

Texas Register

Volume 18, Number 17, March 2, 1993

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Texas Register



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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Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.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 Office of the Secretary of State does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services

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.

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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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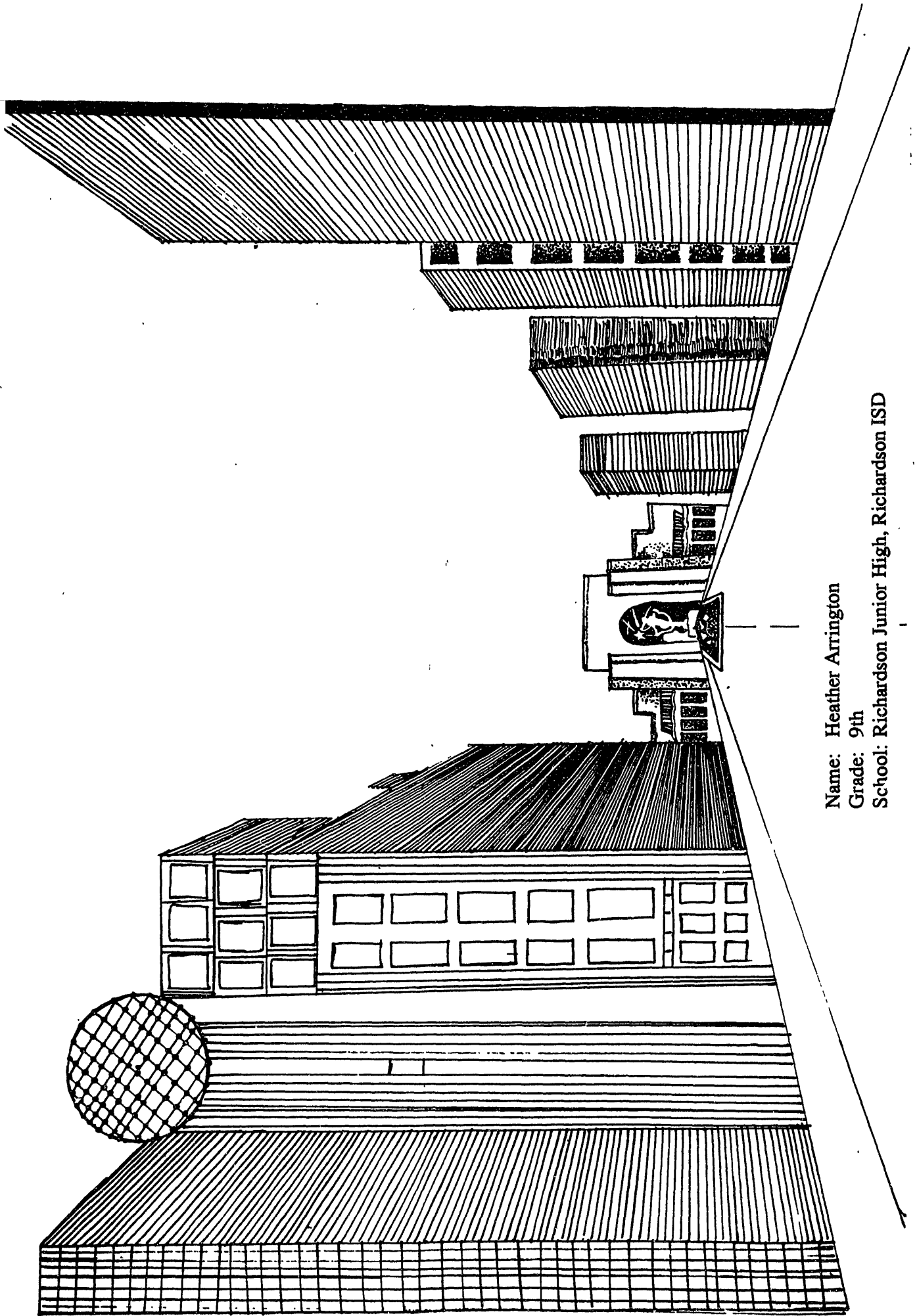
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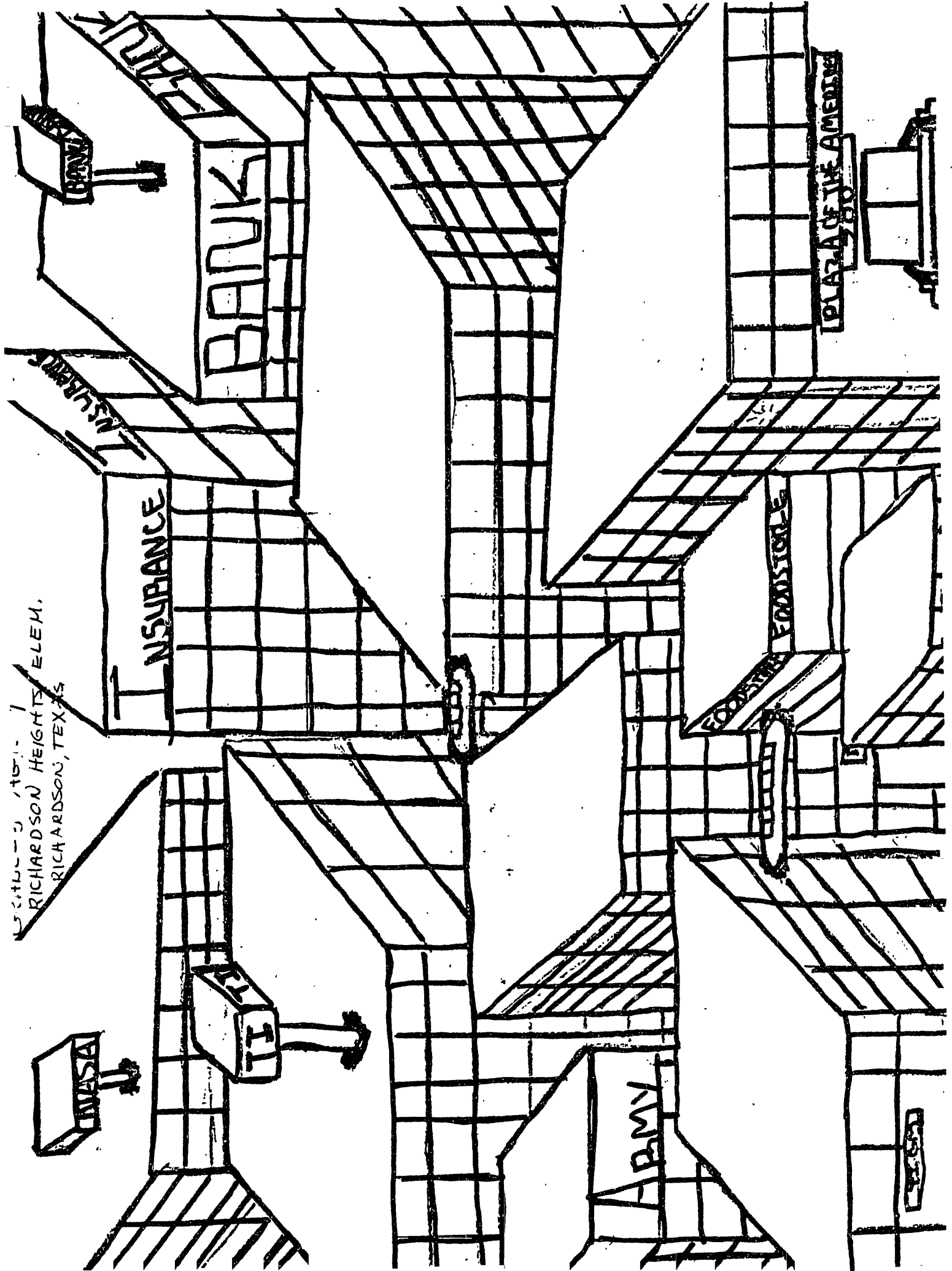
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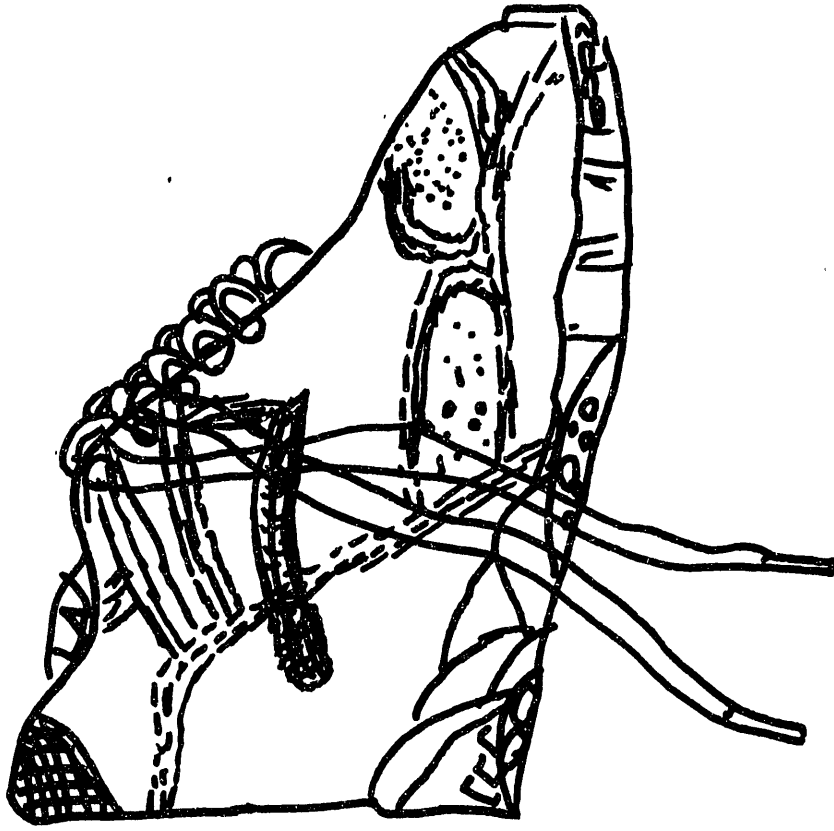
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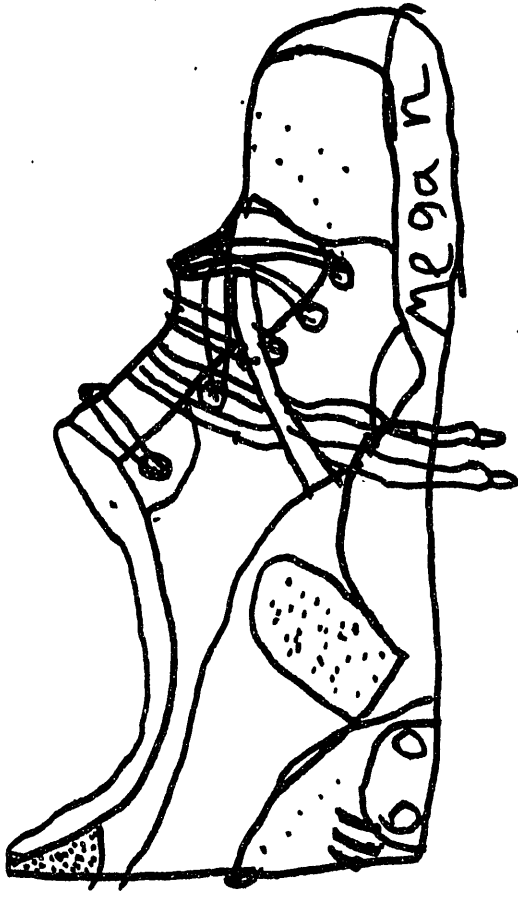
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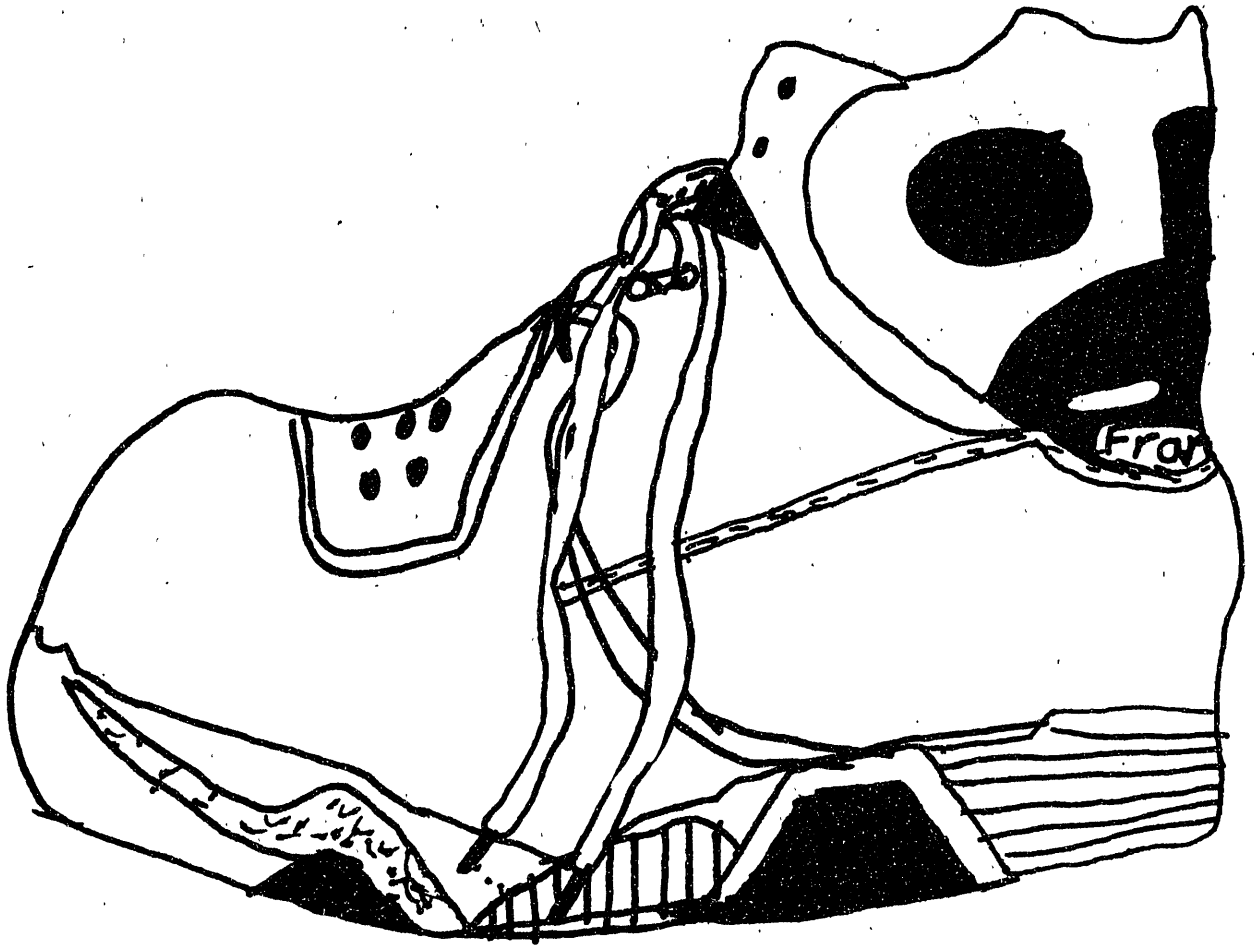


