 145. Long-Term Care

Subchapter G. Licensing and Medical Certification Standards for Nursing Homes

• 25 TAC §145.111

The Texas Department of Health (department) proposes an amendment to §145.111, concerning standards for nursing homes jointly developed by the department and the Texas Department of Human Services (TDHS) that apply to licensure and to Medicaid certification (standards). The standards are in TDHS rules in 40 TAC §§19.1-19.2216, which the department adopts by reference in §145.111.

The department's amendment to §145.111 will show the effective date that the department adopts TDHS's changes to the standards. The sections covered under this amendment to §145.111 are the proposed repeal of 40 TAC §19.217 and §19.505; proposed new §19.217 and §19.504; proposed amendments to 19.502, 19.503, 19.1911, 19.1912, and 19.1923, were published in the *Texas Register* under TDHS proposed rules in December 22, 1992 issue. The TDHS proposes to adopt these changes March 1, 1993, which is the date reflected in our amendment to §145.111.

The changes to the existing sections provide substantive clarification and consolidation of the previously adopted sections. The section changes update the educational qualifications and standards for activity directors and social workers; clarify the social service, advance directives, and clinical records requirements; and correct references.

Janice M. Caldwell, Dr. P.H., Chief, Bureau of Long-Term Care, Texas Department of Health has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section as proposed.

Dr. Caldwell also has determined that for each year of the first five years the section is in effect the public benefit anticipated is that facilities, department employees, and the public will more clearly understand the requirements. There is no anticipated cost to

small or large business to comply with this section as proposed. There is no anticipated cost for persons who may be required to comply with this proposal. There is no effect on local government.

Comments on the proposal may be submitted to Janice M. Caldwell, Dr. P.H., Chief, Bureau of Long-Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, at (512) 458-7709. Comments will be accepted for 30 days following the date of publication of this proposal in the *Texas Register*.

The amendment is proposed under the Health and Safety Code, Chapter 242, which provides for the Board of Health to promulgate rules relative to its licensing authority for long-term care facilities; §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Department, and the Commissioner of Health; and Senate Bill 487, §8, 71st Legislature, 1989, which provides the Department and TDHS with the authority to jointly develop one set of standards for nursing homes that applies to licensure and to certification for participation in the medical assistance program under the Human Resources Code, Chapter 32, and to adopt by rule the standards and any amendments to them.

§145.111. Standards for Nursing Homes Jointly Developed by the Texas Department of Health and the Texas Department of Human Services That Apply to Licensure and Medicaid Certification.

(a) The Texas Department of Health adopts by reference the Texas Department of Human Services rules 40 TAC, §§19.1-19.2216, concerning Long-Term Care Nursing Facility Requirements for Licensure and Medicaid Certification effective October 8, 1990, as amended: October 1, 1990, under federal mandate; September 1, 1991; March 17, 1992; April 1, 1992 under federal mandate; March 3, 1992 under federal mandate; April 1, 1992, and August 26, 1992, under federal mandates; [and] February 1, 1993, and March 1, 1993.

(b) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on January 5, 1992.

TRD-9317219

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: March 1, 1993

For further information, please call: (512) 834-6770

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 1. Organization and Administration

Personnel and Employment Policies

• 37 TAC §1.40

The Texas Department of Public Safety proposes new §1.40, concerning reasonable accommodations under the Americans with Disabilities Act. The department proposes this section to state its policy and commitment to provide reasonable accommodation under the American with Disabilities Act, Title 1, concerning employment practices.

Melvin C. Peebles, Assistant Chief of Fiscal Affairs, has determined that there will be fiscal implications as a result of enforcing or administering the section however; the department has no historical data on which to estimate cost for providing reasonable accommodation to comply with the Americans with Disabilities Act.

Mary Ann Courter, Commander, Personnel Bureau, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure the public the department is in compliance with the Americans with Disabilities Act regarding employment practices by providing reasonable accommodations. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to John C. West, Jr., Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001, (512) 465-2000.

The new section is proposed under the Texas Government Code, §411.006(4), which provides the Texas Department of Public Safety with the authority to adopt rules, subject to commission approval, considered necessary for the control of the department.

§1.40. Reasonable Accommodations Under the Americans with Disabilities Act.

(a) It is the policy of the department that no qualified individual with a disability shall, solely based on the disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any of the policies or

procedures of the department in any employment practice.

(b) This department shall make reasonable accommodations to known physical or mental limitations of a qualified applicant or employee with a disability which would enable the individual to perform the essential job tasks.

(c) The department must provide a reasonable accommodation for a qualified applicant or employee with a known physical or mental disability unless it can show that the accommodation would impose an undue hardship on the operation.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on December 29, 1992.

TRD-9317256

James R. Wilson
Director
Texas Department of
Public Safety

Earliest possible date of adoption: February 12, 1993

For further information, please call: (512) 465-2000

Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 23. Vehicle Inspection

Vehicle Inspection Station Licensing

• 37 TAC §23.7

The Texas Department of Public Safety adopts an amendment to §23.7 concerning vehicle inspection, with changes to the proposed text as published in the October 30, 1992, issue of the *Texas Register* (17 TexReg 7655).

The adoption of this amendment will ensure the public that vehicle inspection inspectors adequately inspect vehicles that have suncreening installed by using a tint metering device. In response to public comment, Subsection (f)(9) is amended by adding language exempting government inspection stations that provide the department annual written certification that the government entity has no vehicles equipped with a sunscreening device.

The amendment adds paragraph (9) to subsection (f) which requires equipment for measuring the light transmission of sunscreening devices to be owned and maintained by the vehicle inspection station.

One comment was received which suggested that state agencies and institutions be exempt from the amendment requiring sunscreen measurement. The comment further stated that those stations are licensed to perform vehicle inspections on state-owned vehicles only and the likelihood of ever having a vehicle with sunscreening devices to inspect is virtually nonexistent.

Commenting against the amendment was the University of Texas Health Science Center at San Antonio.

The Public Safety Commission agrees that government stations which have no vehicles with sunscreening devices to inspect should be exempt from the requirements to own and maintain a department-approved device for measuring the light transmission of sunscreening and to inspect the sunscreening using the device. However, the department is aware that there is no prohibition against installing sunscreening on state-owned vehicles and that some state vehicles do have sunscreening devices. Therefore, the

section is amended to exempt government stations which have provided the department with annual written certification that none of the government entities' vehicles are equipped with a sunscreening device.

The amendment is adopted under Texas Civil Statutes, Article 6701d, Article XV, §142, which provide the Texas Department of Public Safety with the authority to adopt rules necessary for the administration and enforcement of this Act.

§23.7. Equipment Requirements for All Classes of Vehicle Inspection Stations.

(a) Applicant shall be informed of the required equipment including such items as approved testing devices, tools, measuring devices, display board, brake machines, marked brake test area, and marked inspection test area.

(b) The minimum tools, equipment, and approved testing devices shall be kept and maintained in proper working condition at all times in the vehicle inspection station area.

(c) All testing equipment shall be approved by the department. All testing equipment shall be installed and used in accordance with the manufacturer's and department's recommendation. Equipment shall be arranged and located at or near the approved inspection area to obtain maximum efficiency.

(d) If equipment is used during the inspection procedure, the vehicle inspection station owner shall be responsible for its use, accuracy, and general maintenance. When equipment adjustments and calibrations are needed, the manufacturer's and department's specifications shall be followed. Defective equipment shall not be used until such deficiencies are corrected.

(e) Every certified inspector shall have a working knowledge of all testing devices used during inspections.

(f) Each vehicle inspection station is required to own and maintain, as a minimum, the equipment listed below:

(1) tools for making tests, repairs, and adjustments ordinarily encountered on those types of vehicles to be inspected;

(2) a measured and marked brake test area which has been approved by

the department, or an approved brake inspecting device;

(3) a measuring device clearly indicating measurements of 12 inches, 15 inches, 20 inches, 24 inches, 54 inches, 60 inches, 72 inches, and 80 inches to measure reflector height, clearance lamps, side marker lamps, and turn signal lamps on all vehicles-motorcycle vehicle inspection stations are not required to have an 80-inch measure;

(4) a laundry marking pen for completing the reverse side of the windshield inspection certificate;

(5) a scraping device for removing the old inspection certificate;

(6) a gauge for measuring tire tread depth;

(7) a 1/4 inch round hole punch if motorcycle-trailer certificates are issued;

(8) a brake pedal reserve checker with one-inch and two-inch clearances (except motorcycle inspection stations); and

(9) a department approved device for measuring the light transmission of sunscreening devices. This paragraph does not apply to government stations which have provided the department annual written certification that the governmental entity has no vehicles equipped with a sunscreening device. The effective date for implementation of this paragraph is January 1, 1994.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on December 29, 1992.

TRD-9317258

James R. Wilson
Director
Texas Department of
Public Safety

Effective date: January 27, 1993

Proposal publication date: October 30, 1992

For further information, please call: (512) 465-2000

Inspection Items, Procedures, and Requirements

• 37 TAC §23.42

The Texas Department of Public Safety adopts new §23.42, concerning vehicle inspection, with changes to the proposed text as published in the October 30, 1992, issue of the *Texas Register* (17 TexReg 7655).

The adoption of this section will ensure the public that front side windows of vehicles equipped with sunscreening devices that do not meet the requirements of Texas Civil Statutes, Article 6701d, §134C, will be rejected. In response to public comment, subsection (e) is added exempting government inspection stations that provide the department annual written certification that the governmental entity has no vehicles equipped with a suncreening device. Subsection (f) is added to establish the effective date for implementation of this section.

This section establishes guidelines for inspecting vehicles equipped with sunscreening devices to the left and right of the driver on all 1988 or newer vehicles. This inspection will be performed using an approved metering device.

One comment was received which suggested that state agencies and institutions be exempt from the amendment requiring sunscreen measurement. The comment further stated that those stations are licensed to perform vehicle inspections on state-owned vehicles only and the likelihood of ever having a vehicle with sunscreening devices to inspect is virtually nonexistent.

The Public Safety Commission agrees that government stations which have no vehicles with sunscreening devices to inspect should be exempt from the requirements to own and maintain a department-approved device for measuring the light transmission of sunscreening and to inspect the sunscreening using the device. However, the department is aware that there is no prohibition against installing sunscreening on state-owned vehicles and that some state vehicles do have sunscreening devices. Therefore, the section is amended to exempt government stations which have provided the department with annual written certification that none of the government entities' vehicles are equipped with a sunscreening device.

The new section is adopted under Texas Civil Statutes, Article 6701d, Article XV, §142, which provide the Texas Department of Public Safety with the authority to adopt rules necessary for the administration and enforcement of this Act.

§23.42. Inspection of Sunscreening Devices (Glass Tinting) by Official Vehicle Inspection Stations.

(a) All official vehicle inspection stations that inspect passenger cars, trucks, truck tractors, and buses, will inspect the sunscreening using an approved metering device on all 1988 or newer vehicles.

(b) The official vehicle inspection station will inspect all front side windows to

the immediate left and right of the driver which open so that a one-piece metering device approved by the department may be used and reject if the light transmittance is less than 20%.

(c) The official vehicle inspection station will inspect glass coating or sunscreening devices on windshields and reject if:

(1) it extends downward past the AS-1 line or more than five inches; or

(2) it is red or amber in color.

(d) All official vehicle inspection stations will calibrate each metering device daily and will check calibration after a vehicle fails and before rejecting the vehicle.

(e) This section does not apply to government stations which have provided the department annual written certification that the governmental entity has no vehicles equipped with a sunscreening device.

(f) The effective date for implementation of this section will be January 1, 1994.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on December 29, 1992.