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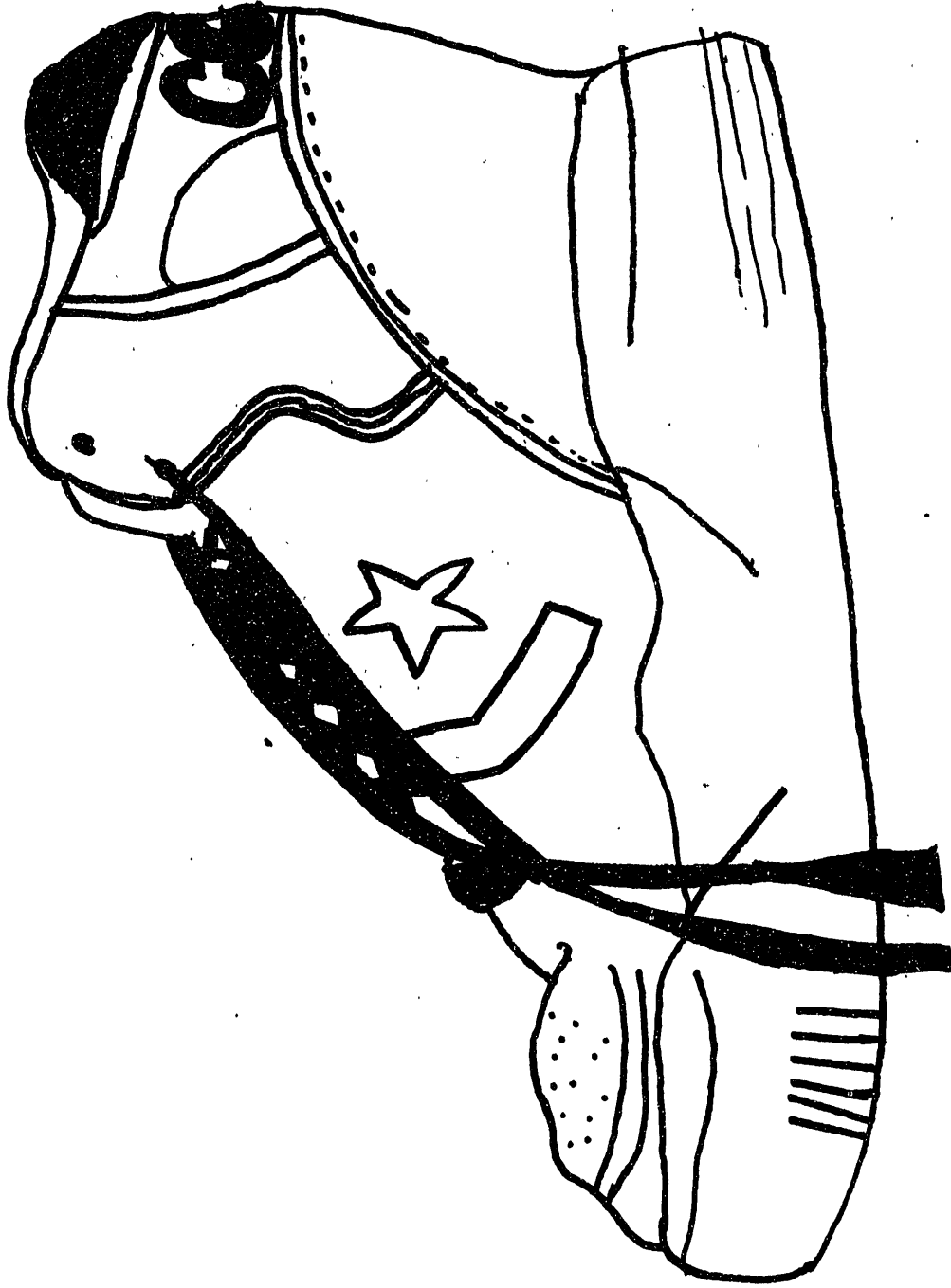
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The Governor

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 February 16, 1993

To be a member of the Texas Air Control Board for a term to expire September 1, 1997: Elaine Mowinski Barron, M.D., 900 Cherry Hill Lane, El Paso, Texas 79912. Dr. Barron will be filling the unexpired term of Dr. Suzanne Ahn of Dallas, who resigned.

Appointments Made February 18, 1993

To be a member of the Texas Employment Commission for a term to expire February 1, 1997: James J. Kaster, 4808 Timberline Drive, Austin, Texas 78746. Commissioner Kaster will be filling the unexpired term of Mary Scott Nabers of Austin, representing employers.

To be a member of the Texas Employment Commission for a term to expire February 1, 1995: The Honorable Eddie Cavazos, 4313 O'Dell, Corpus Christi, Texas 78415. Representative Cavazos will be filling the unexpired term of James J. Kaster of Austin, who has resigned effective on the date of his confirmation to the position formerly held by Mary Scott Nabers, representing employers.

Appointments Made February 22, 1993

To be judge of the 66th Judicial District Court, Hill Country, until the next General Election and until his successor shall be duly elected and qualified: F. B. (Bob) McGregor, Jr., P.O. Drawer 1287, Hillsboro, Texas 76645-1287. Mr. McGregor will be replacing Judge Robert G. Dohoney, of Hillsboro who resigned.

To be a member of the Texas Board of Criminal Justice for a term to expire February 1, 1999: John R. Ward, 2712 South Highway 36, Gatesville, Texas 76528. Mr. Ward will be replacing F. L. (Steve) Stephens of San Angelo, whose term expired.

To be a member of the Texas Board of Criminal Justice for a term to expire February 1, 1999: Justice Gilberto Hinojosa, 6701 Everhart, Apartment #1607, Corpus Christi, Texas 78413. Justice Hinojosa will be replacing Mamie Proctor of Houston, whose term expired.

To be a member of the Texas Board of Criminal Justice for a term to expire February 1, 1999: Carol S. Vance, 5758 Indian Circle, Houston, Texas 77057. Mr. Vance is being reappointed.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319410 Ann W. Richards
Governor of Texas



Texas Ethics Commission

The Texas Ethics Commission is authorized by Texas Civil Statutes, Article 6252-9d.1, §1.29, to issue advisory opinions in regard to the following statutes: Texas Civil Statutes, Article 6252-9b; the Government Code, Chapter 302; the Government Code, Chapter 305; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Ethics Advisory Opinions

EAO-115. Concerning whether partnership registration exempts individual partners from lobby registration requirements. (AOR-94)

Summary of Opinion. A partnership's registration as a lobbyist does not exempt from lobby registration an individual partner who otherwise meets the Government Code, Chapter 305 registration requirements. Money that a partnership distributes to an individual partner for that individual's lobby activities is "compensation" for purposes of the lobby statute.

EAO-116. Concerning whether a candidate or officeholder may reimburse his political funds for personal use of an asset purchased with political contributions; whether a candidate or officeholder may use personal assets for political purposes; and related questions. (AOR-101)

Summary of Opinion. A candidate may not convert assets purchased with political contributions to personal use. An item is not converted to personal use if the candidate reimburses his political funds on the basis of the reasonable value of any personal use.

The use of a personal asset for political purposes is not required to be reported under Title 15. A candidate may reimburse his personal funds from political contributions for use of personal assets for political purposes.

A corporation would be making a political contribution if it permitted the use of corporate assets for campaign or officeholder purposes.

EAO-117. Concerning whether a legislator who is a lawyer may be employed by a law firm that represents clients before either a state agency or a school district. (AOR-115)

Summary of Opinion. There is nothing in the laws subject to interpretation by the Ethics Commission that prohibits a legislator from being employed by a law firm in which other lawyers represent clients before state agencies. Nor is there anything in those laws that prohibits a legislator from representing clients before a school district. A legislator who represents clients before a state agency is subject to certain restrictions.

EAO-118. Concerning acceptance of rides, food, coffee, and seminar tuition by agency employees; acceptance of gifts from agency board members by agency employees. (AOR-127)

Summary of Opinion. A state employee or an employee of a local government body may accept a local ride in the circumstances described.

The prohibition set out in the Penal Code, §36.08(a) does not apply to a gift from a board member to an employee subject to the direction of the board. A cup of coffee is not a benefit for purposes of the Penal Code, Chapter 36.

A state agency, as opposed to an individual officer or employee of the agency, may accept a gift of food only if the agency can use the food in carrying out its powers and duties. Distribution of food to agency employees would generally not be one of an agency's powers or duties. A state agency may accept a tuition waiver and food at a seminar for a state employee if it would be permissible for the state agency to pay such expenses.

EAO-119. Concerning lobby reporting requirements in connection with a luncheon to which all members of the legislature and other elected state officers are invited. (AOR-133)

Summary of Opinion. The lump sum reported under the Government Code, §305.0062(a)(8) is made up of the kinds of expenditures that are required to be reported under §305.006. Lobby expenditures incurred in connection with the preparation or presentation of a meal are reportable under the category for "food and beverages."

EAO-120. Concerning whether a legislator may accept a free subscription to a magazine. (AOR-134)

Summary of Opinion. A subscription to a magazine may be a benefit if it is of more than minimal value.

EAO-121. Concerning whether members of four committees that advise the Department of Transportation are required to file financial disclosure statements. (AOR-138)

Summary of Opinion. Members of Texas Transportation Commission committees appointed under Texas Civil Statutes, Articles 46c-3, 6663b, 6673g, and 6673h are not

required to file financial disclosure statements.

EAO-122. Concerning whether an expenditure by a student government group at a state university is subject to regulation under the lobby statute. (AOR-141)

Summary of Opinion. It is for a state university's board of regents to determine whether the activities of a student government group are activities of the university for purposes of the lobby statute. Activities of the university are not lobby activities for purposes of the lobby statute.

EAO-123. Concerning whether a state legislator may work for a city as a paid lobbyist to influence the state legislature. (AOR-145)

Summary of Opinion. A legislator may not accept payment from a city for lobbying the state legislature.

EAO-124. Concerning whether members of the Elimination of Architectural Barriers Advisory Committee, the Air Conditioning and Refrigeration Contractors Advisory Board, the Texas Industrialized Building Code Council, the Auctioneer Education Advisory Board, the Board of Boiler Rules, and the Property Tax Consultants Advisory Council are required to file personal financial disclosure statements (AOR-151)

Summary of Opinion. The members of the Elimination of Architectural Barriers Advisory Committee are not required to file annual financial disclosure statements. The members of the Air Conditioning and Refrigeration Contractors Advisory Board are not required to file annual financial disclosure statements. The members of the Texas Industrialized Building Code Council are required to file annual financial disclosure statements. The members of the Auctioneer Education Advisory Board are not required to file annual financial disclosure statements. The members of the Board of Boiler Rules are not required to file annual financial disclosure statements. The members of the Property Tax Consultants Advisory Council are not required to file annual financial disclosure statements.

EAO-125. Concerning whether a district judge may accept \$500 for speaking at a conference. (AOR-152)

Summary of Opinion. Whether the prohibition on honoraria applies to a payment to a judge who gives a speech is a fact question and depends on whether the judge would not have been asked to provide the speech but for his official status. The statements of the group sponsoring the speech about its reasons for asking the judge to speak would be one factor for a judge or jury to consider in analyzing whether a payment for the speech was a prohibited honorarium.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319417

Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: February 23, 1993

For further information, please call: (512)
463-5800



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 1. ADMINISTRATION

Part II. Texas Ethics Commission

Chapter 20. Campaign Financing

Subchapter C. Rules Concerning Reports

• 1 TAC §20.131

The Texas Ethics Commission proposes an amendment to §20.131, concerning the calculation and imposition of a fine by the commission for the late filing of a report. The amendment moves the deadline for enforcing the section from March 1, 1993, to January 1, 1994.

Jim Mathieson, assistant general counsel, 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.

Mr. Mathieson also 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 as proposed will be to promote the on-time filing of reports with the commission thereby giving the public more timely disclosure. 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 Jim Mathieson, P.O. Box 12070, Austin, Texas 78711-2070. Only written comments will be received. Anyone desiring to comment otherwise may do so at the next regularly scheduled commission meeting on April 1, 1993.

The amendment is proposed under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning those provisions of the law administered by the commission.

§20.131. Calculation and Imposition of Fine.

(a) A fine under subsections (b)-(h) of this section is assessed against a late report when the deadline for filing that re-

port is after December 31, 1993 [February 28, 1993]. When the deadline for filing the report is before January 1, 1994 [March 1, 1993], the fine assessed is \$100.

(b)-(h) (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 February 21, 1993.

TRD-9319435

Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Proposed date of adoption: April 2, 1993

For further information, please call: (512) 463-5800

Chapter 30. Personal Financial Disclosure

Subchapter A. Disclosure Statements

• 1 TAC §30.1

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Ethics Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Ethics Commission proposes the repeal of §30.1, concerning the penalty for late filing of personal financial statement. The section is repealed because proposed new §30.119, 30.121, 30.123, 30.127, 30.131, 30.133, 30.135, and 30.137 will replace it.

Jim Mathieson, assistant general counsel, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Mathieson also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is not applicable, as the public is relatively unaffected by this particular proposed repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Jim Mathieson, P.O. Box 12070, Austin,

Texas 78711-2070. Only written comments will be received. Anyone desiring to otherwise comment may do so at the next regularly scheduled commission meeting on April 1, 1993.

The repeal is proposed under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning those provisions of the law administered by the commission.

§30.1. Penalty for Late Filing of Personal Financial Statement.

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 February 22, 1993.

TRD-9319439

Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Proposed date of adoption: April 2, 1993

For further information, please call: (512) 463-5800

Subchapter C. Rules Concerning Reports

• 1 TAC §§30.119, 30.121, 30.123, 30.127, 30.131, 30.133, 30.135, 30.137

The Texas Ethics Commission proposes new §§30.119, 30.121, 30.123, 30.127, 30.131, 30.133, 30.135, and 30.137, concerning the filing of late reports and the calculation and imposition of fines therefore.

Jim Mathieson, assistant general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Mathieson also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to promote the on-time filing of reports with the commission thereby giving the public more timely disclosure. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jim Mathieson, P.O. Box 12070, Austin, Texas 78711-2070. Only written comments will be received. Anyone desiring to comment otherwise may do so at the next regularly scheduled commission meeting on April 1, 1993.

The new sections are proposed under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning those provisions of the law administered by the commission.

§30.119. Late Report.

(a) A report is filed on:

(1) the date it is received at the commission's office; or

(2) if the report is mailed, the date the report is deposited in an official repository of the United States Postal Service, if the report is properly addressed with all postage or handling charges prepaid; or

(3) if the report is delivered by common or contract carrier, the date the report is delivered to the common or contract carrier, if the report is properly addressed with all handling charges prepaid.

(b) A report is late if:

(1) it is not filed by the deadline established by the applicable statute; or

(2) even if it is filed by the deadline, the report does not include all information that must be included in the report and all required signatures, oaths, and affirmations.

§30.121. Preliminary Notice That Report is Late.

(a) The commission staff shall notify each filer whose report appears to be late of the reason the report appears to be late.

(b) If the report has not been received by the commission when the notice required by subsection (a) of this section, is sent, the notice shall state that the report will be determined to be late and a civil penalty will be assessed unless the filer provides to commission staff the following response:

(1) a copy of the report that was filed; and

(2) an affidavit that states the report was filed by the deadline. The affidavit under this paragraph shall comply with §30.127 of this title (relating to Affidavit of Timely Report).

(c) If a complete report appears to be late because the date of the postmark or receipt mark of a common or contract carrier is after the deadline or is illegible, the notice shall state that the report will be

determined to be late and a fine will be assessed unless the filer provides a completed affidavit that complies with §30.127 of this title.

(d) If the report is filed and the filer provides an affidavit that complies with §30.127 of this title, the report will be deemed to have been timely filed.

(e) If a report appears to be late because of a *de minimis* error in reporting required information, the notice shall state that the report will be determined to be late and a fine will be assessed unless the filer provides an amended report within 10 business days of the filer's receipt of the notice.

§30.123. Determination That Report is Late.

(a) A report is determined to be late when:

(1) the filer's response to the preliminary notice under §30.121 of this title (relating to Preliminary Notice That Report is Late) does not establish that the report was filed by the deadline, or does not include a copy of the report if a copy of the report is necessary; or

(2) a report that is filed is found by commission staff to be incomplete.

(b) A rebuttable presumption of lateness is raised when the filer's response to the preliminary notice under §30.121 of this title is not actually received by commission staff by the 10th business day after the preliminary notice was mailed to the filer. The presumption may be rebutted by submitting to the executive director an affidavit under §30.127 of this title (relating to Affidavit of Timely Report), and if necessary, a copy of the report.

(c) The commission staff shall mail a determination of lateness to each filer whose report is determined to be late. The determination of lateness shall state the reason the report has been determined to be late, that a fine has been assessed in the amount established by §30.131 of this title (relating to Calculation and Imposition of Fine), order the filer to file immediately all required information, and demand remittance of all fines owed by the filer.

§30.127. Affidavit of Timely Report.

(a) An affidavit of a filer swearing that a report is timely must be sworn under penalty of perjury before an officer qualified to administer an oath, and must make the following statement, or a substantially similar statement:

I, (name of filer), filed (description of report) with the Texas Ethics Commission on or before (date of deadline) by the following method: (indicate one)

___by first-class United States Mail, properly addressed with all postage charges prepaid.

___by common or contract carrier (specify name of carrier), properly addressed with all delivery and handling charges prepaid.

___by personally delivering it to the offices of the Texas Ethics Commission at 1101 Camino La Costa, Austin, Texas.

I do solemnly swear (or affirm) under penalty of perjury that the foregoing statement is in all things true and correct. (signature of filer)

Sworn and subscribed before me by (name of filer) this the ___day of ___, 19___, to certify which, witness my hand and seal of office.

(signature of officer administering oath)

(name of officer administering oath)

(title and seal of officer administering oath)

(b) Commission staff shall prepare and make available a form containing the affidavit prescribed in subsection (a) of this section. The form shall be included in all notices to which the affidavit is part of an appropriate response.

(c) Commission staff shall have discretion to accept an affidavit that substantially conforms to the affidavit prescribed in subsection (a) of this section.

(d) Commission staff may not accept any affidavit if the oath is in any way qualified.

§ 30.131. Calculation and Imposition of Fine.

(a) A fine assessed under this chapter will be \$100.

(b) Commission staff shall assess and collect the fine authorized by this section.

§30.133. Appeal of Fine to Commission.

(a) A filer may appeal to the commission a fine imposed under this subchapter.

(b) An appeal under this section will be heard according to the Administrative Procedure and Texas Register Act.

(c) An appeal must be based on the following:

(1) a reasonably unforeseeable and extraordinary circumstance which reasonably caused the filer to miss a deadline for filing a report; or

(2) a denial of a defense asserted under §30.135 of this title (relating to Defenses to Late Filing).

(d) To file an appeal, the filer must have a complete report on file with the commission. The filer must submit a signed, written statement, sworn to under penalty of perjury before an officer qualified to administer an oath, to the executive director expressly requesting that an appeal be heard by the commission and clearly describing the circumstance upon which the appeal is based.

(e) After the appeal is filed, commission staff shall not collect the fine until the appeal is decided by the commission.

(f) The commission shall decide the appeal no earlier than its first meeting more than 30 days after the date the appeal is filed.

(g) Commission staff shall notify the filer requesting an appeal of the date and time of the hearing by registered mail postmarked not later than the date that the notice of the meeting is posted in accordance with the Open Meetings Act, Texas Civil Statutes, Article 6252-17. The filer may waive this notice.

(h) The commission shall consider the following factors in an appeal:

(1) the seriousness of the violation which brought the fine, including the nature, circumstances, consequences, extent, and gravity of the violation, and the amount of the fine;

(2) any history of the filer's previous violations;

(3) any demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation;

(4) the penalty necessary to deter future violations; and

(5) any other matter that justice may require.

(i) After hearing the appeal, the commission may affirm, reduce, or dismiss the fine.

§30.135. Defenses to Late Filing.

(a) The following are defenses to a fine assessed under this subchapter:

(1) good faith error by the filer to include required information in a report if the filer did not know, or reasonably should not have known, of the information before the reporting deadline.

(2) a medical emergency that is the primary reason a report is late and that involves the filer, a member of the filer's household, or a person related to the filer within the third degree of affinity or consanguinity;

(3) reasonable reliance on incorrect information given to the filer by commission staff which caused the filer to miss a deadline for filing a report; or

(4) administrative error by commission staff.

(b) These defenses may be asserted at any time after a fine is assessed, and must be asserted by submitting an affidavit to the executive director stating the relevant facts. The affidavit must be sworn under penalty of perjury before an officer qualified to administer an oath, and must state the circumstance which caused the late filing, provided that the medical condition of a person need not be stated in a defense asserted under subsection (a)(1) of this section.

(c) If a defense under this section is asserted, commission staff shall not impose or collect any fines for the alleged violation which resulted in the imposition of the fine to which the defense is asserted until the matter has been considered by the executive director. A defense asserted under this section does not remove the obligation to file immediately all required reports.

(d) The executive director shall promptly consider properly executed affidavits submitted under this section. The executive director shall dismiss a fine if a properly executed affidavit establishes the defense. If the executive director finds the affidavit insufficient, the affidavit submitted by the filer shall be automatically treated as an appeal of the fine filed under §30.133 of this title (relating to Appeal of Fine to Commission).

§30.137. Report Must Be Filed. The satisfaction of civil and criminal penalties does not remove the obligation to file all required reports. An appeal of a fine or an assertion of a defense to late filing does not remove the obligation to file all required reports. Penalties for failure to report any required information shall accrue until all such information is reported.

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 February 22, 1993.

TRD-9319440 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Proposed date of adoption: April 2, 1993
For further information, please call: (512) 463-5800

Chapter 40. Registration and Regulation of Lobbyists

• 1 TAC §40.29

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Ethics Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Ethics Commission proposes the repeal of §40.29, concerning the penalty for late filing of a lobby registration report. The section is repealed because proposed new §§40.119, 40.121, 40.123, 40.127, 40.131, 40.133, 40.135, and 40.137 will replace it.

Jim Mathieson, assistant general counsel, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Mathieson also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is not applicable, as the public is relatively unaffected by this particular proposed repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Jim Mathieson, P.O. Box 12070, Austin, Texas 78711-2070. Only written comments will be received. Anyone desiring to otherwise comment may do so at the next regularly scheduled commission meeting on April 1, 1993.

The repeal is proposed under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning those provisions of the law administered by the commission.

§40.29. Civil Late Penalty.

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 February 22, 1993.

TRD-9319438 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Proposed date of adoption: April 2, 1993

For further information, please call: (512) 463-5800

◆ ◆ ◆
• 1 TAC §§40.119, 40.121, 40.123,
40.127, 40.131, 40.133, 40.135,
40.137

The Texas Ethics Commission proposes new §§40.119, 40.121, 40.123, 40.127, 40.131, 40.133, 40.135, and 40.137, concerning the filing of late reports and the calculation and imposition of fines therefore.

Jim Mathieson, assistant general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Mathieson also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to promote the on-time filing of reports with the commission thereby giving the public more timely disclosure. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jim Mathieson, P.O. Box 12070, Austin, Texas 78711-2070. Only written comments will be received. Anyone desiring to comment otherwise may do so at the next regularly scheduled commission meeting on April 1, 1993.

The new sections are proposed under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning those provisions of the law administered by the commission.

§40.119. Late Report.

(a) A report is filed on:

(1) the date it is received at the commission's office; or

(2) if the report is mailed, the date the report is deposited in an official repository of the United States Postal Service, if the report is properly addressed with all postage or handling charges prepaid; or

(3) if the report is delivered by common or contract carrier, the date the report is delivered to the common or contract carrier, if the report is properly addressed with all handling charges prepaid.

(b) A report is late if:

(1) it is not filed by the deadline established by the applicable statute; or

(2) even if it is filed by the deadline, the report does not include all information that must be included in the report and all required signatures, oaths, and affirmations.

§40.121. Preliminary Notice That Report is Late.

(a) The commission staff shall notify each filer whose report appears to be late of the reason the report appears to be late.

(b) If the report has not been received by the commission when the notice required by subsection (a) of this section is sent, the notice shall state that the report will be determined to be late and a civil penalty will be assessed unless the filer

provides to commission staff the following response:

(1) a copy of the report that was filed; and

(2) an affidavit that states the report was filed by the deadline. The affidavit under this paragraph shall comply with §40.127 of this title (relating to Affidavit of Timely Report).

(c) If a complete report appears to be late because the date of the postmark or receipt mark of a common or contract carrier is after the deadline or is illegible, the notice shall state that the report will be determined to be late and a fine will be assessed unless the filer provides a completed affidavit that complies with §40.127 of this title.

(d) If the report is filed and the filer provides an affidavit that complies with §40.127 of this title, the report will be deemed to have been timely filed.

(e) If a report appears to be late because of a *de minimis* error in reporting required information, the notice shall state that the report will be determined to be late and a fine will be assessed unless the filer provides an amended report within 10 business days of the filer's receipt of the notice.

§40.123. Determination That Report is Late.

(a) A report is determined to be late when:

(1) the filer's response to the preliminary notice under §40.121 of this title (relating to Preliminary Notice That Report is Late) does not establish that the report was filed by the deadline, or does not include a copy of the report if a copy of the report is necessary; or

(2) a report that is filed is found by commission staff to be incomplete.

(b) A rebuttable presumption of lateness is raised when the filer's response to the preliminary notice under §40.121 of this title is not actually received by commission staff by the 10th business day after the preliminary notice was mailed to the filer. The presumption may be rebutted by submitting to the executive director an affidavit under §40.127 of this title (relating to Affidavit of Timely Report), and if necessary, a copy of the report.

(c) The commission staff shall mail a determination of lateness to each filer whose report is determined to be late. The determination of lateness shall state the reason the report has been determined to be late, that a fine has been assessed in the amount established by §40.131 of this title (relating to Calculation and Imposition of Fine), order the filer to file immediately all

required information, and demand remittance of all fines owed by the filer.

§40.127. Affidavit of Timely Report.

(a) An affidavit of a filer swearing that a report is timely must be sworn under penalty of perjury before an officer qualified to administer an oath, and must make the following statement, or a substantially similar statement:

I, (name of filer), filed (description of report) with the Texas Ethics Commission on or before (date of deadline) by the following method: (indicate one)

_____ by first-class United States Mail, properly addressed with all postage charges prepaid.

_____ by common or contract carrier (specify name of carrier), properly addressed with all delivery and handling charges prepaid.

_____ by personally delivering it to the offices of the Texas Ethics Commission at 1101 Camino La Costa, Austin, Texas.

I do solemnly swear (or affirm) under penalty of perjury that the foregoing statement is in all things true and correct. (signature of filer)

Sworn and subscribed before me by (name of filer) this the _____ day of _____, 19____, to certify which, witness my hand and seal of office.

(signature of officer administering oath)

(name of officer administering oath)

(title and seal of officer administering oath)

(b) Commission staff shall prepare and make available a form containing the affidavit prescribed in subsection (a) of this section. The form shall be included in all notices to which the affidavit is part of an appropriate response.