TRD-9317257

James R. Wilson
Director
Texas Department of
Public Safety

Effective date: January 27, 1993

Proposal publication date: October 30, 1992

For further information, please call: (512) 465-2000

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 19. Long-Term Care Nursing Facility

Requirements for Licensure and Medicaid Certification

The Texas Department of Human Services (DHS) adopts amendments to §§19.101, 19.203, 19.208, 19.301, 19.401, 19.602, 19.603, 19.701, 19.1101, 19.1501, and 19.1917 concerning definitions, notice of rights and services, examination of survey results, admissions policy, resident behavior and facility practice, comprehensive care plans, discharge summary (discharge plan of care), quality of care, provision of specialized rehabilitative services, general requirements, and quality assessment and assurance.

The justification for the amendments is to incorporate recent federal technical changes to the Omnibus Budget Reconciliation Act of 1987.

The amendments will function by ensuring that the Long Term Care Nursing Facility Requirements contain current federal requirements.

Subchapter B. Definitions

• 40 TAC §19.101

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted to be effective September 23, 1992, in compliance with federal regulations.

§19.101. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Facility—Unless otherwise indicated, a nursing facility (NF) which meets the requirements of the Social Security Act, §1919(a)-(d).

(A) "Facility" may include a distinct part of a facility as specified in §440.40 of 42 Code of Federal Regulations (Code of Federal Regulations), but does not include an institution for the mentally retarded or persons with related conditions described in 42 CFR §440.150.

(B)-(E) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 6, 1993.

TRD-9317237

Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: September 23, 1992

For further information, please call: (512) 450-3765

Subchapter C. Resident Rights

• 40 TAC §19.203, §19.208

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendments are adopted to be effective September 23, 1992, in compliance with federal regulations.

§19.203. Notice of Rights and Services.

(a)-(d) (No change.)

(e) The resident or his legal representative has the following rights:

(1) upon an oral or written request, to access all records pertaining to himself, including clinical records, within 24 hours (excluding weekends and holidays); and

(2) (No change.)

(f)-(n) (No change.)

§19.208. *Examination of Survey Results.* The resident has the right to:

(1) examine the results of the most recent survey of the facility conducted by federal or state surveyors and any plan of correction in effect with respect to the facility. The facility must make the results available for examination in a place readily accessible to residents, and must post a notice of their availability; and

(2) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Nancy Murphy
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For further information, please call: (512) 450-3765

Subchapter D. Admission, Transfer, and Discharge Rights

• 40 TAC §19.301

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted to be effective September 23, 1992, in compliance with federal regulations.

§19.301. *Admissions Policy.*

(a) The facility must:

(1) (No change.)

(2) not require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

(b)-(d) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Nancy Murphy
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For further information, please call: (512) 450-3765

Subchapter E. Resident Behavior and Facility Practice

• 40 TAC §19.401

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted to be effective September 23, 1992, in compliance with federal regulations.

§19.401. *Resident Behavior and Facility Practice.*

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

(c) Staff treatment of residents. The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect and abuse of residents, and misappropriation of residents' property.

(1) The facility must:

(A) (No change.)

(B) not employ individuals who have:

(i) been found guilty of abusing, neglecting, or mistreating residents by a court of law; or

(ii) (No change.)

(C) report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other staff to the state nurse aide registry or licensing authority.

(2)-(4) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Nancy Murphy
Agency Liaison, Policy and
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Texas Department of
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For further information, please call: (512) 450-3765

Subchapter G. Resident Assessment

• 40 TAC §19.602, §19.603

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendments are adopted to be effective September 23, 1992, in compliance with federal regulations.

§19.602. *Comprehensive Care Plans.*

(a) The facility must develop a comprehensive care plan for each resident that includes measurable short-term and long-term objectives and timetables to meet a resident's medical, nursing, and mental and psychosocial needs that are identified in the comprehensive assessment. The care plan must describe the following:

(1) services that are to be furnished to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being as required under §19.1702 of this title (relating to Additional Charges (Items and Services Excluded from Vendor Payment)); and

(2) any services that would otherwise be required under §19.1701 but are not provided due to the resident's exercise of rights, including the right to refuse treatment under §19.203(g) of this title (relating to Exercise of Rights).

(b)-(d) (No change.)

§19.603. *Discharge Summary (Discharge Plan of Care).*

(a) When the facility anticipates discharge, the resident must have a discharge summary that includes:

(1)-(3) (No change.)

(b) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

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For further information, please call: (512) 450-3765

Subchapter H. Quality of Care

• 40 TAC §19.701

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted to be effective September 23, 1992, in compliance with federal regulations.

§19.701. Quality of Care. Each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, as defined by and in accordance with the comprehensive assessment and plan of care.

(1)-(6) (No change.)

(7) Naso-gastric tube. Based on the comprehensive assessment of the resident, the facility must ensure that:

(A) (No change.)

(B) a resident who is fed by a naso-gastric or gastrostomy tube receives the appropriate treatment and services to prevent aspiration pneumonia, diarrhea, vomiting, dehydration, metabolic abnormalities, and nasal-pharyngeal ulcers, and to restore, if possible, normal eating skills.

(8)-(13) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-9317242 Nancy Murphy
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For further information, please call: (512) 450-3765

Subchapter L. Specialized Rehabilitative

• 40 TAC §19.1101

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted to be effective September 23, 1992, in compliance with federal regulations.

§19.1101. Provision of Specialized Rehabilitative Services.

(a) Provision of services. If specialized rehabilitative services, such as, but not

limited to, physical therapy, speech/language pathology, occupational therapy, mental health rehabilitative services for mental illness and mental retardation are required in the resident's comprehensive plan of care, the facility must:

(1)-(2) (No change.)

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

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Texas Department of
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Subchapter P. Physical Plant and Environment

• 40 TAC §19.1501

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted to be effective September 23, 1992, in compliance with federal regulations.

§19.1501. General Requirements. The facility must be designed, constructed, equipped, and maintained to protect the health and ensure the safety of residents, personnel, and the public. (See also §19.505 of this title (relating to Environment)).

(1) Life safety from fire. The facility must meet the applicable provisions of the 1985 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference). Incorporation of the 1985 edition of the National Fire Protection Association's Life Safety Code (published February 7, 1985; ANSI/NFPA) was approved by the Director of the *Federal Register* in accordance with 5 United States Code 552(a) and 1 Code of Federal Regulations Part 51 that govern the use of incorporation by reference. The code is available for inspection at the Office of the Federal Register Information Center, Room 8301, 1110 L Street NW, Washington, D.C. Copies may be obtained from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02200. If any changes in this code are also to be incorporated by reference, a notice to that effect will be published in the *Federal Register*.

(A) After consideration of the state survey agency findings, the Health Care Financing Administration (HCFA) may waive specific provisions of the Life Safety Code which, if rigidly applied, would result in unreasonable hardship upon the facility but only if the waiver does not adversely affect the health and safety of residents or personnel.

(B) (No change.)

(2)-(3) (No change.)

(4) Resident rooms. Resident rooms must be designed and equipped for adequate nursing care, comfort and privacy of residents.

(A) Bedrooms must:

(i)-(iv) (No change.)

(v) in facilities initially certified after March 31, 1992, except in private rooms, have ceiling-suspended curtains for each bed, which extend around the bed to provide total visual privacy, in combination with adjacent walls and curtain (see clause (iv) of this subparagraph);

(vi)-(vii) (No change.)

(B)-(N) (No change.)

(5)-(19) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Texas Department of
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Subchapter T. Administration

• 40 TAC §19.1917

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted to be effective September 23, 1992, in compliance with federal regulations.

§19.1917. Quality Assessment and Assurance.

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

(d) Good faith attempts by the committee to identify and correct quality deficiencies may not be used as a basis for sanctions.

(e) The Quality Assessment and Assurance Committee, or a subcommittee thereof, will establish and monitor an infection control program according to §19.1401 of this title (relating to Infection Control), and will monitor the pharmaceutical services of the facility according to §19.1301 of this title (relating to Pharmacy Services).

(f) See §19.701(12) and (13) of this title (relating to Quality of Care) and §19.1923 of this title (relating to Incident or Accident Reporting) for additional items that should be monitored by the Quality Assessment and Assurance Committee.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Texas Department of
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For further information, please call: (512) 450-3765

Subchapter U. State and Local Requirements

• 40 TAC §§19.2005, 19.2007-19.2009

The Texas Department of Human Services (DHS) adopts amendments to §§19.2005 and 19.2007-19.2009 concerning contract requirements, effective dates for provider contracts, change of ownership, and nursing facility ceases to participate.

The justification for the amendments is to incorporate changes mandated by a recent ruling by the Health Care Financing Administration prohibiting time-limited agreements.

The amendments will function by ensuring that the Long Term Care Nursing Facility Requirements comply with current federal requirements.

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendments are adopted to be effective August 26, 1992, in compliance with federal regulations.

§19.2005. Contract Requirements.

(a) The Texas Department of Human Services (DHS) may enter into contracts with the facility. Three types of contracts are permitted:

- (1) a non-time-limited agreement;
- (2) a probationary contract period of 30 days; and

(3) a contract for a specified period, as determined by the state licensing agency or DHS.

(b)-(d) (No change.)

§19.2007. Effective Dates of Provider Contracts.

(a) The effective date of the provider contract for an initial certification is the date the on-site survey is completed if the facility meets:

- (1) all federal health and safety standards; and
- (2) any other requirements imposed by the Texas Department of Human Services (DHS).

(b) If the facility does not meet any of the requirements specified for an initial certification, the contract is effective on the earlier of the following dates:

- (1) the day the facility meets all requirements; or
- (2) the day the facility's correction plan, approvable waiver request, or both are accepted by the state official of the Texas Department of Health (TDH) authorized to make certification decisions. The facility must have met all requirements imposed by DHS.

§19.2008. Change of Ownership. An ownership change is any change in the business organization that changes the legal entity responsible for the operation of the facility.

- (1) (No change.)
- (2) Obligation of the purchaser.

If a change in ownership occurs, DHS issues a new contract to the purchaser effective on the date of the ownership transfer. DHS issues this new contract only if the purchaser has met the requirements in paragraph (1) of this section, the requirements of the new contract, and the requirements for participation that are a part of that new contract. If DHS fails to receive prior written notification of the ownership change as specified in paragraph (1) of this section, the contract effective date is established by DHS and may be a date as many as 30 days after the date DHS receives the written notice of ownership change. The purchaser's new contract is subject to the previous owner's contract terms and conditions that were in effect at the time of transfer of ownership, including, but not limited to, the following:

- (A) (No change.)
- (B) compliance with health and safety standards;

(C) compliance with the ownership and financial interest disclosure requirements of 42 Code of Federal Regulations §§455.104, 455.105, and 1002.3;

(D) compliance with civil rights requirements in 45 Code of Federal Regulations, Parts 80, 84, and 90;

(E) compliance with additional requirements imposed by DHS; and

(F) any sanctions as specified in this chapter relating to remedies for violations of Title XIX nursing facility provider agreements, including deficiencies, vendor holds, compliance periods, notification for correction of contract violations, probationary contracts, and history of deficiencies.

(3)-(6) (No change.)

§19.2009. Nursing Facility Ceases to Participate. A nursing facility may lose its status as a participating facility if any of the following conditions are met:

- (1) (No change.)
- (2) TDH terminates certification of the facility;
- (3) the nursing facility's license expires;
- (4) the Texas Department of Health (TDH) revokes the facility's license. TDH notifies DHS of the action taken, and DHS assumes responsibility for canceling the facility's status as a participating facility;
- (5) the nursing facility (NF) is a Title XIX/XVIII provider of services, and Medicare (Title XVIII) terminates the contract because of contract violation;
- (6) DHS cancels the contract because DHS determines that the nursing facility is in breach of the contract.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 6, 1993.

TRD-9317246 Nancy Murphy
Agency Liaison, Policy and
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Texas Department of
Human Services

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For further information, please call: (512) 450-3765

Chapter 69. Contracted Services

Subchapter L. Contract Administration

The Texas Department of Human Services (DHS) adopts the repeal of §§69.275-69.277 and new §§69.275-69.279. New §69.275 and §69.276 are adopted with changes to the proposed text as published in the July 7, 1992, issue of the *Texas Register* (17 TexReg 4871). The repeals and new §§69.277-69.279 are adopted without changes to the proposed text, and will not be republished.