(c) Commission staff shall have discretion to accept an affidavit that substantially conforms to the affidavit prescribed in subsection (a) of this section.

(d) Commission staff may not accept any affidavit if the oath is in any way qualified.

§40.131. Calculation and Imposition of Fine.

(a) A fine assessed under this chapter will be \$100.

(b) Commission staff shall assess and collect the fine authorized by this section.

§40.133. Appeal of Fine to Commission.

(a) A filer may appeal to the commission a fine imposed under this subchapter.

(b) An appeal under this section will be heard according to the Administrative Procedure and Texas Register Act.

(c) An appeal must be based on the following:

(1) a reasonably unforeseeable and extraordinary circumstance which reasonably caused the filer to miss a deadline for filing a report; or

(2) a denial of a defense asserted under §40.135 of this title (relating to Defenses to Late Filing).

(d) To file an appeal, the filer must have a complete report on file with the commission. The filer must submit a signed, written statement, sworn to under penalty of perjury before an officer qualified to administer an oath, to the executive director expressly requesting that an appeal be heard by the commission and clearly describing the circumstance upon which the appeal is based.

(e) After the appeal is filed, commission staff shall not collect the fine until the appeal is decided by the commission.

(f) The commission shall decide the appeal no earlier than its first meeting more than 30 days after the date the appeal is filed.

(g) Commission staff shall notify the filer requesting an appeal of the date and time of the hearing by registered mail postmarked not later than the date that the notice of the meeting is posted in accordance with the Open Meetings Act, Texas Civil Statutes, Article 6252-17. The filer may waive this notice.

(h) The commission shall consider the following factors in an appeal:

(1) the seriousness of the violation which brought the fine, including the nature, circumstances, consequences, extent, and gravity of the violation, and the amount of the fine;

(2) any history of the filer's previous violations;

(3) any demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation;

(4) the penalty necessary to deter future violations; and

(5) any other matter that justice may require.

(i) After hearing the appeal, the commission may affirm, reduce, or dismiss the fine.

§40.135. Defenses to Late Filing.

(a) The following are defenses to a fine assessed under this subchapter:

(1) good faith error by the filer to include required information in a report if the filer did not know, or reasonably should not have known, of the information before the reporting deadline.

(2) a medical emergency that is the primary reason a report is late and that involves the filer, a member of the filer's household, or a person related to the filer within the third degree of affinity or consanguinity;

(3) reasonable reliance on incorrect information given to the filer by commission staff which caused the filer to miss a deadline for filing a report; or

(4) administrative error by commission staff.

(b) These defenses may be asserted at any time after a fine is assessed, and must be asserted by submitting an affidavit to the executive director stating the relevant facts. The affidavit must be sworn under penalty of perjury before an officer qualified to administer an oath, and must state the circumstance which caused the late filing, provided that the medical condition of a person need not be stated in a defense asserted under subsection (a)(1) of this section.

(c) If a defense under this section is asserted, commission staff shall not impose or collect any fines for the alleged violation which resulted in the imposition of the fine to which the defense is asserted until the matter has been considered by the executive director. A defense asserted under this section does not remove the obligation to file immediately all required reports.

(d) The executive director shall promptly consider properly executed affidavits submitted under this section. The executive director shall dismiss a fine if a properly executed affidavit establishes the defense. If the executive director finds the affidavit insufficient, the affidavit submitted by the filer shall be automatically treated as an appeal of the fine filed under §40.133 of this title (relating to Appeal of Fine to commission).

§40.137. Report Must Be Filed. The satisfaction of civil and criminal penalties does not remove the obligation to file all required reports. An appeal of a fine or an assertion of a defense to late filing does not remove the obligation to file all required reports. Penalties for failure to report any required information shall accrue until all such information is reported.

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 February 22, 1993.

TRD-9319437

Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Proposed date of adoption: April 2, 1993

For further information, please call: (512) 463-5800

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TITLE 10. COMMUNITY DEVELOPMENT
Part IV. Texas Department of Housing and Community Affairs
Chapter 49. Low-Income Rental Housing and Tax Credit Rules

• **10 TAC §§49.1-49.14**

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Department of Housing and Community Affairs proposes the repeal of §§49.1-49.14, concerning Low Income Rental Housing Tax Credit Rules. The sections are repealed in order to enact new sections conforming to the requirements of new regulations enacted under the Internal Revenue Code of 1986, as amended, which provide for credits against federal income taxes for owners of qualified low-income rental housing projects.

Scott McGuire, Acting Deputy for Housing Finance and Development, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. McGuire also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be permitting the adoption of new rules for the allocation of low-income housing tax credit authority within the State of Texas, thereby enhancing the State's ability to provide safe and sanitary housing for Texans through the tax credit program administered by the Department. There will be no effect on small businesses. The Department is unable to determine whether the administration of these rules will have any fiscal implications on persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Anne O. Paddock, Acting General Coun-

sel, P.O. Box 13941, Austin, Texas 78711-3941.

The repeals are proposed under Texas Civil Statutes, Article 4413(501), which provide the Texas Department of Housing and Community Affairs with the authority to adopt rules governing the administration of the Department and its programs and Executive Order AWR-91-4 (June 17, 1991), which provides this Department with the authority to make housing credit allocations in the State of Texas.

§49.1. *Scope.*

§49.2. *Definitions.*

§49.3. *State Housing Credit Ceiling.*

§49.4. *Applications; Market Study; Reservations; Notifications; Commitments; Extensions; Carryover Allocations; Agreements and Elections; Extended Commitments.*

§49.5. *Set-Asides, Reservations, and Preferences.*

§49.6. *Threshold Criteria; Evaluation Factors; Selection Criteria; Final Ranking; Credit Amount; Tax Exempt Bond Financed Projects.*

§49.7. *Compliance Monitoring.*

§49.8. *Housing Credit Allocations.*

§49.9. *Department Records; Certain Required Filings.*

§49.10. *Department Responsibilities.*

§49.11. *Program Fees.*

§49.12. *Manner and Place for Filing Applications.*

§49.13. *Withdrawals, Amendments, Cancellations.*

§49.14. *Waiver and Amendment of Rules.*

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 February 24, 1993.

TRD-9319468

Henry Flores
Executive Director
Texas Department of
Housing and
Community Affairs

Earliest possible date of adoption: April 2, 1993

For further information, please call: (512) 475-3800

TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 465. Rules of Practice

• 22 TAC §465.18

The Texas State Board of Examiners of Psychologists proposes new §465.18, concerning supervision guidelines. The Board is replacing its supervision guidelines with guidelines that more closely match the current practice of the profession.

Patricia S. Bizzell Tweedy, executive director, 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.

Ms. Bizzell Tweedy also 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 that the Board will monitor the supervisees who offer psychological services as service extenders. 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 Brian L. Creath, 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The new section is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

§465.18. *Supervision Guidelines.*

(a) *Extension of Services.* The Board recognizes that licensed psychologists may choose to extend their services by using assistance. The Board requires that the psychologists's supervision of service extenders meet these general supervision requirements.

(b) *Purpose:*

(1) to provide supervision rules for the provision of psychological services;

(2) to provide rules by which a psychologist conducts supervision of individuals who use this supervision to meet requirements for certification and/or licensure before this Board.

(c) *Definitions.* The following words and terms, when used in this section,

shall have the following meanings, unless the context clearly indicates otherwise.

(1) *Psychologist* as a Supervisor—A person licensed to practice psychology in Texas and supervise the provision of psychological services.

(2) *Supervisee*—A person who has the necessary education, training, and experience for the psychological services and/or duties to be performed. A psychology supervisee provides psychological services under the supervision of a licensed psychologist. A person providing psychological services under supervision by a licensed psychologist is limited to the following:

(A) applicant for certification as a psychological associate;

(B) applicant for certification as a psychologist;

(C) certified psychological associate;

(D) certified psychologist;

(E) future applicant to the Board. This supervisee may be a doctoral or master's degree student who is enrolled in a university department of psychology or a person who has completed a graduate psychology degree but has not yet made application to the Board. Students employed receiving academic credit or internship or practicum credit are not included in this section;

(F) other extender. Psychologists may employ extenders of their services who are not trained in psychology.

(d) *Supervision Contract.*

(1) *Initiation of Contract.* The supervising psychologist must complete the Texas State Board of Examiners of Psychologists Supervision Contract, and submit it and a fee, if required, to the Board prior to the date that supervision is to begin.

(2) *Termination of Contract.* The supervising psychologist must complete the Texas State Board of Examiners of Psychologists' Notification of Termination of Supervision Form and submit it to the Board as soon as supervision has ceased, regardless of the reason for termination.

(3) *Changes.* Any change in Board Supervision Contract filed with the Board requires submission of a new Board Supervision Contract.

(e) *General Supervision Requirements.*

(1) The supervisor shall establish and maintain a level of supervisory contact with the supervisee consistent with established professional standards and shall be professionally, ethically, and legally accountable for the supervisee and all services rendered.

(2) All clients/patients shall be appropriate for the experience, of the supervisee. It is understood that abilities and experience change over time and will be evaluated on a case by case basis.

(3) The supervising psychologist recognizes that the full professional responsibility for the psychological activities of persons supervised rests on the licensed psychologist. Both the supervisor and supervisee must be familiar with and abide by the latest revision of the Ethical Principles of Psychologists and Rules and Regulations of the Board.

(4) The supervisor must have adequate training, knowledge, and skill to render competently any psychological services which the supervisee undertakes. The supervisor has the discretion to refer the supervisee for supervision by a qualified mental health professional for specialization supervision. In circumstances when the supervisor is not available, the supervisor will provide an alternate psychologist for supervision of the supervisee.

(5) The supervisor must provide each supervisee with weekly scheduled individual face-to-face supervision. Group supervision may be used as an adjunct to the individual face-to-face supervision but not as a substitute.

(6) The supervisor must be present at every site every week and be accessible to patients, staff, and supervisees.

(7) When psychological services are offered, by other extenders in subsection (c)(2)(A), (B), (E), and (F) of this section the licensed psychologist must be at the same location.

(8) All written professional reports and communications shall be countersigned by the supervising psychologist.

(9) A supervisor cannot receive a fee, any remuneration, or be compensated by the supervisee in any manner for supervision time or services.

(10) Financial Requirements.

(A) The setting and collecting of fees for psychological services shall be the sole responsibility of the supervisor psychologist.

(B) The billing for psychological services provided by the supervisee must specify both the name of the supervi-

sor and the name of the supervisee. Under the name of the psychologist the designation "supervisor" must be stated.

(C) Certified psychologists and certified psychological associates may pay a portion of office rent, telephone expense, secretarial expense, or any other office or business related expense as agreed upon by the psychologist and the certified psychologist or the certified psychological associate.

(D) Other supervisees may not pay a portion of office rent, telephone expense, secretarial expense, or any other office or business related expense.

(11) When a patient/client is terminated, all patient/client files remain in the custody of the supervisor, agency, or organization/corporation. The patient/client records do not belong to the supervisee, although continuing access to such files will be made available to the certified psychologist and certified psychological associate.

(12) The supervisor must ensure that any printed material or professional listing with the supervisee's name must clearly indicate the supervisor for each and every supervisee.

(13) Public announcements of services and fees shall be offered only in the name of the supervising psychologist. Contact with the public or professional community must state the name of the psychologist as "supervisor".

(14) The patient/client remains the patient/client of the supervisor even though a supervisee may provide the psychological services.

(15) The certified psychologist or certified psychological associate may be the salaried employee of or an independent contractor to the supervisor. However, a third party may be the employer of or contractor of the supervisor psychologist and the certified psychologists and certified psychological associate. All other supervisees must be the employee of the supervisor. However, a third party may be the employer of the psychologist and the other extenders.

(16) A licensed psychologist may bill only for psychological services rendered directly by the psychologist or by a supervisee who is an employee under supervision with the psychologist.

(17) The total number of supervisees working under the supervision of a psychologists may not exceed 10 and should not be more than the supervisor can responsibly supervise. The Board reserves the right to require documentation by the psychologist of the adequacy of supervision

when one psychologist is supervising multiple supervisees.

(f) Exemptions. This section is suggested but does not apply to the provision of psychological services in agencies exempted under the Psychologists' Certification and Licensing Act, §22.

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 February 19, 1993.

TRD-9319373

Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: April 2, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆
• 22 TAC §465.33

The Texas State Board of Examiners of Psychologists proposes new §465.33 concerning sexual intimacies and sexual harassment. The Board is proposing this rule to clarify the types of sexual behaviors deemed unethical by the Board.

Patricia S. Bizzell Tweedy, executive director, 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.

Ms. Bizzell also 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 notify the public that sexual intimacies and/or harassment is unethical behavior. 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 Brian L. Creath, 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The new section is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

§465.33. Sexual Intimacies and Sexual Harassment.

(a) Applicability of Rule. This rule applies to any person subject to the rules and regulations of the Texas State Board of Examiners of Psychologists including licensed psychologists, certified psychologists, psychological associates, supervisees of a psychologist, and/or applicants for certification or licensure.

(b) Sexual Harassment.

(1) A person (defined in subsection (a) of this section) may not engage in sexual harassment of:

(A) a patient/client or former patient/client;

(B) a student enrolled in the educational institution at which the licensee/certificand/applicant offers professional/educational services; or

(C) a supervisee or employee for whom the licensee/certificand/applicant has administrative or clinical responsibility.

(2) Sexual harassment is sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with the person's (defined in subsection (a) of this section) activities or professional roles, and that either:

(A) is unwelcome, is offensive, or creates a hostile workplace environment, and the person knows or is told this; or

(B) is sufficiently severe or intense to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or of multiple persistent or pervasive acts.

(c) Sexual Impropriety.

(1) A person (defined subsection (a) of this section) may not engage in sexual impropriety with:

(A) a current patient/client;

(B) a former patient/client for at least five years after the cessation or termination of professional services (because of the potential for harm, persons do not engage in sexual behavior even after a five-year interval except in the most unusual circumstances—see §465.36(c) (4)(G) of this title (relating to the Ethics Code);

(C) a student enrolled in the educational institution at which the licensee/certificand/applicant offers professional/educational services; or

(D) a supervisee for whom the licensee/certificand/applicant has administrative or clinical responsibility.