The justification for the repeals and new sections is to revise and expand DHS's existing rules concerning suspension or debarment of contractors and potential contractors that have a history of poor performance or that have been convicted of or have pled guilty to criminal offenses.

The repeals and new sections will function by improving control by DHS of contracts involving expenditures of public funds to benefit needy individuals.

During the public comment period, DHS received comments from the Texas Pharmaceutical Association, Texas Health Care Association, Texas Hospital Association, Texas Association for Home Care, and an attorney representing community care providers. A summary of the comments and DHS's responses follows:

COMMENT: Two commenters stated that the proposed rules are vague and overbroad.

RESPONSE: The rules are intended to be limited in scope; however, DHS believes that the rules as proposed provide reasonable notice of the acts that will cause the rules to be imposed.

COMMENT: One commenter cited provisions of a federal directive for the proposition that DHS does not have statutory authority to implement the proposed rules.

RESPONSE: The provisions cited apply to how the federal government debar its contractors, but those provisions do not apply to DHS in relation to its proposed rules.

COMMENT: One commenter noted that while the initial approval of the Board of Human Services appeared to apply only to criminal offenses, the proposed rules were expanded in application to actions that are not criminal offenses.

RESPONSE: The Board of Human Services has approved application of the proposed rules to actions that are not criminal offenses, as well as to criminal offenses.

COMMENT: Two commenters stated that the proposed rules should not apply to nursing facilities, which have their own sanctions.

RESPONSE: DHS agrees with the comment as it applies to currently contracted providers. DHS, however, disagrees with the comment as it applies to potential or former contractors. This position is also stated in DHS's proposed nursing facility remedies rules (40

Texas Administrative Code §§19.2201-19.2209 and 19.2211-19.2216). Only the nursing facility remedies rules will apply to nursing facilities with current contracts, and the debarment rules would apply to all other contracts, or potential contractors.

DHS is adopting §69.275(a) with a clarifying statement that these rules do not apply to nursing facilities with current contracts.

COMMENT: One commenter recommended that only actions occurring after the effective date of the rules be considered for establishing a pattern of nonperformance. The same commenter stated that the Human Resources Code §22.019(a) precludes the application of the rules to any actions occurring before the effective date of the rules.

RESPONSE: DHS is adopting §69.276(a)(3)(B) with a clarifying statement that for purposes of establishing a pattern of misconduct (a new ground for a sanction), the rules will apply only to actions occurring after the effective date of the rules. Staff disagree with the comment as it applies to actions that are themselves existing grounds for contract termination or are criminal actions.

COMMENT: Two commenters stated that a due process hearing should always precede any suspension of providers' rights, unless the public health and safety are in jeopardy. One commenter stated that the rules are too subjective and that their application should always follow a due process investigation and hearing.

RESPONSE: Due process considerations are met by offering a hearing after imposing a suspension, which is a temporary remedy. A due process hearing will be offered prior to debarment, which is a long-term sanction. To avoid subjective application of the rules, a report will be made to the Board of Human Services each time the rules are applied.

COMMENT: One commenter stated that it is not fair to terminate a contract with no performance problems just because there are performance problems involving a different kind of contract.

RESPONSE: DHS is in partial agreement with this comment. When a legal entity has good performance in one contract and poor performance in a separate and unrelated contract, only the most severe circumstances would warrant the application of debarment sanctions to any areas except the area with poor performance. However, criminal activities and debarment by other governmental entities would be adequate cause to include all contracts in a debarment action.

COMMENT: Two commenters stated that only the conduct of the corporate or individual owner, not the owner's employees, should be considered in deciding whether to suspend or debar, since it would be inequitable to hold a contractor responsible for acts of one of its employees, especially when that act occurs off duty.

RESPONSE: Implementing this comment would largely negate the rule's effect. Employers should be responsible for the conduct of their employees. The employer's response to an employee's conduct will be considered before invoking these rules.

COMMENT: One commenter stated that any sanctions for submitting cost reports containing unallowable costs should be applied only when there is proven intent to increase the amount of payment the individual or industry receives.

RESPONSE: DHS agrees in principle, but believes that the actual intent of the contractor should not have to be proved in each case, if a contractor has a pattern of continual mistakes. In that situation, intent to receive additional funds may be inferred and the rules applied, depending upon the facts of the case. For single instances of an alleged mistake, intent will have to be proved. There is no plan to suspend or debar a contractor for making a legitimate mistake.

DHS is adopting §69.276(a)(3)(B)(vi) with a clarifying statement that intent to increase individual or statewide rates or fees by submission of unallowable costs must be shown for a single cost report, but intent may be inferred when a pattern of submitting cost reports with unallowable costs is shown.

COMMENT: One commenter states that the rules should have some set time period that a provider is debarred.

RESPONSE: DHS believes that it should have flexibility to impose a sanction commensurate with the severity of the contractor's action. DHS believes that a six-year maximum debarment period is appropriate, except in cases in which a federal exclusion is for a longer period.

DHS is adopting §19.275(b)(2) with a clarifying statement concerning the period of debarment.

• 40 TAC §§69.275-69.277

The repeals are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 6, 1993.

TRD-9317247

Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

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Proposal publication date: July 7, 1992

For further information, please call: (512) 450-3765

◆ ◆ ◆ • 40 TAC §§69.275-69.279

The new sections are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

§69.275. Debarment and Suspension of Current and Potential Contractor's Rights.

(a) **Applicability.** Requirements in this section are applicable to all types of contracts with the Texas Department of Human Services (DHS). These requirements are in addition to, and do not supersede, rules in Chapter 79, Subchapter V of this title (relating to Fraud or Abuse Involving Medical Providers), and rules in this chapter relating to remedies for violations of Title XIX nursing facility provider agreements, unless so specified in those subchapters. This subchapter does not apply to nursing facilities with current contracts.

(b) **Definitions.** The following words and terms, when used in §§69.275-69.279 of this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Contractor** and subcontractor-Individuals or legal entities who have existing DHS contracts or are otherwise participating providers, including managers of contractors' operations, such as managers and administrators of nursing facilities.

(2) **Debarment-Termination** of rights to continue an existing contract, to receive a new contract, to participate as a provider or manager, or to make a bid, offer, application or proposal for a DHS contract. The debarment is for a specified time commensurate with the seriousness of the violation, the extent of the violation, prior impositions of sanctions or penalties, willingness to comply with program rules and directives, and other pertinent information. The maximum period of debarment is six years, unless a longer time is mandated by requirements other than those in this subchapter.

(3) **Potential contractor-Individuals** or legal entities who wish to submit a bid, offer, application, or proposal for a DHS contract or subcontract, or otherwise request participation as a provider, including managers of contractors' operations, such as managers and administrators of nursing facilities.

(4) **Suspension of contractual rights-Temporary suspension** of a contractor's or potential contractor's right to conduct business with DHS. A suspension is in effect until an investigation, hearing, or trial is concluded and DHS can make a determination about:

(A) the contractor's future right to contract or subcontract; or

(B) a potential contractor's future right to have DHS consider its offer, bid, proposal, or application.

(c) **Scope.** For purposes of both suspension of contractual rights and debarment, DHS may impute the conduct of an

individual, corporation, partnership, or other association to the contractor, potential contractor, or the responsible component or entity of the contractor or potential contractor with whom the individual, corporation, partnership, or other association is employed or otherwise associated. Even though the underlying conduct may have occurred while an individual, corporation, partnership, or other association was not associated with the contractor or potential contractor, suspension of contractual rights or debarment may be imposed. Remedial actions taken by the responsible officials of the contractor or potential contractor will be considered in determining whether either suspension of contractual rights or debarment is warranted.

(d) **Choice of sanction.** Severe violations of the type specified in §69.276 of this title (relating to Causes and Conditions for Debarment) may be the basis for suspension of contract rights or debarment even if there is only a single occurrence. However, isolated and less severe violations of DHS contract provisions do not necessarily lead to suspension and/or debarment. Sanctions for isolated and less severe violations may be found in DHS's rules governing the specific program area in which the violations occurred.

§69.276. Causes for and Conditions of Debarment.

(a) **Causes for debarment.** The Texas Department of Human Services (DHS) may remove contractual rights from an individual or legal entity for causes including, but not limited to, the following:

(1) being found guilty, pleading guilty, pleading nolo contendere, or receiving a deferred adjudication in a criminal court, relating to:

(A) obtaining, attempting to obtain, or performing a public or private contract or subcontract;

(B) embezzlement, theft, forgery, bribery, falsification or destruction of records, any form of fraud, receipt of stolen property, or any other offense indicating moral turpitude or a lack of business integrity or honesty;

(C) dangerous drugs, controlled substances, or other drug-related offense;

(D) federal antitrust statutes arising from the submission of bids or proposals; or

(E) any physical or sexual abuse or neglect offense;

(2) being debarred from contracting by any unit of the federal government or any unit of a state government;

(3) violating DHS contract provisions including failing to perform according to the terms, conditions, and specifications or within the time limit(s) specified in the DHS contract, including, but not limited to, the following:

(A) failing to abide by applicable federal and state statutes, such as those regarding persons with disabilities and those regarding civil rights;

(B) having a record of failure to perform or of unsatisfactory performance according to the terms of one or more contracts or subcontracts, if that failure or unsatisfactory performance has occurred within five years preceding the determination to debar. Application of this subsection will be made only for actions occurring after the effective date of these rules. Failure to perform and unsatisfactory performance includes, but is not limited to, the following:

(i) failing to correct contract performance deficiencies after receiving written notice about them from DHS or its authorized agents;

(ii) failing to repay or make and follow through with arrangements satisfactory to DHS to repay identified overpayments or other erroneous payments, or assessed liquidated damages or penalties;

(iii) failing to meet standards that are required for licensure or certification, or that are required by state or federal law, DHS rule, or DHS policy concerning DHS contractors;

(iv) failing to execute amendments required by DHS;

(v) billing for services or merchandise not provided to the client or DHS;

(vi) submitting cost reports containing costs not associated with and/or not covered by the contract or DHS rules and instructions. Intent to increase individual or statewide rates or fees by submission of unallowable costs must be shown for a single cost report, but intent may be inferred when a pattern of submitting cost reports with unallowable costs is shown;

(vii) submitting a false statement or misrepresentation which, if used, may increase individual or statewide rates or fees;

(viii) charging client or patient fees contrary to DHS rules or policy;

(ix) failing to notify and reimburse DHS or its agents for services DHS paid for when the contractor received reimbursement from a liable third party;

(x) failing to disclose or make available, upon demand, to DHS or its representatives (including appropriate federal and state agencies) any records the contractor is required to maintain;

(xi) failing to provide and maintain services within standards required by statute, regulation, or contract; or

(xii) violating the Human Resources Code provisions applicable to the contract or any rule or regulation issued under the Code;

(4) submitting an offer, bid, proposal or application that contains a false statement or misrepresentation or omits pertinent facts or documents that are material to the procurement;

(5) engaging in any abusive or neglectful practice that results in or could result in death or injury to the clients served by the contractor; or

(6) violating any of the provisions outlined in §79.2105 of this title (relating to Grounds for Fraud Referral and Administrative Sanction). For purposes of this subsection, any reference in §79.2105

to a violation of the Medicaid (Title XIX), Medicare (Title XVIII), or Title XX programs is expanded to include an identical violation within any programs of federal or state governments;

(7) knowingly and willingly using a debarred person or entity as an employee, independent contractor, or agent to perform a contract with DHS.

(b) Conditions of debarment. Individuals, parts of entities, and entities that have been debarred may not:

(1) receive a contract;

(2) be allowed to retain a contract which has been awarded before debarment;

(3) bid or otherwise make offers to receive a contract or subcontract;

(4) participate in DHS programs which do not require the provider to sign a contract or agreement; or

(5) either personally or through a clinic, group, corporation or other association bill to or receive payment from DHS for any services or supplies provided by the debarred entity on or after the effective date of the debarment. Additionally, DHS will not pay for any services ordered, prescribed, or delivered by the debarred entity

for DHS recipients after the date of debarment. No costs associated with a debarred entity, including the salary, fringe, overhead, payments to, or any other costs associated with an employee, owner, officer, director, board member, independent contractor, manager, or agent who was debarred may be included in a DHS cost report or any other document which will be used to determine an individual payment rate, a statewide payment rate, or a fee.

(c) Entities that may be debarred. Debarment may be applied against an individual, an entire legal entity, or a specified part of a legal entity.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on January 6, 1993.

TRD-9317248

Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: January 27, 1993

Proposal publication date: July 7, 1992

For further information, please call: (512) 450-3765

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Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the Office of the Secretary of State in lobby of 221 East 11th Street, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Department on Aging

Thursday, January 14, 1993, 9:30 a.m. The Texas Board on Aging of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Large Conference Room, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of the December 3, 1992 minutes; hear public testimony; executive director's report; Citizens Advisory Council (CAC) chair's report with possible action on nomination to CAC from Rio Grande region; consider and possibly act on: Fiscal Year 1993 area plans with conditions; conditions for Health Care Financing Administration grants to Area Agencies on Aging (AAAs); operating budget amendment; fiscal year 1993 audit plan; reports on: aging services from an urban and a rural perspective; indirect costs task force; comments on published service standards; administrative streamlining; goals and objectives of Client Information System; monthly operating expenditures; annual financial report; prior internal audit implementation updates; internal audit of discretionary grants; general announcements; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: January 6, 1993, 11:14 a.m.

TRD-9317266

Thursday, January 14, 1993, 8 a.m. The Texas Board on Aging's Finance Committee and Internal Audit Subcommittee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Large Conference Room, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of the December 2, 1992 finance committee meeting; Internal

Audit Subcommittee business to include: call meeting to order; discuss approval of minutes of the December 2, 1992 meeting; consider revised Fiscal Year 1993 audit plan; recommend to finance committee; update on prior internal audits; report to finance committee; report on internal audit of discretionary grants; report to finance committee; adjourn; Internal Audit Subcommittee report to include: consider of revised fiscal year 1993 audit plan; recommend to board; report on internal audit of discretionary grants; present to board; consider request for operating budget amendment; recommend to board; report on monthly operating expenditures; present to board; consider and approve committee's six-month plan; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: January 6, 1993, 11:44 a.m.

TRD-9317269

Texas Department of Agriculture

Thursday, January 14, 1993, 2 p.m. The Texas Soybean Producers Board of the Texas Department of Agriculture will meet at the Comfort Inn, 104 Texas Avenue South, College Station. According to the complete agenda, the board will discuss approval of minutes-Blacketer; financial report-Blacketer; research reports and funding request-researchers; research funding allocations; USB report-Pyle/Burnside; State Fair Project for 1993-Blacketer and Board; executive secretary report-Roberts; and discuss old and new business.

Contact: D. Trent Roberts, P.O. Box 650290, Dallas, Texas 75265-0290, 800-247-8691.

Filed: January 5, 1993, 11:07 a.m.

TRD-9317205

Texas Commission on Alcohol and Drug Abuse

Thursday, January 14, 1993, 8:30 a.m. The Criminal Justice Issues Committee of the Texas Commission on Alcohol and Drug Abuse will meet at 816 Congress Avenue, Suite 500, Conference Room, Austin. According to the agenda summary, the committee will call the meeting to order; discuss approval of minutes; architectural design 500/100 bed substance abuse felony punishment facility; update on in-prison therapeutic communities; update on 12,000 bed substance abuse facilities; discuss after-care; upcoming legislative business; new business; and adjourn.

Contact: Ted Sellers, 720 Brazos Street, Suite 403, Austin, Texas 78701, (512) 867-8132.

Filed: January 6, 1993, 9:47 a.m.

TRD-9317259

State Bar of Texas

Thursday-Friday, January 14-15, 1993, 10 a.m. and 8:30 a.m. respectively. The Texas Commission for Lawyer Discipline of the State Bar of Texas will meet at the Texas Law Center, 1414 Colorado Street, Rooms 206 and 207, Austin. According to the agenda summary, the commission will call the meeting to order; introduce visitors; discuss adoption of minutes of prior meetings; review statistical reports; discuss commission's compliance with State Bar Act, Texas Rules of Disciplinary Procedure, and

orders of the Supreme Court; discuss grievance committee operations; discuss special counsel recruitment; discuss operation of commission; presentation by Steve Martin, President of TYLA; discuss certain types of complaints; State Bar's plan regarding solicitation and barratry; pattern jury charges for disciplinary cases; discuss actions regarding consultation or representation in grievance matters of members of firm with which a commission member are associated; discuss pending litigation pursuant to Article 6252-17(2)(e); discuss personnel matters; assignment of special counsel cases; authorization of settlement offers; consider assignment of special counsel cases; review operations and budget of Office of General Counsel; discuss selection of Chief Disciplinary Counsel; report by Chair Cunningham concerning education programs; review and discuss docket of grievance cases; discuss future meeting dates; other matters as may be appropriate; receive public comment; and adjourn.

Contact: Anne Dorris, 400 West 15th Street, Suite 1500, Austin, Texas 78711, (512) 463-1614.

Filed: January 6, 1993, 4:47 p.m.

TRD-9317288

Texas Department of Commerce

Wednesday, January 13, 1993, 9 a.m. The Board of Directors of the Texas Department of Commerce will meet in the 11th Floor Board Room, First City Centre Building, 816 Congress Avenue, Austin. According to the agenda summary, the board will call the meeting to order and recess into executive session (litigation matters); call the open meeting to order; discuss minutes from meeting of November 4, 1992; report from executive director; EEO statistics and turnover report; first quarter performance report to legislative budget board, January 4, 1993 (Draft); Texas Marketplace; status of Texas leverage fund; legislative update; discuss reports due to legislature-State Job Training Coordinating Council, International Trade Commission, Texas Mexico Authority and Policy Board; authorize TEXCAP letter of credit substitution process; resolution for support of Human Resource Investment Council; public comments; and adjourn.

Contact: Richard Hall, 816 Congress Avenue, Suite 1100, Austin, Texas 78701, (512) 320-9672.

Filed: January 5, 1993, 4:23 p.m.

TRD-9317231

Wednesday, January 13, 1993, 11:20 a.m. The Texas Economic Development Corporation of the Texas Department of Commerce will meet in the 11th Floor Board

Room, First City Centre Building, 816 Congress Avenue, Austin. According to the agenda summary, the corporation will call the meeting to order; discuss minutes from meeting of September 9, 1992; International Trade Curriculum-approval of \$50,000; and adjourn.

Contact: Richard Hall, 816 Congress Avenue, Suite 1100, Austin, Texas 78701, (512) 320-9672.

Filed: January 5, 1993, 4:22 p.m.

TRD-9317230

Credit Union Department

Thursday, January 14, 1993, 2 p.m. The Credit Union Commission of the Credit Union Department will meet at the Howard Johnson Plaza Hotel North, 7800 North IH-35, Austin. According to the complete agenda, the commission will meet in executive session to discuss existing and potential litigation; and credit unions and problem cases.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: January 6, 1993, 9:03 a.m.

TRD-9317251

Thursday, January 14, 1993, 2 p.m. (Revised agenda.) The Credit Union Commission of the Credit Union Department will meet at the Howard Johnson Plaza Hotel North, 7800 North IH-35, Austin. According to the complete agenda, the commission will conduct an open meeting to determine and announce the presence of a quorum; an executive session under Texas Civil Statutes, Article 6257-17, §2(e), at which the Credit Union Commission may seek its attorney's advice with respect to pending or contemplated litigation, settlement offers, and matters where the attorney's duty to the client, pursuant to the Code of Professional Responsibility of the State Bar of Texas, conflicts with the Open Meeting Act; an executive session under Texas Civil Statutes, Article 6257-17, §2(t), with various parties regarding matters made confidential by law; and an open meeting to vote, if necessary or authorized, on matters discussed in executive session.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: January 6, 1993, 1:38 p.m.

TRD-9317272

Friday, January 15, 1993, 9 a.m. The Credit Union Commission of the Credit Union Department will meet at the Howard Johnson Plaza Hotel North, 7800 North IH-35, Austin. According to the complete

agenda, the commission will invite public input for future consideration; elect chairman and vice-chairman; appoint a commissioner evaluation committee; receive minutes of November 16, 1992 meeting and communications reported by the commissioner; consider adoption of Rules 93.62 (Record), 93.65 (Administrative Cost Recovery), 95.101 (Powers), 95.102 (Special Authorization), 95.201 (Board of Directors), 95.204 (Notice of Board and Committee Meetings), 95.304 (Insurance Conversion), 95.307 (Conversion to Federal Insurance), 95.309 (Membership Investment Shares) and 95.312 (Dividends); discuss litigation and administrative hearings matters; and proposals for legislation; conduct an executive session to discuss credit unions and problem cases and consult with legal counsel regarding contemplated legal action, existing litigation and administrative actions.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: January 6, 1993, 4:21 p.m.

TRD-9317287

Texas Department of Criminal Justice

Friday, January 8, 1993, 10 a.m. The Community Justice Assistance Division, Judicial Advisory Council of the Texas Department of Criminal Justice held an emergency meeting at the Embassy Suites, IH-35 North, Austin. According to the agenda summary, the division will call the meeting to order; introduce guests; new CJAD staff; discuss approval of minutes; hear division reports; legislative update; CJAD update; discuss other administrative business; date and site selection of next meeting; and adjourn. The emergency status was necessary as the meeting room at Far West location was not available.

Contact: Virginia Grote, 8100 Cameron Road, Suite 450, Austin, Texas 78753, (512) 834-8188.

Filed: January 5, 1993, 2:27 p.m.

TRD-9317216

Wednesday, January 13, 1993, 1:30 p.m. The Subcommittee on County Relations of the Board of Criminal Justice of the Texas Department of Criminal Justice will meet at the TDCJ Austin Office, 816 Congress Avenue, Suite 500, Austin. According to the complete agenda, the subcommittee will call the meeting to order; review and discuss CJIS-SID requirement for paper-ready status of backlog inmates; transportation of inmates to N-Group Facilities; transportation of inmates to substance abuse felony punishment facilities; House Bill 93 performance reward program; Community Justice

Assistance Division Rules and Regulations; parole violators in county jails; and alternative sanctions for parole violators and possible statutory revisions of the revocation process; and adjourn.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: January 5, 1993, 2:27 p.m.

TRD-9317217

Thursday, January 14, 1993, 8:30 a.m. The Subcommittee on Substance Abuse of the Board of Criminal Justice of the Texas Department of Criminal Justice will meet at the TDCJ Austin Office, 816 Congress Avenue, Suite 500, Austin. According to the agenda summary, the subcommittee will call the meeting to order; discuss approval of minutes; architectural design 500/1000 bed substance abuse felony punishment facility; update on in-prison therapeutic communities; update on 12,000 bed substance abuse facilities; discuss aftercare; upcoming legislative business; prior pending business; new business; and adjourn.

Contact: Andrea Scott, P.O. Box 99, Huntsville, Texas 77342, (409) 294-2931.

Filed: January 6, 1993, 12:45 p.m.

TRD-9317270

Thursday, January 14, 1993, 10:30 a.m. The Subcommittee on Parole Issues of the Board of Criminal Justice of the Texas Department of Criminal Justice will meet at the TDCJ Austin Office, 816 Congress Avenue, Suite 500, Austin. According to the complete agenda, the subcommittee will call the meeting to order; discuss legislative recommendation; and adjourn.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: January 6, 1993, 4:04 p.m.