(2) Sexual impropriety may include, but is not limited to:

(A) any behavior, gestures, or expressions which may reasonably be interpreted as inappropriately seductive or sexually demeaning;

(B) inappropriate sexual comments about and to a patient/client, former patient/client, student, or supervisee, including, but not limited to, making sexual comments about an individual's body;

(C) making sexually demeaning comments to and about an individual's sexual orientation;

(D) making comments about potential sexual performance except when the examination or consultation is pertinent to the issue of sexual function or dysfunction in therapy/counseling;

(E) requesting details of sexual history or sexual likes and dislikes when not clinically indicated for the type of consultation;

(F) making a request to date;

(G) initiating conversation regarding the sexual problems, preferences, or fantasies of the licensee/certificand/applicant;

(H) kissing of a sexual nature;

(I) any other deliberate or repeated comments, gestures, or physical acts not constituting sexual intimacies but of a sexual nature.

(d) Sexual Intimacy/Violation.

(1) A person subject to this rule (defined subsection (a) of this section) may not engage in sexual intimacies with:

(A) a current patient/client;

(B) a former patient/client for at least five years after cessation or termination of professional services (because of the potential harm, persons do not engage in sexual intimacies with former patients/clients even after a five-year interval except in the most unusual circumstances—see §465.36(c)(4)(G) of this title (relating to the Ethics Code);

(C) a student matriculating in any program in the department at the educational institution at which the licensee/certificand/applicant offers professional/educational services; or

(D) a supervisee for whom the licensee/certificand/applicant has administrative or clinical responsibility.

(2) Sexual intimacy/violation includes engaging in any conduct that is sexual or may be reasonably interpreted as sexual, including, but not limited to:

(A) sexual intercourse;

(B) genital contact;

(C) oral to genital contact;

(D) genital to anal contact;

(E) oral to anal contact;

(F) oral to oral contact;

(G) touching breasts or genitals;

(H) encouraging another to masturbate in the presence of the licensee/certificand/applicant;

(I) masturbation by the licensee/certificand/applicant when another is present;

(J) any bodily exposure of normally covered body parts.

(e) Who May Report. Violations of sexual harassment, sexual impropriety, or sexual intimacies may be reported to the Board by any of the parties involved or by an uninvolved party who has witnessed or become aware of the violation.

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 February 19, 1993.

TRD-9319376

Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Proposed date of adoption: April 2, 1993

For further information, please call: (512) 835-2036



Chapter 471. Renewals

• 22 TAC §471.2

The Texas State Board of Examiners of Psychologists proposes an amendment to §471.2 concerning renewal forms for psychological associates. The Board determined that contracts of supervision would not be required for psychological associates employed in statutorily exempt settings.

Patricia S. Bizzell Tweedy, executive director, 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.

Ms. Bizzell Tweedy also 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 sections will with the reduction of contracts filed, staff time will be reallocated to other tasks which will keep costs of providing services to the public within reasonable rates. 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 Brian L. Creath, 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

§471.2. Renewal Forms for Psychological Associates. Psychological associate renewal forms shall contain a space to indicate current employment setting. If the setting is exempt, as defined in the Psychologists' Certification and Licensing Act, §22, the supervisor's signature is not needed and a contract of supervision need not be filed with the Board. For non-exempt employment settings, the psychological associate renewal form must include the name and signature of his/her supervisor which must match the signature on the contract of supervision on file with the Board [for indication of current supervisor. This must be in accord with the contract on file with the Board. Renewal will be granted only when there is on file with the Board a contract covering the current work situation including the current supervisor's signature].

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 February 19, 1993.

TRD-9319379

Patricia S. Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Proposed date of adoption: April 2, 1993

For further information, please call: (512) 835-2036

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 115. Home Health Care Agencies

Licensing and Regulation

• 25 TAC §§115.2, 115.6-115.8, 115.10, 115.13-115.15, 115.17, 115.19

The Texas Department of Health (department) proposes amendments to §§115.2, 115.6-115.8, 115.10, 115.13-115.15, 115.17, and 115.19, concerning the licensing and regulation of home health care agencies. The amendments add definitions for certified copy, delegation, stable and predictable, and unlicensed person. The amendments also provide that on-site inspections be unannounced as is the practice for on-site inspections of Medicare agencies; require an agency to adopt, implement, and enforce a written policy on disaster preparedness; add provisions to the conditions for annual license for the supervision and delegation of tasks by a registered nurse to unlicensed persons; add provisions that require an agency to enforce its operational policies and written agreements with independent contractors; allow an agency to maintain clinical records in the parent agency or in the branch office; add a provision requiring the commencement of services within a reasonable period of time; delete the requirement for a patient care plan when a practitioner orders skilled treatment; change the requirement for approval of a patient treatment plan by a practitioner from 14 days to a "timely" manner; add a requirement that an agency adopt, implement, and enforce policies on the timeframe of the timely countersignature of a practitioner's verbal orders and policies relating to evidence of coordination of patient care; increase the license renewal fees; add a requirement that an agency investigate complaints made by its patients and document the complaint and the resolution; allow a branch office to offer fewer, but not different, services than the parent agency; and stipulate the conditions under which a home health medication aide may administer medications or feedings by way of a tube inserted into a cavity of the body.

The amendments also reflect the implementation of the Texas Education Code §57.491 and Federal Public Law 100-578, Clinical

Laboratory Improvement Amendments of 1988. The provisions added by the amendments concern the denial of the renewal of an agency's license if the renewal is prohibited by the Texas Education Code relating to defaults on guaranteed student loans. The provisions also require an agency to comply with the provisions of the Clinical Laboratory Improvement Amendments of 1988 if the agency provides laboratory services. Further, the amendments update and clarify the standards. Editorial changes have also been made.

Nance Kerrigan-Stearman, R.N., M.S.N., Director, Health Facility Licensure and Certification Division has determined that for the first five-year period the proposed amendment is in effect there will be fiscal implications for state government as the result of enforcing or administering the amendment. The state government will collect an estimated \$1,108,275 in home health agency licensure fees based upon the proposed fee structure, an increase of approximately \$480,800. The increase is necessary to offset the cost of administering the licensure program. The last fee increase was authorized through legislative amendments to the statute in 1989. Subsequently, the rules were amended in 1990 to increase initial license fees from \$450 to \$600. License renewal fees were set at \$450 in 1986 and have not been increased.

The costs to administer the licensing program include the application, survey, technical and quality assurance review processes in the six zone offices and the central office; preparation for Home Health Services Advisory Council meetings, reimbursement of Council members' travel and per diem, and preparation of minutes; preparation of amendments to rules for submission to the Board of Health and to the Texas Register; costs relating to licensure actions against facilities which include costs for depositions, court reporting, attorney's time and travel; costs for administering the home health medication aide program including approval of programs, permitting aides, actions against programs and aides, surveyor time and travel; costs of administering the home health training and employee evaluation program including the approval of programs, maintaining lists, files, and database, actions against programs, and surveyor time and travel; and overhead costs for salaries, fringe benefits, office space, communications, supplies, equipment, training, consultants, data processing and other miscellaneous costs. There will be no cost to local government.

Ms. Kerrigan-Stearman also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be updated and clarified standards which will enable home health agencies to better serve their patients. The cost to small or large businesses that operate home health agencies will be an increase in the license fees. There is anticipated economic cost to persons who utilize home health agencies. Agencies may increase fees for patient services to offset the cost of the additional renewal fees. There will be no impact on local employment.

Comments on the proposal may be submitted to Nance Kerrigan-Stearman, R.N., M.S.N., Director, Health Facility Licensure and Certification Division, 1100 West 49th Street, Austin, Texas 78756, (512) 834-8650. Comments will be accepted for 30 days after publication of the proposed amendments in the *Texas Register*. Copies of the proposed amendments may be obtained at the Health Facility Licensure and Certification Division, Texas Department of Health. In addition, the department will hold a public hearing concerning the proposed rules on Monday, March 22, 1993, at 10 a.m. in the Texas Department of Health Auditorium, 1100 West 49th Street, Austin.

The amendments are proposed under the Health and Safety Code, §142.012, which provides the Texas Board of Health (board) with authority to adopt rules to establish and enforce minimum standards for the licensing of home health agencies; and §12.001 which provides the board with authority to adopt rules for the performance of every duty imposed by law upon the board, the department, and the commissioner of health. The amendments affect the Health and Safety Code, Chapter 142.

§115.2. Definitions. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

Certified copy—A sworn affidavit stating that attached copies are true and correct copies of original documents.

Delegation—Authorization from a registered nurse (RN) to an unlicensed person to provide nursing tasks without the direct on-site supervision of an RN while retaining accountability for the outcome.

Registered nurse (RN)—A person who is currently licensed under the laws of this state as a registered nurse.

Stable and predictable—A situation where the patient's clinical and behavioral status and nursing care needs are determined by the RN to be nonfluctuating and consistent, including hospice settings where the patient's deteriorating condition is expected. This term does not include any situation where the patient's clinical and behavioral status is changing and where frequent reassessment by an RN is needed.

Unlicensed person—An individual who is not licensed as a health care provider and who functions in a complimentary or assistive role to the RN in providing direct patient care or carrying out common nursing functions. The term includes, but is not limited to, home health aides, medication aides permitted by the department, and other individuals providing personal care or assistance in health services.

§115.6. Inspections.

(a) An unannounced on-site inspection shall determine if the requirements

of the statute and this chapter are being met. The department or its authorized representatives may enter the premises of a license applicant or license holder at reasonable times to make an inspection incidental to the issuance of a license, and at other times as it considers necessary to insure compliance with the statute and the rules adopted under the statute. A standard-by-standard evaluation is required before the initial annual license is issued unless waived at the discretion of the department. At the discretion of the department, an on-site inspection may be conducted for renewal of a license or issuance of a branch office license.

(b)-(f) (No change.)

§115.7. Issuance and Renewal of Annual License.

(a)-(e) (No change.)

(f) A license shall not be renewed if renewal is prohibited by the Texas Education Code, §57.491.

§115.8. Standards for All Agencies (Classes A and B) [Conditions of Annual License].

(a)-(l) (No change.)

(m) An agency, including a branch office, that provides laboratory services must meet the requirements of Federal Public Law 100-578, Clinical Laboratory Improvement Amendments of 1988 (CLIA 1988). CLIA 1988 applies to all agencies with laboratories that examine human specimens for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

(n) An agency shall adopt, implement, and enforce a written policy on disaster preparedness for all patients receiving home health services. The written policy shall include, but not be limited to, a reasonable mechanism for triaging patients, notification of appropriate personnel and patients in the event of a disaster if possible, identifying appropriate community resources, and identifying evacuation procedures.

(o) A registered nurse (RN) shall delegate nursing tasks to unlicensed persons and shall provide supervision of all nursing tasks delegated to unlicensed persons in accordance with this subsection.

(1) When the RN delegates nursing tasks to an unlicensed person, the RN or another RN shall be available in person or by telecommunication and shall make decisions about appropriate levels of supervision as follows.

(A) In situations where nursing care is provided in the patient's residence and the RN is required to assess, plan, intervene, and evaluate the patient's unstable and unpredictable condition and need for skilled nursing services, the RN shall be responsible for the nursing care rendered and shall make supervisory visits at least every two weeks. The RN shall assess the services provided by the unlicensed person to the patient to determine whether health care goals and orders are being met.

(B) In situations where the patient is stable and predictable, the RN shall make supervisory visits when, in consultation with the patient, and when appropriate, family and significant others, the RN determines it is necessary to assure that safe and effective services are provided. The ability or desire of the patient to participate in the supervision of the care provided by the unlicensed person should be considered when establishing the frequency of supervisory visits.

(C) The degree of supervision shall be determined after a documented evaluation of appropriate factors including, but not limited to:

(i) the stability of the condition of the patient;

(ii) the training and capability of the unlicensed person to whom the nursing task is delegated;

(iii) the nature of the nursing task being delegated; and

(iv) the availability of the RN to the unlicensed person when the nursing task will be performed.

(2) The following nursing tasks are within the scope of sound professional nursing practice to be delegated by an RN to an unlicensed person after consideration of the training and capability of the unlicensed person:

(A) non-invasive and non-sterile treatments unless otherwise prohibited by this subsection;

(B) the collecting, reporting, and documentation of data including, but not limited to:

(i) vital signs, height, weight, intake and output, clintest, and hematest results;

(ii) changes from baseline data established by the RN;

(iii) environmental situations;

(iv) patient or family comments relating to the patient's care; and

(v) behaviors related to the plan of care;

(C) ambulation, positioning, and turning;

(D) transportation of the patient within a facility;

(E) personal hygiene and elimination, including vaginal irrigations and cleansing enemas;

(F) feeding, cutting up of food, or placing of meal trays;

(G) socialization activities;

(H) activities of daily living which include bathing, dressing, grooming, routine hair and skin care, meal preparation, feeding, exercising, toileting, transfer/ambulation and assistance with self-administered medications; and

(I) reinforcement of health teaching planned and/or provided by the registered nurse.

(3) The following nursing tasks are not usually within the scope of sound professional nursing practice to delegate and may be delegated by an RN to an unlicensed person only in accordance with paragraph (4) of this subsection:

(A) sterile procedures involving a wound or an anatomical site which could potentially become infected;

(B) non-sterile procedures, such as dressing or cleansing penetrating wounds and deep burns;

(C) invasive procedures such as inserting tubes in a body cavity or a home health medication aide instilling or inserting substances into an indwelling tube; and

(D) care of broken skin other than minor abrasions or cuts generally classified as requiring only first aid treatment.

(4) The nursing tasks listed in paragraph (3) of this subsection may be delegated by an RN to an unlicensed person only:

(A) under circumstances where a reasonably prudent RN would find that the delegation does not jeopardize the patient's safety or welfare;

(B) if, in the judgment of the RN, the unlicensed person has the appropriate knowledge and skills to perform the nursing task(s) in a safe and effective manner;

(C) if the RN delegating the task is directly responsible for the nursing care given to the patient;

(D) if the agency follows a current written protocol for the instruction and training of unlicensed persons performing nursing tasks under this paragraph and the protocol:

(i) was developed with input from the registered nurses currently employed by the agency;

(ii) states the manner in which the instruction addresses the complexity of the delegated task;

(iii) states the manner in which the unlicensed person demonstrates competency of the delegated task;

(iv) states the mechanism for reevaluation of the competency;

(v) contains an established mechanism for identifying the unlicensed persons to whom nursing tasks may be delegated under this paragraph; and

(vi) recognizes that the final decision as to what nursing tasks can be safely delegated in any specific situation is within the specific scope of the RN's professional judgment.