TRD-9317285

Thursday, January 14, 1993, 2:30 p.m. The Board of Criminal Justice of the Texas Department of Criminal Justice will meet at the TDCJ Austin Office, 816 Congress Avenue, Suite 500, Austin. According to the complete agenda, the board will call the meeting to order; convene in regular session; discuss Windham School audit; request for proposal-2,000 additional beds; and meet in executive session for discussion with board attorneys concerning Ruiz, Alberti, Lamar, Moore, Gaines, Johnson, Crowson, Guard, McDaniel, Thebeau, Argee, McLennan County, and Angelina County litigation. (Closed in accordance with §2(e), Article 6252-17, Vernon's Annotated Texas Statutes).

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: January 6, 1993, 4:10 p.m.

TRD-9317286

Texas Planning Council for Developmental Disabilities

Thursday-Friday, January 14-15, 1993, 8:30 a.m. The Committee of the Whole of the Texas Planning Council for Developmental Disabilities will meet at the Marriott Bayfront Hotel, 900 North Shoreline Boulevard, Corpus Christi. According to the complete agenda, on Thursday the committee will call the meeting to order; discuss development and approval of draft council strategic plan; and on Friday, the committee will have a continuation of development and approval of draft council; strategic plan; and adjourn. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Denese Holman at (512) 483-4087.

Contact: Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4080.

Filed: January 5, 1993, 3:55 p.m.

TRD-9317227

State Board of Registration for Professional Engineers

Tuesday, January 19, 1993, 3 p.m. The Ad Hoc Committee on Certification Organizations of the State Board of Registration for Professional Engineers will meet at 1917 IH-35 South, Board Room, Austin. According to the complete agenda, the committee will convene meeting by chairman novoa; take roll call; recognize and welcome visitors; discuss certification organizations and potential problems and solutions; and adjourn.

Contact: Charles E. Nemir, 1917 IH-35 South, Austin, Texas 78741, (512) 440-7723.

Filed: January 6, 1993, 1:34 p.m.

TRD-9317271

Texas Department of Health

Friday, January 22, 1993, 9:30 a.m. The Texas Emergency Medical Services Advisory Council of the Texas Department of Health will meet at the Radisson Hotel, Town Lake, 111 East First Street, Austin. According to the complete agenda, the council (TEMSAC) will hear opening remarks; discuss approval of the minutes of

previous meeting; discuss and possibly act on: nominating committee report and election of officers; report of Chief of Bureau of Emergency Management; committee reports on providers, education, public information and education, and medical directors; skills examination process; appointment of committee chairs; meeting dates for the year; and hear announcements and comments.

Contact: Gene Weatherall, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7550. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: January 5, 1993, 11:54 a.m.

TRD-9317208

Texas Health Maintenance Organization Solvency Surveillance Committee

Friday, January 15, 1993, 9:30 a.m. The Texas Health Maintenance Organization Solvency Surveillance Committee will meet at the William P. Hobby Building, Room 100, 333 Guadalupe Street, Austin. According to the agenda summary, the committee will call the meeting to order; consider and discuss approval of November 13, 1992, minutes; discuss receiver's report; review of overall industry; meet in executive session to review confidential information on financial condition of HMOs; discuss any personnel-related matters; and administrative matters to set date(s) for next meeting(s); and discuss administrative assessments.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: January 6, 1993, 10:46 a.m.

TRD-9317263

Texas Higher Education Coordinating Board

Friday, January 15, 1993, 10 a.m. The Joint Committee, CB/State Board of Education of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building 1, Room 1.100, 7700 Chevy Chase Drive, Austin. According to the complete agenda, the committee will report on the professional development school concept; Perkins funds allocation criteria; information items; and teacher education requirements.

Contact: Maricela Oliva, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: January 6, 1993, 1:50 p.m.

TRD-9317277

Texas Department of Human Services

Friday, January 15, 1993, 9:30 a.m. The Family Violence Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tower, Private Dining Room, Austin. According to the complete agenda, the committee will call the meeting to order; welcome and make introductions; discuss approval of minutes; make announcements; orientation; reports; discuss old and new business; and adjourn.

Contact: Connie Berry, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4151.

Filed: January 5, 1993, 1:03 p.m.

TRD-9317210

Thursday, January 21, 1993, 10 a.m. The Indigent Health Care Advisory Committee of the Texas Department of Human Services will meet at the Texas Department of Health, 1100 West 49th Street, Room T 607, Austin. According to the complete agenda, the committee will call the meeting to order; welcome and introduce new members; draw for length of terms; Indigent Health Care Advisory committee bylaws amendment; report on Medicaid reimbursement process; SSI determination process; status of CIHCP annual workshop planning; status of future CIHCP handbook payment rate revisions; feedback on prior recommendations; report from networking group; open comment period on agenda items and suggestions for future agenda items.

Contact: Jane Jaggard, P.O. Box 149030, Austin, Texas 78714-9030, (512) 338-6461.

Filed: January 7, 1993, 9:52 a.m.

TRD-9317303

Department of Information Resources

Friday, January 15, 1993 9 a.m. The Open Board of the Department of Information Resources will meet at the Rutherford Office Complex, Suite 200, 1821 Rutherford Lane, Austin. According to the agenda summary, the board will call the meeting to order; take roll call and witness registration; hear executive director's report; discuss adoption of DIR strategic plan instructions for Information Resources; adoption of 1992 statewide annual report; adoption of payment voucher approval authority; adoption of STAC policies and procedures; proposed interagency GIS funding; and other business.

Contact: John Hawkins, 300 West 15th Street, Suite 1300, Austin, Texas 78711, (512) 475-4714.

Filed: January 7, 1993, 9:50 a.m.

TRD-9317301

Texas Department of Insurance

Tuesday, January 14, 1993, 9 a.m. (Revised agenda). The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, Room 100, 333 Guadalupe Street, Austin. According to the complete revised agenda, the board will consider rescheduling the Texas Automobile Insurance Plan hearing Docket Number 1932 to a time following the Private Passenger and Commercial Automobile Insurance Benchmark Rate and Flexible Band Setting Docket Number 1945.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: January 5, 1993, 3:25 p.m.

TRD-9317220

Tuesday, January 14, 1993, 9 a.m. (Revised agenda). The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, Room 100, 333 Guadalupe Street, Austin. According to the complete revised agenda, the board will consider authorization for publication and comment amending 28 TAC §15.101, Plan of Operation of the Surplus Lines Stamping Office of Texas pursuant to the Texas Insurance Code, Article 1.14-2.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: January 5, 1993, 2:21 p.m.

TRD-9317215

Texas Commission on Law Enforcement Officer Standards and Education

Tuesday-Wednesday, January 26-27, 1993, 1 p.m. and 9 a.m. respectively. The Texas Commission on Law Enforcement Officer Standards and Education will meet at the Doubletree Hotel, 6505 IH-35 North, Austin. According to the agenda summary, the commission will call the meeting to order; introduce new commissioner (if applicable); election of chairman, vice-chairman and secretary (if applicable) and recognize visitors; discuss and act on final adoption of proposed amendment to §211.67, Academy Advisory Boards; new §217.10, Psychological Examination; repeal

of §§211.83, 211.98, 211.107; and adoption of proposed amendment to §211.77, Minimum Training Standards for Peace Officers, new Basic Peace Officer Course; schedule March and June meetings; review Achievement Awards nominations; consider final orders; agreed final orders on suspensions and license denial; meet in executive session to consider pending litigation; reconvene; and adjourn.

Contact: Fred Toler, 1033 LaPosada, #175, Austin, Texas 78752, (512) 450-0188.

Filed: January 5, 1993, 1:37 p.m.

TRD-9317211

Texas State Library and Archives Commission

Friday, January 22, 1993, 10:30 a.m. The Local Government Records Committee of the Texas State Library and Archives Commission will meet at the Joe C. Thompson Conference Center, 26th and Red River, Room 2.110, Austin. According to the complete agenda, the committee will welcome William D. Gooch, Director and Librarian, Texas State Library; consider approval of minutes of November 9, 1992, meeting; approval of proposed rules establishing standards and procedures for the electronic records of local governments; and adjourn.

Contact: William L. Dyess, P.O. Box 12927, Austin, Texas 78711, (512) 454-2705.

Filed: January 7, 1993, 9:18 a.m.

TRD-9317295

Texas Board of Licensure for Nursing Home Administrators

Friday, January 15, 1993, 10 a.m. The Finance Committee of the Texas Board of Licensure for Nursing Home Administrators will meet at 4800 North Lamar Boulevard, Suite 310, Austin. According to the complete agenda, the committee will review Fiscal Year 1992 Annual Financial Report and be prepared to report to the board; discuss the feasibility of holding board meetings outside of Austin and the feasibility of holding committee meetings the week prior to the board meeting; present figures on implementing the \$10 fee; review financial statements for agency sponsored seminars, expenditures vs. budget for fiscal year 1993, and cash flow statement; and adjourn.

Contact: Janet Lacy, 4800 North Lamar Boulevard, Suite 310, Austin, Texas 78756, (512) 458-1955.

Filed: January 6, 1993, 9:53 a.m.

TRD-9317260

Friday, January 15, 1993, 1 p.m. The Board of the Texas Board of Licensure for Nursing Home Administrators will meet at 4800 North Lamar Boulevard, Suite 250, Austin. According to the agenda summary, the board will call the meeting to order; take roll call; discuss approval of agenda; approval of minutes for November 20, 1992, and December 8, 1992; receive public comments; hear committee, staff, executive director, legal, chair, ex-officio, and investigative reports; discuss increasing the partial endorsement fee; final vote on proposed Rules 247.4(e), 249.5, and 245.1; final vote to repeal current §243 and adopt new §243; enter into executive session; discuss the disciplinary process and look at revising disciplinary rules; upcoming meetings; hold election of officers; set next meeting date, place, and time; and adjourn.

Contact: Janet Lacy, 4800 North Lamar Boulevard, Suite 310, Austin, Texas 78756, (512) 458-1955.

Filed: January 6, 1993, 9:53 a.m.

TRD-9317261

Texas Department of Protective and Regulatory Services

Friday, January 15, 1993, 10 a.m. The Texas Board of Protective and Regulatory Services of the Texas Department of Protective and Regulatory Services will meet at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the board will discuss approval of minutes; hear public testimony; chair's report; board comments; discuss policy review process; legislative package; policy or legislative amendments to streamline procedures or to narrow scope of responsibility within all PRS program areas in accordance with FY 1994-1995 budget; proposed minimum standards for child-placing agencies; current efforts and potential options for increasing PRS revenue through: fines and fees, maximizing PRS receipt of federal funds, and implementing community partnerships; PRS LAR revisions and action regarding the HHS commission consolidated budget; budget adjustment FY 1993; board will meet in closed session with legal counsel for advice with respect to pending litigation in C. Child, a minor, by and through Phillip Jenkins and Lana Jenkins et al versus Camille Miller; evaluate and consider the duties of personnel serving in exempt positions; the 30 administrative support functional categories, including salary group classifications, and filling the position of

executive director; reconvene in open session to take action, if necessary, resulting from discussion in executive session.

Contact: Sherry Wilkie, P.O. Box 149030, Mail Code W-639, Austin, Texas 78714-9030, (512) 450-4890.

Filed: January 7, 1993, 9:51 a.m.

TRD-9317302

Public Utility Commission of Texas

Wednesday, January 13, 1993, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will consider the following dockets: 10957, 10883, 11011, 10917, 11348, 10019, 11487, 10733, 9305, 11000, and P-11299.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 5, 1993, 3:33 p.m.

TRD-9317225

Wednesday, January 13, 1993, 9 a.m. (Revised agenda). The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the revised complete agenda, the commission will also consider Docket Number 11266-application of Guadalupe-Blanco River Authority for a rate increase for the Guadalupe Valley Hydro System.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 5, 1993, 4:12 p.m.