(5) The following nursing tasks are not within the scope of sound professional nursing practice to be delegated by an RN to an unlicensed person:

(A) a physical, psychological, or social assessment which requires professional nursing judgment, intervention, referral, or follow-up;

(B) the formulation of a treatment plan or patient care plan and evaluation of the patient's response to the care rendered;

(C) specific tasks involved in the implementation of the plan of care which require professional nursing judgment or intervention, except in emergencies;

(D) the responsibility and accountability for patient health teaching and health counseling which promotes patient education and involves the patient's significant others in accomplishing health goals; and

(E) the administration of medications except as permitted by §115.19 of this title (relating to Home Health Medication Aides).

§115.10. Standards for a Class B License.

(a) (No change.)

(b) Organizational structure and operational policies of the agency must be clearly stated in writing. An agency shall adopt, implement, and enforce its operational policies. It must include the lines of authority and delegation of responsibility down to the patient care level and the services provided.

(1) (No change.)

(2) Personnel policies are developed in writing, shall be enforced by the agency, and must contain the following:

(A)-(F) (No change.)

(3) A personnel record shall be maintained on each employee. A personnel record should include, but not be limited to [as appropriate], the following: job description; qualifications; application for employment; verification of license, permits, references, job experience, and educational requirements as appropriate; performance evaluations and disciplinary actions; or letters of commendation. All information should be kept current. In lieu of the job description and qualifications for employment, the personnel record may include a statement signed by the employee that the employee has read the job description and qualifications for the position accepted. The original personnel record must be maintained in the parent agency.

(4) If an agency utilizes independent contractors, there shall be a written agreement between such independent contractors (i.e. per hour, per visit) and the agency. The agreement shall be enforced by the agency and clearly designate [designating]:

(A)-(H) (No change.)

(5) (No change.)

(c) The agency shall maintain a current roster of patients and have a clinical record for each patient which is maintained according to professional standards.

(1) A clinical record shall contain, but not be limited to [as applicable],

appropriate identifying information; name of practitioner; treatment plan which shall include medication, dietary, treatment and activity orders (if applicable); initial assessment and patient care plan (if applicable); clinical and progress notes (clinical notes are written the day service is rendered and incorporated no less often than weekly); medication sheet; medication administration records (if applicable); record of patient care conference (if applicable); record of supervisory visits; written statements regarding consumer complaints; acknowledgement of receipt of a copy of the Human Resources Code, Chapter 102, Rights of the Elderly (as applicable); patient request for and acknowledgement of home health medication aides; and discharge summary. All entries shall be signed and dated by the person making the entry and/or supervisory personnel as is necessary.

(2) Records shall be retained for five years and safeguarded against loss and unofficial use. The agency shall have written procedures which are enforced governing the use and removal of records and the release of information.

(3) (No change.)

(4) The original, microfilmed, or certified copy of the clinical record shall be maintained at the parent or the branch office, as appropriate [address on the license]. If the clinical record is microfilmed, the microfilm and the equipment needed to read the record must be accessible at the time of the on-site inspection of the home health agency.

(d) (No change.)

(e) The agency must have a written contingency plan which is implemented in the event of dissolution for continuity of patient care. All records shall be retained even if the agency discontinues operations.

(f) The agency shall accept a patient for health services on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately in the patient's residence. The agency shall commence providing home health services to a patient within a reasonable time from acceptance of the patient.

(1) An initial assessment shall be performed in the patient's residence by the appropriate health care professional prior to or at the time that home health services are initially provided to the patient. The assessment shall [within 72 hours of the first contact with patient and/or the patient's family to] determine whether the agency has the ability to provide the necessary services in the home.

(A) If a practitioner has not ordered skilled care for a patient, then the

appropriate health care professional shall prepare a patient care plan. The patient care plan shall be developed after consultation with the patient and/or the patient's family and shall include potential services to be rendered; the frequency of visits and/or hours of service; the assignment of health care personnel; and identified problems, method of intervention, and date of resolution. The patient care plan is revised as necessary, but it shall be reviewed and updated by all appropriate staff members involved in patient care at least annually [every two months].

(B) If a practitioner orders skilled treatment, then the appropriate health care professional shall prepare a treatment plan [and a patient care plan].

[(i)] The treatment plan must be signed and approved by a practitioner in a timely manner [within 14 days of the practitioner's order]. The plan of treatment shall be developed in conjunction with agency staff and shall cover all pertinent diagnoses, including mental status, types of services and equipment required, frequency of visits at the time of admission, prognoses, functional limitations, activities permitted, nutritional requirements, medications and treatments, any safety measures to protect against injury, and any other appropriate items. The treatment plan shall be revised as necessary, but it shall be reviewed and updated at least every six months. An agency shall adopt, implement and enforce a policy on the timeframe for the timely countersignature of a practitioners' verbal orders.

[(ii)] The patient care plan shall be developed after consultation with the patient and/or the patient's family. The patient care plan shall implement the treatment plan and shall include potential services to be rendered; the frequency of visits and/or hours of service at the time of admission; identified problems, method of intervention; and the assignment of health care personnel. The patient care plan shall be revised whenever the treatment plan is revised and as necessary to meet the patient's needs, but the patient care plan shall be reviewed and updated by all staff members involved in patient care at least every two months.

[(iii)] The written treatment plan and the written patient care plan may be incorporated into one document.]

(2) The agency will inform the patient and/or his family in writing of the terms of their agreement for services and obtain an acknowledgement of receipt of the agreement. The agency shall comply with the terms of the agreement. The agreement [The information provided] shall include, but not be limited to, the following:

(A)-(D) (No change.)

(g) A clinical record or minutes of care conferences shall show that effective interchange, reporting, and coordination of patient care occurs. An agency shall adopt, implement, and enforce a policy on documentation of coordination of patient care, [A patient care conference among all home health agency staff currently providing care to the patient, including a representative of all health care disciplines shall be held at least every two months to evaluate a patient's care needs and delivery of service.

(h) (No change.)

(i) An agency shall provide at least one health service. All services shall be rendered and supervised by qualified personnel.

(1) If nursing service is provided, a registered nurse shall be employed by or under contract with the agency to provide services and/or supervision [available to supervise nursing care]. The administrator shall designate a registered nurse to serve as an alternate.

(2)-(6) (No change.)

(7) If home health aide service is provided, a home health aide shall be employed by or under contract with the agency to provide home health aide services; and a registered nurse shall be employed by or under contract with the agency to perform the initial assessment, prepare the patient care plan, as appropriate, and supervise the home health aide. [The registered nurse shall supervise the home health aide on-site at least once every 60 days.]

(8) (No change.)

(9) If home health medication aide services are provided, a home health medication aide shall be employed by the agency to provide home health medication aide services, and a registered nurse shall be employed by or under contract with the agency to perform the initial assessment; prepare the patient care plan; establish the medication sheet, medication record, and medication aide assignment sheet; and supervise the home health medication aide. [The home health medication aide shall be supervised by the registered nurse on-site at least once every 14 days or more frequently if the patient's condition and medication changes.]

§115.13. Home Health Aides; (Class B Agencies); Training Program and Competency Evaluation Program; Duties.

(a) A home health aide may be used by a Class B agency if the aide meets one of the following requirements:

(1)-(4) (No change.)

(5) satisfactorily completed a competency evaluation program which complies with the requirements of this section; [or]

(6) submitted to the agency documentation from the director of programs or the dean of a school of nursing that states that the individual is a nursing student who has demonstrated competency in providing basic nursing skills in accordance with the school's curriculum; or [.]

(7) be on the department's nurse aide registry with no finding against the aide relating to patient abuse or neglect or misappropriation of patient property.

(b) (No change.)

(c) A home health aide may not perform those tasks that are prohibited under §115.8(o) of this title (relating to Standards for All Agencies (Classes A and B)). [Tasks a home health aide may not perform include:

[(1) receiving or reducing to writing orders from a physician;

[(2) performing any intravenous procedures, procedures involving the use of Levin's tubes, irrigation or insertion of Foley catheters, or any other sterile or invasive procedures other than rectal temperatures or enemas;

[(3) suctioning, other than by bulb syringe; or

[(4) administering medication or removing medication from the container or package.]

(d) A home health aide may perform those tasks that are delegated and supervised by a registered nurse in accordance with §115.8(o) of this title (relating to Standards for All Agencies (Classes A and B)). [Tasks a home health aide may perform include:

[(1) personal care (bathing, grooming, feeding, ambulation, exercise, oral hygiene, and skin care) ;

[(2) assistance with medications ordinarily self-administered;

[(3) household services essential to health care in the home;

[(4) completion of records and reporting to the appropriate supervisor;

[(5) taking and charting vital signs; and

[(6) charting intake and output.]

(e) (No change.)

(f) The classroom instruction and clinical experience content of the training portion of a training and competency evalu-

ation program must include, but is not limited to:

(1) -(12) (No change.)

(13) any other task that the agency may choose to have the home health aide perform in accordance with §115.8(o) of this title (relating to Standards for all Agencies (Classes A and B)) [as allowed by subsection (d) of this section]; and

(14) (No change.)

(g)-(h) (No change.)

(i) A training and competency evaluation program or competency evaluation program shall be disapproved if it fails to meet the requirements of this section; if the Class A agency is found out of compliance with any Medicare condition of participation; or if the agency's license has been denied, revoked, or suspended. If the director disapproves a program, the director shall notify the applicant by certified mail, return receipt requested, of the reasons for the action. The applicant may request a hearing within 30 days of receipt of the notice. The request must be in writing and submitted to the Director, Health Facility Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(1)-(10) (No change.)

(j)-(k) (No change.)

§115.14 Licensing Fees.

(a) The schedule of fees for licensure as a Class A and Class B home health agency is as follows:

(1) initial license fee--\$875 [\$600];

(2) renewal license fee--\$875 [\$450];

(3) initial branch office license fee--\$500 [\$200];

(4) renewal branch office license fee--\$300 [\$200];

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

§115.15. Complaints.

(a) A licensed agency shall provide to each person who receives home health services a written statement that informs the consumer that a complaint against the agency may be directed to the department. The statement shall be provided at the time of admission and shall direct the consumer to register complaints with the director, Health Facility Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6646 [458-7245].

(b) (No change.)

(c) Procedures concerning complaints about home health medication aides shall be as follows.

(1) A person wishing to file a complaint with the department against a home health medication aide permit holder, home health medication aide program, or another person shall notify the department. The initial notification of a complaint may be in writing, by telephone, or by personal visit to the program administrator of the Home Health Medication Aide Program. The mailing address is Home Health Medication Aide Permit Program, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 834-6646 [458-7503].

(2)-(7) (No change.)

(d) An agency shall investigate complaints made by a patient or the patient's family or guardian or the patient's health care provider regarding treatment or care that is (or fails to be) furnished or regarding the lack of respect for the patient's property by anyone furnishing services on behalf of the agency; and must document the receipt of the complaint and the resolution of the complaint.

§115.17. Branch Offices.

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

(d) A person who holds a Class B agency license who applies for a branch office license shall meet the following requirements for the branch office.

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

(3) Original [medical records and] personnel files are to be kept in the parent agency. [Duplicate information to assure safe patient care will be available in the branch office and included in the treatment plan; patient care plan, medication sheet, medication administration record; and lab test results.]

(4) A branch office should retain the original, microfilmed, or certified copy of the clinical records for its patients, since the branch office is where professionals providing the services are located. If the branch office keeps the records, duplicate records need not be maintained at the parent agency, since the requirement for supervision assures that care and services provided are appropriate and adequate. If the records are not kept at the branch office, the parent agency must retain the records.

(5) Branch office clinical records shall be accessible and readily retrievable for inspection by the department.

(e) (No change.)

(f) A branch office may offer

fewer health services than the parent of-
fice but may not offer health services that
are not also offered by the parent agency.

§115.19. Home Health Medication Aides.

(a) (No change.)

(b) Required actions. [A permit
holder must:]

(1) The registered nurse (RN)
shall be knowledgeable regarding the
rules of the Texas Department of Health
governing home health medication aides
and shall assure that the home health
medication aide is in compliance with the
statute. [function under the supervision of a
registered nurse:]

(2) A permit holder must:
[function in accordance with applicable law
and this chapter relating to administration of
medication and operation of the home
health agency;]

(A) function under the su-
pervision of a registered nurse; the RN
shall make a supervisory visit while the
medication aide is in the patient's resi-
dence at least weekly or when any change
in medication regime is ordered if the
patient is not stable and predictable or
the patient's medication changes;

(B) function in accordance
with applicable law and this chapter re-
lating to administration of medication
and operation of the home health agency;

(C)[(3)] comply with depart-
ment rules applicable to personnel used in a
home health agency; and

(D)[(4)] comply with this
section and §115.13 of this title (relating to
Home Health Aides; Training Course; Du-
ties) if the person will be used as a home
health aide and a home health medication
aide.

(c) (No change.)

(d) Prohibited actions. Permit hold-
ers shall not:

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

(7) administer medications or
feedings by way of a tube inserted in a
cavity of the body unless the patient is
stable and predictable, the RN delegates
the administration of medications after
the RN has trained or verified the train-
ing of the home health medication aide to
administer the medication, the medica-
tion is administered via permanently
placed feeding tubes, and the RN dele-
gates in accordance with §115.8(o) of this

title (relating to Standards for All Agen-
cies (Classes A and B));

(8)-(16) (No change.)

(e)-(j) (No change.)

(k) Determination of eligibility.
The department shall receive and approve
or disapprove all applications. Notices of
application approval, disapproval or defi-
ciency shall be in accordance with subsec-
tion (q) of this section.

(1) (No change.)

(2) If, after review, the depart-
ment determines that the application should
not be approved, the director [program ad-
ministrator] shall give the applicant written
notice of the reason for the proposed deci-
sion and of the opportunity for a formal
hearing in accordance with subsection (r) of
this section.

(l)-(p) (No change.)

(q) Processing procedures. The de-
partment shall comply with the following
procedures in processing applications of
home health medication aide permits and
renewal of permits.

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

(3) In the event an application is
not processed in the time period stated in
subsection (a) of this section, the applicant
has the right to request reimbursement of all
fees paid in that particular application pro-
cess. Request for reimbursement shall be
made to the director [program administra-
tor] of the Home Health Medication Aide
Permit Program. If the director [program
administrator] of the Home Health Medica-
tion Aide Permit Program does not agree
that the time period has been violated or
finds that good cause existed for exceeding
the time period, the request will be denied.

(4) (No change.)

(5) If a request for reimburse-
ment under paragraph (3) of this subsection
is denied by a director [program adminis-
trator] of the Home Health Medication Aide
Permit Program, the applicant may appeal
to the commissioner of the department for a
timely resolution of any dispute arising
from a violation of the time periods. The
applicant shall give written notice to the
commissioner at the address of the depart-
ment that he or she request full reimburse-
ment of all fees paid because his or her
application was not processed within the
applicable time period. The director [pro-
gram administrator] of the Home Health
Medication Aide Permit Program shall sub-
mit a written report of the facts related to
the processing of the application and of any
good cause for exceeding the applicable
time period. The commissioner shall pro-
vide written notice of the commissioner's
decision to the applicant and the director

[program administrator] of the Home Health
Medication Aide Permit Program. An ap-
peal shall be decided in the applicant's fa-
vor if the applicable time period was
exceeded and good cause was not estab-
lished. If the appeal is decided in favor of
the applicant, full reimbursement of all fees
paid in that particular application process
shall be made.

(6) (No change.)

(r) Denial, suspension, or revoca-
tion.

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

(4) If the director [program ad-
ministrator] for the Home Health Medica-
tion Aide Permit Program proposes to deny,
suspend, or revoke a home health medica-
tion aide permit or to rescind a home health
medication aide program approval, the Di-
rector [Program Administrator] shall notify
the permit holder or home health medica-
tion aide program by certified mail, return
receipt requested, of the reasons for the
proposed action and offer the permit holder
or home health medication aide program an
opportunity for a hearing.

(A) (No change.)

(B) The request must be in
writing and submitted to the Director [Pro-
gram Administrator], Home Health Medica-
tion Aide Permit Program, Health Facility
Licensure and Certification Division [Pro-
fessional Licensure and Certification Divi-
sion], Texas Department of Health, 1100
West 49th Street, Austin, Texas 78756.

(C) (No change.)

(5)-(9) (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 February 24,
1993.

TRD-9319456 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: May 22, 1993

For further information, please call: (512)
834-6650



Chapter 151. Nurse Aides

• 25 TAC §§151.7, 151.9, 151.11

The Texas Department of Health (depart-
ment) proposes amendments to existing

§151.7, §151.9, §151.11, concerning nurse aides. The sections cover filing and processing an application for a nurse aide training and competency evaluation program, program director, or skills examiner; withdrawal of approval of a nurse aide training and competency evaluation program, program director, and skills examiner; and registry/finding/inquiries.

The amendments will conform the Nurse Aide Registry and Training Program Rules to federal law which requires that nurse aides be given a fair hearing. The amendments would allow the fair hearing provisions to apply to nurse aide, NATCEP, program director, and skills examiner hearings.

Don Bradley, Program Counsel, Office of General Counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Bradley also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to have consistency between the federal fair hearing provisions and the program rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed. There is no anticipated impact on local employment.

Comments on the proposal may be submitted to Don Bradley, Program Counsel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 458-7236. Comments will be accepted for 30 days from the date of publication of the proposed rules in the Texas Register.

The amendments are proposed under the Omnibus Budget Reconciliation Act, Public Law 100-203, §§4201-4214, as amended, which requires the Board of Health through an agreement with the Texas Department of Human Services to adopt rules implementing a nurse aide registry and a training and competency evaluation program for nurse aides; and Health and Safety Code, §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, Texas Department of Health, and the Commissioner of Health.

§151.7. Filing and Processing an Application for a Nurse Aide Training and Competency Evaluation Program, Program Director, or Skills Examiner.

(a)-(d) (No change)

(e) An applicant for approval of a nurse aide training and competency evaluation program (NATCEP) or as a program director or skills examiner may request a hearing on a proposed disapproval. Such request must be made, in writing within 20 days of the date the notice is mailed or personally delivered to the applicant. Such hearing will be held pursuant to the applicable provisions of the department's

informal hearing procedures as provided in §§1.51-1.54 of this title (relating to Informal Hearing Procedures). The final hearing decision will be made as provided in this subsection. [The hearing shall be scheduled to commence within 30 days of the department's receipt of the applicant's request for a hearing and shall be in accordance with Chapter 1 of this title (relating to Texas Board of Health) and the Administrative Procedure and the Texas Register Act, Texas Civil Statutes, Article 6252-13a.] The hearing examiner, upon completion of the hearing, shall prepare a written decision based solely on the evidence presented at the hearing and the statutory and regulatory provisions of the Act and this chapter. The decision shall state the reasons for the decision.

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

§151.9. Withdrawal of Approval of a Nurse Aide Training and Competency Evaluation Program, Program Director, and Skills Examiner.

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

(e) The NATCEP or individual notified may request a hearing. Such request must be made, in writing, within 20 days of the date the notice is mailed or personally delivered to the NATCEP or individual. Such hearing will be held pursuant to the applicable provisions of the department's informal hearing procedures as provided in §§1.51-1.54 of this title (relating to Informal Hearing Procedures). The final hearing decision will be made as provided in this subsection. [This request shall be in writing and submitted to the Program Administrator, Nurse Aide Training Program at the department.] The hearing examiner, upon completion of the hearing, shall prepare a written decision based solely on the evidence presented at the hearing and the statutory and regulatory provisions of the Act and this chapter. Such decision shall state the reasons for the decision.

[(1) A hearing shall be scheduled to commence within 30 days from the department's receipt of the request for a hearing and shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and Chapter 1 of this title (relating to Texas Board of Health).]

(1) [(2)] If the NATCEP or individual does not request a hearing in writing, the NATCEP or individual is deemed to have waived the opportunity for a hearing, and the proposed action may be taken.

(2) [(3)] If the NATCEP or individual fails to appear or be represented at the scheduled hearing, the NATCEP or individual is deemed to have waived the op-

portunity for a hearing and the action may be taken.

(f) (No change.)

§151.11. Registry; Findings; Inquiries.

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

(c) The department shall review and investigate allegations of abuse, neglect, or misappropriation of resident property by a nurse aide. A nurse aide shall be given written notice by the department of a proposed finding on an allegation and may [must] request [, in writing,] a hearing. Such request must be made, in writing, within 20 days of the date the notice is mailed or personally delivered to the nurse aide [or the right to a hearing shall be waived, and the department may reach a finding on the allegation without a hearing]. Such hearing will be held pursuant to the applicable provisions of the department's informal hearing procedures as provided in §§1.51-1.54 of this title (relating to Informal Hearing Procedures). The final hearing decision will be made as provided in paragraph (3) of this subsection.

[(1) When a timely written request for a hearing is received by the department, the department shall request the department's Office of General Counsel to appoint a hearing examiner to conduct the hearing.

[(2) Any hearing shall be in accordance with the department's formal hearing procedures in Chapter 1 of this title (relating to Board of Health) and the Administrative Procedure and Texas Register Act, Texas Civil Statutes Article 6252-13a.]

(1) [(3)] A copy of the department's investigative report concerning the incident which is the subject of the hearing shall be provided prior to the hearing by the hearing examiner to the nurse aide, upon written request by the nurse aide. Such report may be used in the preparation of the nurse aide's defense, but is otherwise confidential in accordance with the Health and Safety Code, Chapter 242, §127, and no other use and no subsequent release is authorized. [The department shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.]

(2) [(4)] If the nurse aide fails to appear or be represented at the scheduled hearing, the department may reach a finding on the allegation without a hearing.

(3) The hearing examiner, upon completion of the hearing, shall prepare a written decision based solely on the evidence presented at the hearing and the statutory and regulatory provi-

sions of the Act and this chapter. The decision shall state the reasons for the decision.

[(5) The registry, the nurse aide, and the administrator of the facility where the event occurred shall be notified of the findings.

[(6) The registry shall include the documented findings involving an individual listed on the registry, as well as any brief statement of the individual disputing the findings.]

(d) The department shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.

(e) The registry, the nurse aide, and the administrator of the facility where the event occurred shall be notified of the findings.

(f) The registry shall include the documented findings involving an individual listed on the registry, as well as any brief statement of the individual disputing the findings.

(g) [(d)] The information on the registry shall be made available to the public.

(h) [(e)] The department, in the case of inquiries to the registry, shall verify if the individual is listed on the registry and shall disclose any information concerning a finding of abuse neglect, or misappropriation of resident property involving an indi-

vidual listed on the registry. It shall also disclose any statement by the individual related to the finding or a clear and accurate summary of such a statement.

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 February 23, 1993.

TRD-9318446

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

Earliest possible date of adoption: April 24, 1993

For further information, please call: (512) 458-7236

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Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn six months after the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 465. Rules of Practice

• 22 TAC §465.18

The Texas State Board of Examiners of Psychologists has withdrawn from consideration for permanent adoption a proposed new §465.18 which appeared in the December 11, 1992, issue of the *Texas Register* (17 TexReg 8614). The effective date of this withdrawal is March 15, 1993.

Issued in Austin, Texas, on February 22, 1993

TRD-9319378

Brian L. Creath
Administrative Tech II
Texas State Board of
Examiners of
Psychologists

Effective date: March 15, 1993

For further information, please call: (512)
835-2036



• 22 TAC §465.33

The Texas State Board of Examiners of Psychologists has withdrawn from consideration for permanent adoption a proposed new §465.33 which appeared in the October 30, 1992, issue of the *Texas Register* (17 TexReg 7643). The effective date of this withdrawal is March 15, 1993.

Issued in Austin, Texas, on February 22, 1993

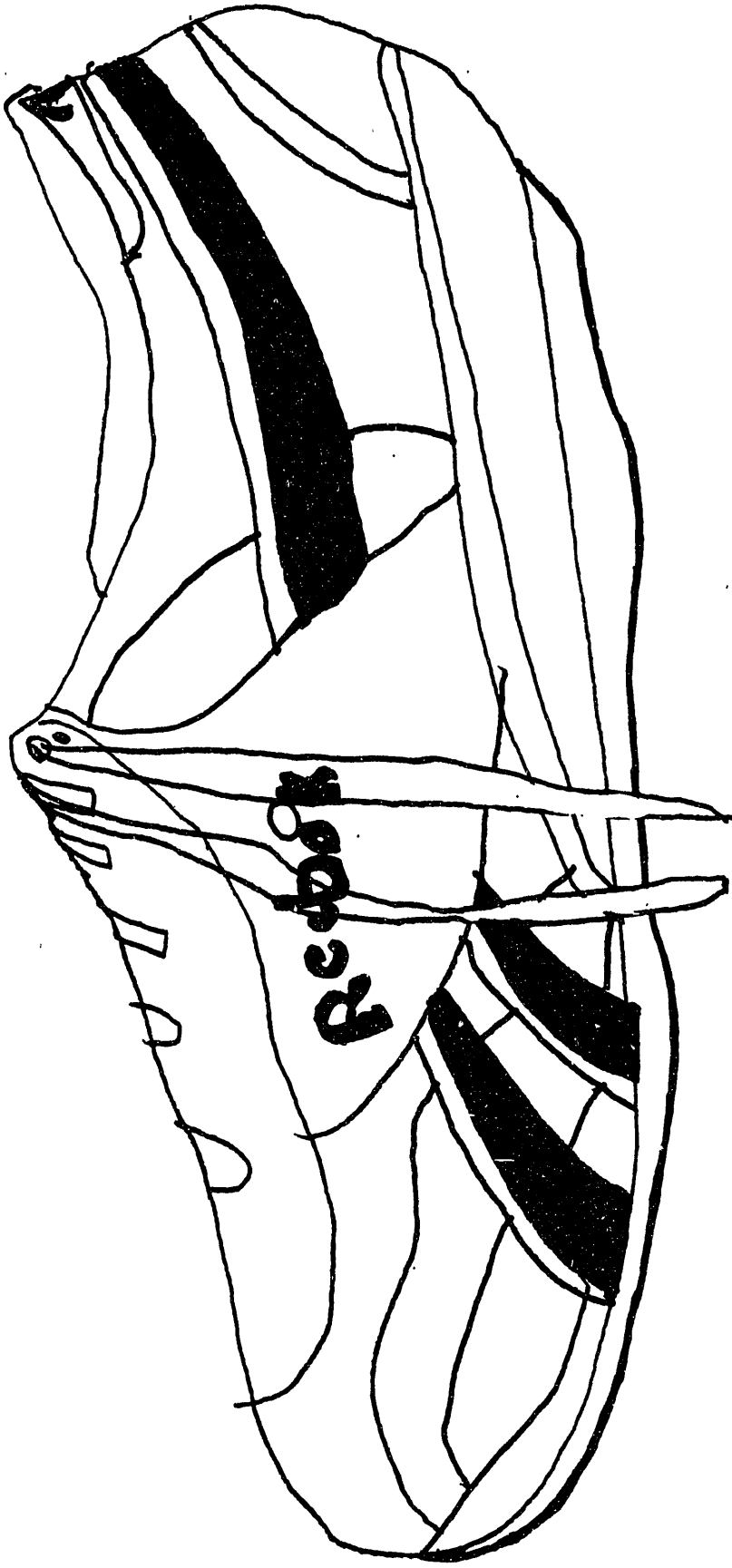
TRD-9319375

Brian L. Creath
Administrative Tech II
Texas State Board of
Examiners of
Psychologists

Effective date: March 15, 1993

For further information, please call: (512)
835-2036





RYAN NEWBERRY GRADE-1 AGE-7
RICHARDSON HEIGHTS ELEMENTARY
RICHARDSON, TEXAS

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 1. ADMINISTRATION

Part II. Texas Ethics Commission

Chapter 10. Practice and Procedure

Subchapter D. Miscellaneous

• 1 TAC §10.313

The Texas Ethics Commission adopts new §10.313, concerning practice and procedure, without changes to the proposed text as published in the November 17, 1992, issue of the *Texas Register* (17 TexReg 8085).