TRD-9317228

Wednesday, January 13, 1993, 9:05 a.m. The Administrative of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the administrative will discuss reports; discuss and act on Outstanding Employees of the Quarter; consider report to 73rd Texas Legislature; revisions to telephone rate filing package; discuss possible comments on FERC proposed RTG regulations; discuss cellular telephone service; WAFLIP Program; possible intervention in SEC File Number 70-8059, Entergy Corporation, Inc., et al; update on monitoring system for tracking federal activities; membership in E-Source; discuss and consider executive director to advertise and hire legislative liaison funded from salary savings; consider a policy statement for E and R Policy Division; training for prevention of sexual harassment; budget and fiscal matters; adjourn for executive session to consider litigation and personnel

matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and final adjournment.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 5, 1993, 3:31 p.m.

TRD-9317223

Monday, April 12, 1993, 1 p.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 9640, complaint of Metropolitan Fiber Systems, Inc. against Southwestern Bell Telephone Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 5, 1993, 3:32 p.m.

TRD-9317224

Texas Real Estate Commission

Friday, January 15, 1993, 9:30 a.m. The Texas Real Estate Commission will meet at TREC Headquarters Office, Second Floor, Conference Room 235, 1101 Camino La Costa, Austin. According to the agenda summary, the commission will discuss and possibly act on: request from Texas Real Estate Broker-Lawyer Committee concerning promulgation process for contract forms; proposed amendments to §535.71 and §535.72 concerning mandatory continuing education, to §535.92 concerning license renewal, to §535.164 and repeal of §535.165 concerning agency disclosure; education providers and courses; Masters Institute, Inc.'s application for accreditation; meet in executive session to discuss pending litigation; payments from recovery funds; motions for rehearing; and entry of orders.

Contact: Camilla Shannon, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: January 5, 1993, 12:38 p.m.

TRD-9317209

Saturday, January 16, 1993, 9 a.m. The Examination and Education Subcommittee of the Texas Real Estate Inspector Committee of the Texas Real Estate Commission will meet at TREC Headquarters, Room 235A, Second Floor, 1101 Camino La Costa, Austin. According to the complete agenda, the subcommittee will discuss examination materials in closed session pursuant to Attorney General Opinion H-484; and discuss examinations and inspection courses.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711, (512) 465-3960.

Filed: January 6, 1993, 1:46 p.m.

TRD-9317273

Saturday, January 16, 1993, 9 a.m. The Standard Report Forms Subcommittee of the Texas Real Estate Inspector Committee of the Texas Real Estate Commission will meet at TREC Headquarters, Room 235, Second Floor, 1101 Camino La Costa, Austin. According to the complete agenda, the subcommittee will discuss draft inspection report forms.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711, (512) 465-3960.

Filed: January 6, 1993, 1:46 p.m.

TRD-9317274

Saturday, January 16, 1993, 1 p.m. The Texas Real Estate Inspector Committee of the Texas Real Estate Commission will meet at TREC Headquarters, Room 235, Second Floor, 1101 Camino La Costa, Austin. According to the complete agenda, the subcommittee will call the meeting to order; discuss and possibly act on the minutes of the November 21, 1992 meeting; hear subcommittee reports; discuss 22 TAC §535.222 concerning standards of practice; report forms and procedures; and monitoring of inspection courses.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78711, (512) 465-3900.

Filed: January 6, 1993, 1:47 p.m.

TRD-9317275

Texas Treasury Safekeeping Trust Company

Friday, January 15, 1993, 11 a.m. The TexPool Advisory Board of the Texas Treasury Safekeeping Trust Company will meet at the State Treasurer's Office, 200 East 10th Street, Austin. According to the complete agenda, the board will call the meeting to order; discuss approval of minutes; independent audit report; TexPool operations and financial status report; TexPool Investment report; amendments to the TexPool Investment Policy; adoption of fee schedule; and adjourn.

Contact: Isaac Olivares, 200 East 10th Street, Austin, Texas 78701, (512) 463-2834.

Filed: January 5, 1993, 10:31 a.m.

TRD-9317203

On-site Wastewater Treatment Research Council

Thursday, January 14, 1993, 12:30 p.m. The On-site Wastewater Treatment Research Council will meet at the Center for Environmental Research, Wastewater and Treatment Facility, 2210 South FM 973, Austin. According to the complete agenda, the council will discuss approval of previous meeting; consider and possibly act on reports from chairman, members, and executive secretary; discuss request for proposals; ratify and approve contracts; discuss and act on inter-agency and inter-local contracts/arrangements and procedures; hear comments from the public; and schedule future meetings.

Contact: Theodore H. Johns, 1700 North Congress Avenue, Austin, Texas 78711, (512) 463-3109.

Filed: January 6, 1993, 3:33 p.m.

TRD-9317284

Texas Water Commission

Wednesday, January 6, 1993, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the emergency revised agenda summary, the commission will consider the examiner's proposal for Decision and Order concerning the application of Hunter Industrial Facilities, Inc. (HIFI) for Permit Numbers 50320 and WDW-286 through WDW-298, to authorize the operation of a commercial Class I Hazardous and Non-Hazardous Industrial Solid Waste Storage and Processing Facility and 13 Underground Injection Control permits. The emergency status was necessary as an urgent public necessity was required because of the numerous inquiries to the examiner's proposal for decision of Hunter Industrial Facilities, Inc. (HIFI) permits, and the meeting was adjourned to the Hyatt Regency Hotel. The room at the Stephen F. Austin Building could not accommodate the number of people expected to attend the meeting.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: January 5, 1993, 11:50 a.m.

TRD-9317207

Regional Meetings

Meetings Filed January 5, 1993

The Bexar-Medina-Atascosa Counties Water Control and Improvement District

Number 1 Board of Directors met at the District Office, Natalia, January 11, 1993, at 8 a.m. Information may be obtained from John W. Ward III, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132. TRD-9317213.

The Concho Valley Council of Governments Executive Committee will meet at 5014 Knickerbocker Road, San Angelo, January 13, 1993, at 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666. TRD-9317204.

The Dewitt County Appraisal District Appraisal Review Board will meet at the Dewitt County Appraisal Office, 103 Bailey Street, Cuero, January 13, 1993, at 9 a.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9317212.

The Gillespie Central Appraisal District Board of Directors will meet at the Gillespie County Courthouse Basement, Room B-104C, Fredericksburg, January 14, 1993, at 9 a.m. Information may be obtained from Mary Lou Smith, P. O. Box 429, Fredericksburg, Texas 78624, (512) 997-9807. TRD-9317214.

The Gregg County Appraisal District (Revised agenda) Board of Directors met at 2010 Gilmer Road, Longview, January 11, 1993, at 9 a.m. Information may be obtained from Bill Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9317226.

The Jasper Central Appraisal District Board of Directors met at 137 North Main, Jasper, January 8, 1993, at 5 p.m. Information may be obtained from David W. Luther, 137 North Main, Jasper, Texas 75951, (409) 384-2544. TRD-9317229.

The Lubbock Regional MHMR Center Board of Trustees held an emergency meeting at 3801 Avenue J, Board Room, Lubbock, January 6, 1993, at noon. The emergency meeting was necessary due to executive session under Authority of Article 6252-17, §2(f) of the Texas Open Meetings Law. Information may be obtained from Gene Menefee, 1210 Texas Avenue; Lubbock, Texas 79401, (806) 766-0202. TRD-9317218.

Meetings Filed January 6, 1993

The Colorado River Municipal Water District Board of Directors will meet at 400 East 24th Street, Big Spring, January 12, 1993, at 10 a.m. Information may be obtained from O. H. Ivie, Box 869, Big Spring, Texas 79721, (915) 267-6341. TRD-9317279.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, January 20, 1993, at 9 a.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76208, (817) 566-0904. TRD-9317276.

The Fisher County Appraisal District Board of Directors met at the Fisher County Appraisal/Tax Office, Roby, January 11, 1993, at 7:30 a.m. Information may be obtained from Betty Mize, Box 516, Roby, Texas 79543, (915) 776-2733. TRD-9317254.

The Region One Education Service Center Board of Directors will meet at 1900 West Schunior, Edinburg, January 12, 1993, at 7 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas 78539, (210) 383-5611. TRD-9317235.

The Region 14 Quality Work Force Planning Committee will meet at the Angelina College (Student Center), Lufkin, January 12, 1993, at 2 p.m. Information may be obtained from Jerry Whitaker, P.O. Box 1768, Lufkin, Texas 75902, (409) 633-5370. TRD-9317262.

The Sabine Valley Center Personnel Committee met at the Jefferson Independent School District Administration Building, Marion County, 510 Line Street, Jefferson, January 11, 1993, at 10 a.m. Information may be obtained from Mack O. Blackwell, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9317282.

The Sabine Valley Center Board of Trustees met at the Administration Building, 107 Woodbine Place, Bramlette Lane, Longview, January 11, 1993, at 7 p.m. (Revised agenda). Information may be obtained from Mack O. Blackwell, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9317281.

The San Patricio County Appraisal District Board of Directors will meet at 1146 East Market, Sinton, January 14, 1993, at 9:30 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402. TRD-9317253.

The South Franklin Water Supply Corporation Board of Directors will meet at the Office of South Franklin Water Supply Corporation, Highway 115 South of Mount Vernon, January 12, 1993, at 7 p.m. Information may be obtained from Richard Zachary, P.O. Box 591, Mount Vernon, Texas 75457, (903) 860-3400. TRD-9317265.

The Tarrant Appraisal District Board of Directors will meet at 2301 Gravel Road, Fort Worth, January 15, 1993, at 9 a.m. Information may be obtained from Mary McCoy, 2315 Gravel Road, Fort Worth, Texas 76118, (817) 595-6005. TRD-9317236.

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Meetings Filed January 7,
1993

The Bi-County Water Supply Corporation will meet at the Bi-County WSC Office, FM Road 2254, Pittsburg, January 12, 1993, at 7 p.m. Information may be obtained from Freeman Phillips, P.O. Box 848, Pittsburg, Texas 75686, (903) 856-5840. TRD-9317304.

The Brazos Valley Development Council Board of Directors will meet at The Brazos Center, 3232 Briarcrest, Assembly III, Bryan, January 13, 1993, at 2 p.m. Information may be obtained from Tom Wilkinson, Jr., P.O. Drawer 4, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9317299.

The Brown County Appraisal District Board of Directors met at 403 Fisk Avenue, Brownwood, January 11, 1993, at 7 p.m. Information may be obtained from Doran E. Lemke, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676. TRD-9317291.

The Cass County Appraisal District Board of Directors met at the Cass County Appraisal District Office, 502 North Main Street, Linden, January 11, 1993, at 7 p.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (903) 756-7545. TRD-9317296.

The Colorado River Municipal Water District Board of Directors will meet at 400 East 24th Street, Big Spring, January 12,

1993, at 10 a.m. (Revised agenda). Information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79721, (915) 267-6341. TRD-9317294.

The Dallas Central Appraisal District Board of Directors will meet at 2949 North Stemmons Freeway, Dallas, January 13, 1993, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9317289.

The Education Service Center, Region XI Board of Directors will meet at the Education Service Center, Region XI, 3001 North Freeway, Fort Worth, January 19, 1993, at noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311. TRD-9317297.

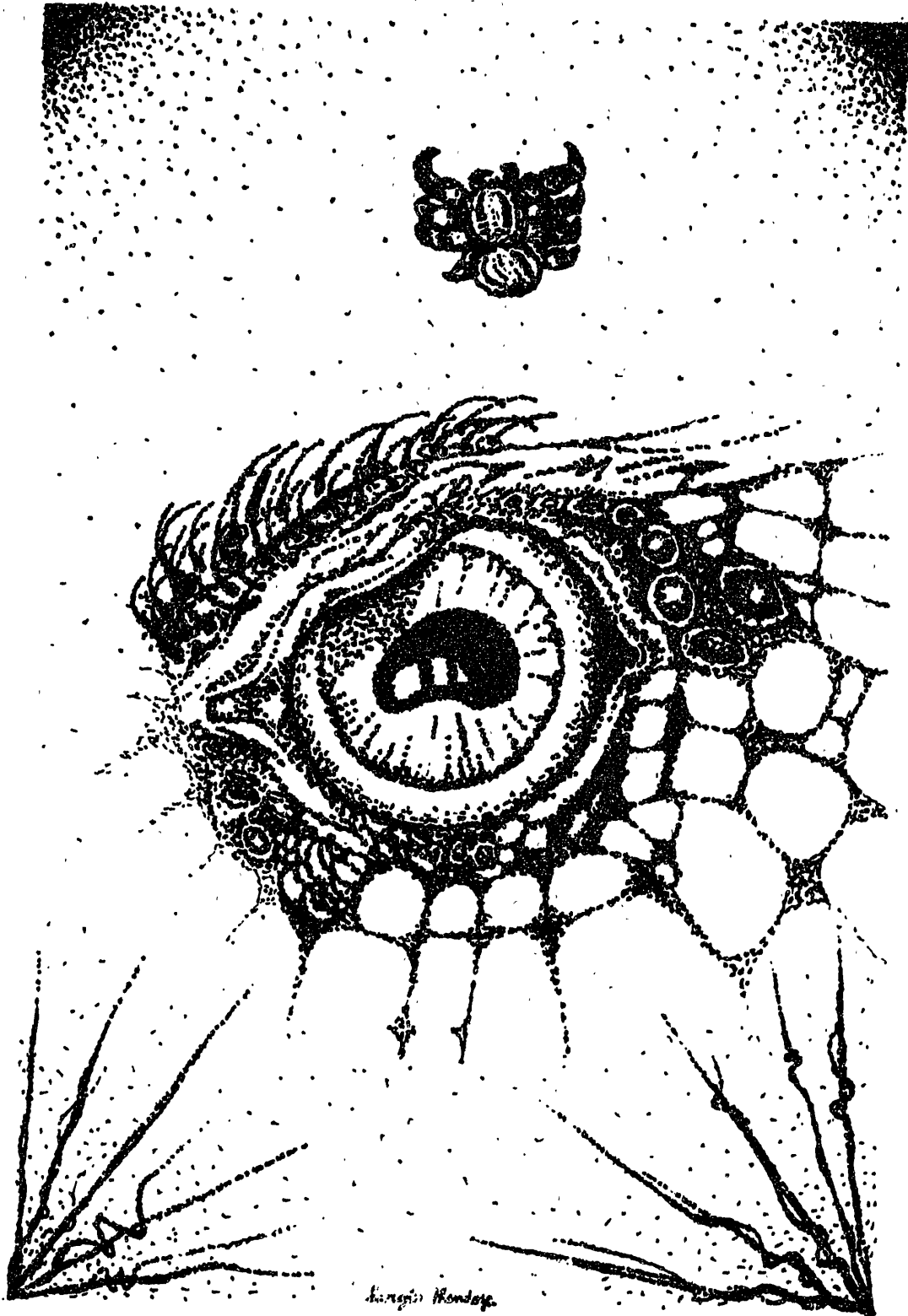
The Leon County Central Appraisal District Board of Directors will meet at the Freestone County Appraisal District Office, 218 North Mount, Fairfield, January 12, 1993, at 1 p.m. Information may be obtained from Donald Gillum, P.O. Box 536, Centerville, Texas 75833, (903) 536-2252. TRD-9317290.

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, January 14, 1993, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9317300.

The Sulphur-Cypress Soil and Water Conservation District Number 419 will meet at 1809 Ferguson Road, Suite B, Mt. Pleasant, January 13, 1993, at 8:30 a.m. Information may be obtained from Beverly Amerson, 1809 West Ferguson, Suite B, Mt. Pleasant, Texas 75455, (903) 572-5411. TRD-9317298.

The Wood County Appraisal District Board of Directors will meet at 217 North Main Street, Conference Room, Wood County Appraisal District, Quitman, January 14, 1993, at 7 p.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 951, Quitman, Texas 75783-0951, (903) 763-4891. TRD-9317292.





Name: Sergio Mendoza
Grade: 11
School: Del Rio High School, San Felipe Del Rio CISD

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, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Board of Architectural Examiners

Correction of Error

The Texas Board of Architectural Examiners adopted on an emergency basis an amendment to 22 TAC §5.31, concerning requisite qualifications for registration. The rule was published in the December 25, 1992, *Texas Register* (17 TexReg 9067). Due to an error by the *Texas Register* the date was incorrect in the fourth line of (a)(1). The paragraph should read as follows.

"(1) an applicant who files an application with this board no later than August 31, 1992, and who prior to September 1, 1991, had six or more years' total experience credits working independently or in the course of regular employment as a [full-time]."

Texas Bond Review Board

Bi-Weekly Report on the 1992 Allocation of the State Ceiling on Certain Private Activity Bonds

The information that follows is a report of the allocation activity for the period of December 12, 1992-December 27, 1992.

On September 1, 1992, any amounts of state ceiling which remained in any subceiling were combined into one ceiling. The applications which had not received a reservation prior to that date were placed on one list in an order determined by a lot number, and for those applications without a lot number, by date of receipt of the application.

Total amount of the \$867,450,000 state ceiling remaining unreserved as of December 27, 1992: \$4,400.

Following is a comprehensive listing of applications which have received a reservation date pursuant to the Act from December 12, 1992-December 27, 1992: Brazos River Authority, Texas Utilities Electric Company, \$3,855,000.

Following is a comprehensive listing of applications which have issued and delivered the bonds and received a Certificate of Allocation pursuant to the Act from December 12, 1992-December 27, 1992: Brazos River Harbor Navigation District of Brazoria County, Texas Dow Chemical Company Project-\$25,000,000; Brazos River Authority, Texas Utilities Electric Company, \$46,660,000; Gulf Coast Waste Disposal Authority, Champion International, \$42,145,000.

Following is a comprehensive listing of applications which were either withdrawn or cancelled pursuant to the Act from December 12, 1992-December 27, 1992: None.

Following is a comprehensive listing of applications which released a portion or their reserved amount pursuant to the Act from December 12, 1992-December 27, 1992: Brazos River Authority, Texas Utilities Electric Company, \$4,400.

Issued in Austin, Texas, on January 4, 1993.

TRD-9317234 Beverly S. Bunch
Interim Executive Director
Texas Bond Review Board

Filed: January 5, 1993

Final Report on the 1992 Allocation of the State Ceiling on Certain Private Activity Bonds

The information that follows is a final report of the allocation activity for 1992.

The total amount of the Texas State ceiling for calendar year 1992 was \$867,450,000. Bonds issued and delivered under Texas Civil Statutes, Article 5190.9a, for calendar year 1992 totaled \$867,445,600 with \$4,400 remaining unissued. The remaining portion of the 1992 state ceiling has been designated as carryforward to the following: Brazos River Authority, Texas Utilities Electric Company, Unit #1/Comanche Peak Steam Station, water pollution control facilities and solid waste disposal facilities.

Issued in Austin, Texas, on January 4, 1993.

TRD-9317232 Beverly S. Bunch
Interim Executive Director
Texas Bond Review Board

Filed: January 5, 1993

Initial Report on the 1993 Allocation of the State Ceiling on Certain Private Activity Bonds

The Tax Reform Act of 1986 (the Tax Act) imposes a volume ceiling on the aggregate principle amount of tax-exempt, private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act is \$50 per capita. The Bureau of the Census issued a release on December 30, 1992, containing resident population estimates as of July 1, 1992. Given a resident population in Texas of 17,656,000, the state ceiling for calendar year 1993 is \$882,800,000.

State legislation, Texas Civil Statutes, Article 5190.9a (the Act), mandates the allocation process for the State of Texas. The Act specifies that 28% of the state ceiling is to be made available to issuers of qualified mortgage bonds and of that amount, one-third is available to the Housing

Finance Division of the Texas Department of Housing and Community Affairs and two-thirds is available for local issuers. Issuers of state-voted issues will have 17.5% of the state ceiling available. Issuers of qualified small issue bonds will have 7.5% of the state ceiling available. Issuers of qualified residential rental project issue bonds will have 5.0% of the state ceiling available. All other issuers of bonds requiring an allocation will have 42% of the state ceiling available.

Pursuant to the Act, the aggregate amount for qualified mortgage bonds in Subceiling 1 is \$247,184,000 with \$164,789,333 available to local issuers and \$82,394,667 available to the Housing Finance Division of the Texas Department of Housing and Community Affairs. The aggregate amount for state-voted issues in Subceiling 2 is \$154,490,000, the amount for qualified small issues in Subceiling 3 is \$66,210,000, the amount for qualified residential rental project issues in Subceiling 4 is \$44,140,000, and the amount for all other issues requiring an allocation in Subceiling 5 is \$370,776,000.

Generally, the state ceiling is allocated by lottery for applications received from January 2-January 10, and thereafter on a first-come, first-served basis. The Texas Bond Review Board administers the allocation system.

Issued in Austin, Texas, on January 4, 1993.

TRD-9317233 Beverly S. Bunch
Interim Executive Director
Texas Bond Review Board

Filed: January 5, 1993

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**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 Texas Civil Statutes, Title 79, Article 1.04, as amended (Texas Civil Statutes, Articles 5069-1.04).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer ⁽¹⁾/Agricultural/ Commercial ⁽²⁾ thru \$250,000</u>	<u>Commercial⁽²⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	01/11/93-01/17/93	18.00%	18.00%

⁽¹⁾Credit for personal, family or household use. ⁽²⁾Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on January 4, 1993.

TRD-9317252 Al Endsley
Consumer Credit Commissioner

Filed: January 6, 1993

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**North Central Texas Council of
Governments
Consultant Contract Award**

In accordance with Texas Civil Statutes, Article 6252-11c, the North Central Texas Council of Governments publishes this notice of consultant contract award. The consultant proposal request appeared in the August 25, 1992, issue of the *Texas Register* (17 TexReg 5812). The consultant is to conduct an comprehensive Classification, Compensation, and Pay-for-Performance Study to update the personnel system of the Fort Worth Transportation Authority.

The consultant selected to perform this study is Hay Management Consultants, North Central Plaza III, 12801 North Central Expressway, Suite 1000, Dallas, Texas 75243-1731. The maximum amount of this contract is \$46,750. The contract begins January 18, 1993, and will terminate in approximately four months.

At the conclusion of this project, the consultant will prepare a final report which documents the methodology used and provide information and recommendations for salary planning and budgeting in future years.

Issued in Arlington, Texas, on December 31, 1992.

TRD-9317194 Mike Eastland
Executive Director
North Central Texas Council of
Governments

Filed: January 5, 1993

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**Public Utility Commission of Texas
Notice of Application to Amend
Certificate of Convenience and
Necessity**

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on December 17, 1992, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 50, 52, and 54. A summary of the application follows.

Docket and Title Number. Application of Southwestern Bell Telephone Company to amend certificate of convenience and necessity within Walker County, Docket Number 11677, before the Public Utility Commission of Texas.

The Application. In Docket Number 11677, Southwestern Bell Telephone Company seeks approval of its application to amend the exchange area boundary between its Huntsville exchange and United Telephone Company of Texas, Inc.'s Shiro exchange in order to continue providing telephone service to a single residential subscriber as well as establish telephone service to future residents in the affected area.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Office at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf on or before February 25, 1993.

Issued in Austin, Texas, on January 4, 1993.

TRD-9317222 John M. Rentrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: January 5, 1993

Notice of Staff Workshop on Proposed Revisions to Annual and Semi-Annual Earnings Reports

The state of the Public Utility Commission of Texas (PUC) will hold a workshop on Friday January 15, 1993, regarding proposed revision to the annual and semi-annual Earnings Report required under PUC Substantive Rules 23.11(o) and 23.12(b)(2). Staff members from the Electric, Telephone, and Operations Review Divisions will describe the proposed revisions at the workshop and will be available to answer questions and receive comments from interested parties. The workshop will be held in the Commissioners' hearing room located in the PUC offices at 7800 Shoal Creek Boulevard, Austin, and will be divided into morning and afternoon sessions as follows: 9:30 a.m.—Earnings Reports for Electric Cooperatives and River Authorities; 1:30 p.m.—Earnings Reports for Telephone Utilities and Electric Investor-Owned Utilities.

It is currently anticipated that the PUC staff will make a formal recommendation to the Commissioners on the proposed revisions at the Administrative Meeting scheduled for January 26, 1993. If approved by the Commission, these changes would become effective beginning with the Earnings Reports for calendar year 1992 which are to be filed on April 1993. The changes under consideration, as currently proposed by staff, are as follows.

1. Create a separate report for electric cooperatives and river authorities. This report would reduce the number of expenses and rate base accounts currently requested in Schedules I through III, collect rate base information related to the debt structure and projected capital needs of the utility. Several schedules in the Electric Utility Earnings Report which are not applicable to cooperatives and river authorities would also be eliminated.
2. Add a supplemental schedule requesting additional information regarding the calculation of federal income tax expense for all investor-owned utilities, and change Schedule IV in the Electric Utility Earnings Report to reflect tax method 2.
3. Add a supplemental schedule requesting additional detail regarding the balance and annual amortization of accounting order deferrals for electric investor-owned utilities.
4. Add a schedule requesting sales and revenue data by customer class, with weather adjustments if warranted, for electric investor-owned utilities. A draft copy of the proposed schedule revisions should be available for review by January 8, 1993. A copy of the proposed revisions may be obtained prior to the workshop by contacting Frances

Hawley in the Operations Review Division at (512) 458-0328. Any questions regarding the workshop should be directed to Kent Grant, Director of the Operations Review Division, at (512) 458-0329.

Issued in Austin, Texas, on December 30, 1992.

TRD-9317221 John M. Rentrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: January 5, 1993

Texas Racing Commission Correction of Error

The Texas Racing Commission adopted on an emergency basis new 16 TAC §321.119, concerning odd-even. The rule appeared in the December 25, 1992, *Texas Register* (17 TexReg 9067). Due to typographical errors by the *Texas Register* the word "three" was misspelled as "tree" in subsection (d). In subsection (e) "odd-even pool" was misspelled as one word, and "first place" was misspelled as "flirts place".

Railroad Commission of Texas

Notice of Intent to Reclaim Abandoned Mine Lands

The Railroad Commission of Texas is submitting a request for funds under Title IV of the Federal Surface Mining Control and Reclamation Act of 1977 (as amended October 1, 1991) to reclaim the Butler Weddington Area 1 abandoned uranium mine near Falls City in Karnes County. The abandoned mine consists of a 10-acre pit with approximately 85 acres of spoil piles. The pit contains water to a maximum depth of 20 feet. Two poorly vegetated spoil piles consisting of overburden from the pit remain on the site. Work on the project would be accomplished in accordance with the Texas Abandoned Mine Land Program administered by the Railroad Commission of Texas.

Proposed reclamation of the site would include the following: regrade approximately 100 acres of pit and spoil material; alter slopes associated with the pit highwalls to 5H (horizontal): 1V (vertical); alter all remaining slopes to 7H: 1V; soil treatment; fertilize; seed and mulch with grasses. Details of the proposed reclamation plans can be found at the Austin address following.

Interested persons are invited to comment on any possible impact this proposed project might have on the area or community. Comments or inquiries are to be received no later than February 19, 1993, and may be submitted to the following mailing address: Surface Mining and Reclamation Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967, Attention: Melvin B. Hodgkiss, P.E., Director.

Issued in Austin, Texas, on January 4, 1993.

TRD-9317206 Nolan Ward
Hearings Examiner, Legal Division-General
Law
Railroad Commission of Texas

Filed: January 5, 1993

Teacher Retirement System of Texas Correction of Error

The Teacher Retirement System of Texas adopted on an emergency basis new 34 TAC §23.6, concerning the trustee to the trustee transfer of eligible rollover distributions from TRS. The rule was published in the December 22, 1992, *Texas Register* (17 TexReg 8997).

Due to an error by the *Texas Register* the phrase "from the system to elect to have such" in subsection (a) line five is garbled. The subsection should read as follows.

"(a) Effective for distributions made after December 31, 1992, the Teacher Retirement System of Texas shall permit the distributee of an eligible rollover distribution from the system to elect to have such distribution paid directly to an eligible retirement plan specified by the distributee in the form of a direct trustee to trustee transfer."

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1993 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1993 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on July 30, November 5, November 30, and December 28. A asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 Friday, January 1	Monday, December 28	Tuesday, December 29
2 Tuesday, January 5	Wednesday, December 30	Thursday, December 31
3 Friday, January 8	Monday, January 4	Tuesday, January 5
4 Tuesday, January 12	Wednesday, January 6	Thursday, January 7
5 Friday, January 15	Monday, January 11	Tuesday, January 12
6 Tuesday, January 19	Wednesday, January 13	Thursday, January 14
Friday, January 22	1992 ANNUAL INDEX	
7 Tuesday, January 26	Wednesday, January 20	Thursday, January 21
8 Friday, January 29	Monday, January 25	Tuesday, January 26
9 Tuesday, February 2	Wednesday, January 27	Thursday, January 28
10 Friday, February 5	Monday, February 1	Tuesday, February 2
11 Tuesday, February 9	Wednesday, February 3	Thursday, February 4
12 Friday, February 12	Monday, February 8	Tuesday, February 9
13 Tuesday, February 16	Wednesday, February 10	Thursday, February 11
14 *Friday, February 19	Friday, February 12	Tuesday, February 16
15 Tuesday, February 23	Wednesday, February 17	Thursday, February 18
16 Friday, February 26	Monday, February 22	Tuesday, February 23
17 Tuesday, March 2	Wednesday, February 24	Thursday, February 25
18 Friday, March 5	Monday, March 1	Tuesday, March 2
19 Tuesday, March 9	Wednesday, March 3	Thursday, March 4
20 Friday, March 12	Monday, March 8	Tuesday, March 9
21 Tuesday, March 16	Wednesday, March 10	Thursday, March 11
22 Friday, March 19	Monday, March 15	Tuesday, March 16
23 Tuesday, March 23	Wednesday, March 17	Thursday, March 18
24 Friday, March 26	Monday, March 22	Tuesday, March 23
25 Tuesday, March 30	Wednesday, March 24	Thursday, March 25
26 Friday, April 2	Monday, March 29	Tuesday, March 30
27 Tuesday, April 6	Wednesday, March 31	Thursday, April 1
28 Friday, April 9	Monday, April 5	Tuesday, April 6
29 Tuesday, April 13	Wednesday, April 7	Thursday, April 8
Friday, April 16	FIRST QUARTERLY INDEX	
30 Tuesday, April 20	Wednesday, April 14	Thursday, April 15

31 Friday, April 23	Monday, April 19	Tuesday, April 20
32 Tuesday, April 27	Wednesday, April 21	Thursday, April 22
33 Friday, April 30	Monday, April 26	Tuesday, April 27
34 Tuesday, May 4	Wednesday, April 28	Thursday, April 29
35 Friday, May 7	Monday, May 3	Tuesday, May 4
36 Tuesday, May 11	Wednesday, May 5	Thursday, May 6
37 Friday, May 14	Monday, May 10	Tuesday, May 11
38 Tuesday, May 18	Wednesday, May 12	Thursday, May 13
39 Friday, May 21	Monday, May 17	Tuesday, May 18
40 Tuesday, May 25	Wednesday, May 19	Thursday, May 20
41 Friday, May 28	Monday, May 24	Tuesday, May 25
42 Tuesday, June 1	Wednesday, May 26	Thursday, May 27
43 *Friday, June 4	Friday, May 28	Tuesday, June 1
44 Tuesday, June 8	Wednesday, June 2	Thursday, June 3
45 Friday, June 11	Monday, June 7	Tuesday, June 8
46 Tuesday, June 15	Wednesday, June 9	Thursday, June 10
47 Friday, June 18	Monday, June 14	Tuesday, June 15
48 Tuesday, June 22	Wednesday, June 16	Thursday, June 17
49 Friday, June 25	Monday, June 21	Tuesday, June 22
50 Tuesday, June 29	Wednesday, June 23	Thursday, June 24
51 Friday, July 2	Monday, June 28	Tuesday, June 29
52 Tuesday, July 6	Wednesday, June 30	Thursday, July 1
53 Friday, July 9	Monday, July 5	Tuesday, July 6
Tuesday, July 13	SECOND QUARTERLY INDEX	
54 Friday, July 16	Monday, July 12	Tuesday, July 13
55 Tuesday, July 20	Wednesday, July 14	Thursday, July 15
56 Friday, July 23	Monday, July 19	Tuesday, July 20
57 Tuesday, July 27	Wednesday, July 21	Thursday, July 22
Friday, July 30	NO ISSUE PUBLISHED	
58 Tuesday, August 3	Wednesday, July 28	Thursday, July 29
59 Friday, August 6	Monday, August 2	Tuesday, August 3
60 Tuesday, August 10	Wednesday, August 4	Thursday, August 5
61 Friday, August 13	Monday, August 9	Tuesday, August 10
62 Tuesday, August 17	Wednesday, August 11	Thursday, August 12
63 Friday, August 20	Monday, August 16	Tuesday, August 17
64 Tuesday, August 24	Wednesday, August 18	Thursday, August 19
65 Friday, August 27	Monday, August 23	Tuesday, August 24
66 Tuesday, August 31	Wednesday, August 25	Thursday, August 26
67 Friday, September 3	Monday, August 30	Tuesday, August 31
68 Tuesday, September 7	Wednesday, September 1	Thursday, September 2
69 *Friday, September 10	Friday, September 3	Tuesday, September 7

70 Tuesday, September 14	Wednesday, September 8	Thursday, September 9
71 Friday, September 17	Monday, September 13	Tuesday, September 14
72 Tuesday, September 21	Wednesday, September 15	Thursday, September 16
73 Friday, September 24	Monday, September 20	Tuesday, September 21
74 Tuesday, September 28	Wednesday, September 22	Thursday, September 23
75 Friday, October 1	Monday, September 27	Tuesday, September 28
76 Tuesday, October 5	Wednesday, September 29	Thursday, September 30
77 Friday, October 8	Monday, October 4	Tuesday, October 5
Tuesday, October 12	THIRD QUARTERLY INDEX	
78 Friday, October 15	Monday, October 11	Tuesday, October 12
79 Tuesday, October 19	Wednesday, October 13	Thursday, October 14
80 Friday, October 22	Monday, October 18	Tuesday, October 19
81 Tuesday, October 26	Wednesday, October 20	Thursday, October 21
82 Friday, October 29	Monday, October 25	Tuesday, October 26
83 Tuesday, November 2	Wednesday, October 27	Thursday, October 28
Friday, November 5	NO ISSUE PUBLISHED	
84 Tuesday, November 9	Wednesday, November 3	Thursday, November 4
85 Friday, November 12	Monday, November 8	Tuesday, November 9
86 Tuesday, November 16	Wednesday, November 10	Thursday, November 11
87 Friday, November 19	Monday, November 15	Tuesday, November 16
88 Tuesday, November 23	Wednesday, November 17	Thursday, November 18
89 Friday, November 26	Monday, November 22	Tuesday, November 23
Tuesday, November 30	NO ISSUE PUBLISHED	
90 Friday, December 3	Monday, November 29	Tuesday, November 30
91 Tuesday, December 7	Wednesday, December 1	Thursday, December 2
92 Friday, December 10	Monday, December 6	Tuesday, December 7
93 Tuesday, December 14	Wednesday, December 8	Thursday, December 9
94 Friday, December 17	Monday, December 13	Tuesday, December 14
95 Tuesday, December 21	Wednesday, December 15	Thursday, December 16
96 Friday, December 24	Monday, December 20	Tuesday, December 21
Tuesday, December 28	NO ISSUE PUBLISHED	

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