The section regards the commission's new requirement requiring the filing of duplicate reports with the commission when a report is required to be filed with the commission.

This section will ease the burden of filing reports with the commission by allowing a more expedited procedure to be implemented thereby providing a faster method of data entry by the commission.

No public comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning those provisions of the law administered by the commission.

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 February 21, 1993.

TRD-9319436 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: March 16, 1993

Proposal publication date: November 17, 1992

For further information, please call: (512) 463-5800

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter P. Commercial Zones

• 16 TAC §5.294

The Railroad Commission of Texas adopts an amendment to §5.294, with changes to the proposed text as published in the September 1, 1992, issue of the *Texas Register* (17 TexReg 5994).

The amendment expands the definition of the existing Houston commercial zone, to include Harris, Galveston, Fort Bend, Waller, and Montgomery Counties in their entirety, and portions of Liberty, Chambers, and Brazoria Counties.

It is in the public interest that the boundaries of the Houston commercial zone be more clearly defined, in order to reduce the amount of time and expense that is currently spent by the shipping public, carriers, and the Commission's enforcement staff in determining whether the rule's exemptions are applicable to traffic conducted within the proposed expansion area. Additionally, it is in the public interest to expand the boundaries of the Houston commercial zone because of the considerable amount of growth and development that have taken place in Houston and its surrounding communities since 1978, the last time the limits of the Houston commercial zone were prescribed by the Commission.

Five of the eight proposed counties, namely, Harris, Galveston, Fort Bend, Waller, and Montgomery Counties, are included in the amended section in their entirety. The use of those county lines to define the boundaries of the Houston commercial zone in this instance is justified by the sheer expansiveness of the Houston metropolitan area and the significant amount of commercial activity conducted therein. However, regarding the other three proposed counties, namely, Chambers, Liberty, and Brazoria Counties, only portions of these three counties are included in the amended section, for several reasons. First, the excluded portions of the three counties have substantially less growth in population, commercial and residential development, and commercial activity than is found in the territory that is included in the amended section. Second, the Brazosport area, which is lo-

cated in the southernmost part of Brazoria County, is excluded because this area, comprised of Freeport, Lake Jackson, Brazoria, Clute, Angleton, and other nearby cities, is in itself an autonomous community that is neither adjacent to nor commercially a part of Houston.

The proposed text is also changed to eliminate proposed subparagraphs (B) and (C), which refer to incorporated and unincorporated areas that are contiguous to the proposed eight-county expansion area. To include this territory would not only be inconsistent with the goal of clarifying the boundaries of the Houston commercial zone as it is currently defined, but it would also be in direct contravention to the statutory requirement that the expansion area be adjacent to and commercially part of the incorporated municipality of Houston.

The amendment will facilitate the expedited movement of goods within the expanded territory, and it will divert substantial traffic from private carriers, but will have little or no effect on existing common carriers.

Eighty-five public comments were received during the 60-day comment period, and 67 witnesses appeared and testified at a hearing regarding the proposed expansion. Most of the comments received during the public comment period, and all persons who testified at the hearing, were in favor of the proposed amendment. Those who supported the proposed amendment generally stated that the use of county lines to delineate the boundaries of the Houston commercial zone would provide a much clearer definition of the zone for compliance purposes, and that expansion of the Houston commercial zone is necessary due to an increasing need for for-hire, expedited trucking, and courier services throughout the proposed eight-county expansion area.

Several existing common carriers and one trade association filed comments that were opposed to the amendment as proposed by the Petitioner. These groups stated that the inclusion of the eight proposed counties in a new definition of the Houston commercial zone would be too expansive to be consistent with the statutory requirement that the proposed expansion area be adjacent to and commercially a part of the incorporated municipality of Houston. In addition, those who filed comments in opposition to the proposed amendment indicated that the deregulation of such a broad area would have a detrimental impact on the operations of existing common carriers that currently serve the community, particularly with respect to the Brazosport area, in southern Brazoria County. Neverthe-

less, even those who were opposed to amending the section as proposed submitted alternatives to the proposed amendment. The alternative proposals provided for a significantly smaller proposed expansion area than that of the Petitioner, but which included all of Harris County and a portion of each of the other seven involved counties.

The following groups and associations commented in favor of the proposed amendment: Baytown/West Chambers County Economic Development Foundation; Crosby-Huffman Chamber of Commerce; Greater Fort Bend Economic Development Council; Rosenberg/Richmond Area Chamber of Commerce; Houston Area Urban League, Inc.; Independent Insurance Agents of Houston; The Woodlands Chamber of Commerce; Greater Conroe Chamber of Commerce; Greater Houston Hospital Council; The Association of Texas Warehousemen; Liberty-Dayton Area Chamber of Commerce; Houston Delivery and Courier Association.

The following association commented against the proposed amendment: Texas Motor Transportation Association, Inc.

While the Commission generally agrees that the Houston commercial zone's boundaries should be more clearly defined and expanded, the Commission disagrees that the zone should be as expansive as the entire proposed eight-county area and incorporated and unincorporated areas adjacent thereto. The inclusion of incorporated and unincorporated areas that are adjacent to the proposed eight-county area is inconsistent with the goal of clarifying the boundaries of the Houston commercial zone. In addition, the proposed expansion area is overly broad and is not consistent with the statutory requirement that the proposed expansion area be adjacent to and commercially a part of the incorporated municipality of Houston. By eliminating southern Brazoria County, and the more remote areas of Chambers and Liberty Counties, the commission strikes a better balance between the various statutory factors applicable to this proceeding.

The amendment is adopted pursuant to Texas Civil Statutes, Article 911b, §1(g)(4), which authorizes the commission to define and prescribe commercial zones adjacent to and commercially a part of any specified incorporated municipality.

§5.294. Existing Commercial Zones. Commercial zones defined and prescribed by the commission after notice and hearing are as follows.

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

(3) The Houston commercial zone shall include:

(A) Harris, Galveston, Fort Bend, Waller, and Montgomery Counties;

(B) all points and incorporated areas in Liberty and Chambers Counties within and on the following described boundaries: from Smith Point north along

FM 562 to its intersection with State Highway 65 and State Highway 61; thence west along State Highway 61 to Anahuac; thence north along FM 563 to its intersection with U.S. Highway 90 near Liberty; thence west along U.S. Highway 90 to its intersection with State Highway 321 at Dayton; thence north along State Highway 321 to its intersection with U.S. Highway 59 at or near Cleveland; thence west along State Highway 105 to its intersection with the Liberty-Montgomery County line; thence south along the Liberty-Montgomery County line and the Harris-Chambers County line to its intersection with the Galveston-Harris County line near Seabrook; thence east along the Galveston-Chambers County line to Smith Point; and

(C) all points and incorporated areas in Brazoria County within and on the following described boundaries: from Rosharon along FM 1462 east to its intersection with State Highway 35; thence north on State Highway 35 to its intersection with State Highway 6 at or near Alvin; thence east along State Highway 6 to the Brazoria-Galveston county line; thence north along the Brazoria-Galveston County line to its intersection with the Brazoria-Harris County line; thence west along the Brazoria-Harris County line to its intersection with the Brazoria-Fort Bend County line; thence south along the Brazoria-Fort Bend County line to its intersection with FM 1462; thence east along FM 1462 to Rosharon.

(4)-(6) (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 February 22, 1993.

TRD-9319401 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Effective date: March 16, 1993

Proposal publication date: September 1, 1992

For further information, please call: (512) 463-7090



TITLE 19. EDUCATION Part I. Texas Higher Education Coordinating Board

Chapter 5. Program Development

Subchapter H. Approval of Off-Campus and Out-of- District Instruction for Pub- lic Colleges and Universities

• 19 TAC §5.154

The Texas Higher Education Coordinating Board adopts an amendment to §5.154, concerning Criteria Procedures for Considering Lower-Division Courses Proposed Off-Campus by Senior Institutions and Out-of-District by Community and Technical Colleges, with changes to the proposed text as published in the December 25, 1992, issue of the *Texas Register* (17 TexReg 9078). Subsection (c)(5)(6)(8) is being adopted with changes.

The amendment provides a more efficient and proper provision of services by the state to its citizens.

The amendment will assist us to conform to the 10 uniform service regions and to identify the institutions of higher education which will be members of the new regions. Use of the uniform service regions for higher education benefit the public in planning and reporting to support the tri-agency work force development initiatives.

Comments were received from two colleges. One expressed no objection. The other wanted to know the effect of the change in regions to the Kaufmann Center, one of his out-of-district sites which is also part of his taxing district.

Navarro College commented in favor of the adoption. Trinity Valley Community College commented against the adoption.

The rule contains added language to respond to Trinity Valley's concern.

The amendment is adopted under Article V, Page V-79, Rider 120, House Bill 1, 72nd Legislature (First Called Session), which provides the Coordinating Board with the authority to adopt rules regarding Criteria and Procedures for Considering Lower-Division Courses Proposed Off-Campus by Senior Institutions and Out-of-District by Community and Technical Colleges.

§5.154. Criteria and Procedures for Considering Lower-Division Courses Proposed Off-Campus by Senior Institutions and Out-of-District by Community and Technical Colleges.

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

(c) Regional higher education council membership. The Coordinating Board recognizes regional higher education

councils in 10 uniform service regions of the state. The council membership consists of the president, or his/her representative, of each institution listed for each region. Membership of a region also allows the president or his/her designee to serve as voting members in more than one region if the area is in a region which is part of the college's taxing district. If an institution desires to participate in an adjoining regional council(s) in addition to the one in which it is designated a member by the Coordinating Board, the institution is encouraged to do so. Further, regionally accredited independent colleges and universities will be invited to participate in the councils in the interest of regional cooperation and planning. Upper-level institutions which are members of the councils shall not vote on matters pertaining to the approval or disapproval of lower division credit course offerings or the selection of the appropriate institution to offer such courses. The council member institutions are as follows:

(1) High Plains-Region 1. Amarillo College, Clarendon College, Frank Phillips College, South Plains College, Texas State Technical College-Amarillo, Texas Tech University, and West Texas State University;

(2) Northwest Texas-Region 2. Cisco Junior College, Midwestern State University, Ranger Junior College, Texas State Technical College-Sweetwater, Vernon Regional Junior College, and Western Texas College;

(3) Metroplex-Region 3. Collin County Community College, Cooke County College, Dallas County Community College District, East Texas State University, Grayson County College, Navarro College, Tarleton State University, Tarrant County Junior College District, Texas Woman's University, University of North Texas, University of Texas at Arlington, University of Texas at Dallas, and Weatherford College;

(4) Upper East Texas-Region 4. East Texas State University-Texarkana, Kilgore College, Northeast Texas Community College, Panola Junior College, Paris Junior College, Texarkana College, Trinity Valley Community College, Tyler Junior College, and University of Texas at Tyler;

(5) Southeast Texas-Region 5. Angelina College, Lamar University Institute of Technology-Beaumont, Lamar University-Port Arthur, Lamar University-Orange, and Stephen F. Austin State University;

(6) Gulf Coast-Region 6. Alvin Community College, Brazosport College, College of the Mainland, Galveston College, Houston Community College System, Lee College, North Harris Montgomery Community College District, Prairie View

A&M University, Sam Houston State University, San Jacinto College District, Texas Southern University, University of Houston, University of Houston at Clear Lake City, University of Houston-Downtown, University of Houston-Victoria, and Wharton County Junior College;

(7) Central Texas-Region 7. Austin Community College, Blinn College, Central Texas College, Hill College, McLennan Community College, Southwest Texas State University, Temple Junior College, Texas A&M University, Texas State Technical College-Waco, and the University of Texas at Austin;

(8) South Texas-Region 8. Alamo Community College District, Bee County College, Corpus Christi State University, Del Mar College, Laredo Junior College, Laredo State University, Southwest Texas Junior College, Texas A&I University, Texas Southmost College, Texas State Technical College-Harlingen, University of Texas at San Antonio, University of Texas-Pan American-Brownsville, University of Texas-Pan American-Edinburg, and the Victoria College;

(9) West Texas-Region 9. Angelo State University, Howard County Junior College District, Midland College, Odessa College, and University of Texas of the Permian Basin;

(10) Upper Rio Grande-Region 10. El Paso Community College District, Sul Ross State University, and University of Texas at El Paso.

(d)-(h) (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 February 23, 1993.

TRD-9319419

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Effective date: March 16, 1993

Proposal publication date: December 25, 1992

For further information, please call: (512) 483-6160

Chapter 9. Public Junior College

Subchapter D. Basic Standards

• 19 TAC §9.62

The Texas Higher Education Coordinating Board adopts an amendment to §9.62, concerning Organization and Purpose, with changes to the proposed text as published in

the December 25, 1992, issue of the *Texas Register* (17 TexReg 9080).

The amendment adds clarification in the Community Colleges statutory mission of the significant contribution they already make in work force development, adult literacy, and other basic skills education.

The proposed changes in the rule follow the current statutory language for community colleges purpose, but adds responsibilities for workforce development and for adult literacy.

One comment was received opposing initial language which implied a statewide rather than local response by the colleges for requested services by businesses.

Texas State Technical College-Sweetwater commented against the adoption of the amendment.

The Coordinating Board disagrees with the commenter because changes were made to the rule and the final version did not include the statewide focus.

The amendment is adopted under the Texas Education Code, §130.3, which provides the Coordinating Board with the authority to adopt rules regarding Basic Standards (Organization and Purpose).

§9.62. Organization and Purpose. A public junior college is an institution of higher learning, controlled by a local board of trustees or regents, and operated under statutory provisions. A public junior college may confer associate degrees, but does not grant the baccalaureate degree.

(1) The purpose of each public community college shall be to provide:

(A) technical programs up to two years in length leading to associate degrees or certificates;

(B) vocational programs leading directly to employment in semi-skilled and skilled occupations;

(C) freshman and sophomore courses in arts and sciences;

(D) continuing adult education programs for occupational or cultural upgrading;

(E) compensatory education programs designed to fulfill the commitment of an admissions policy allowing the enrollment of disadvantaged students;

(F) a continuing program of counseling and guidance designed to assist students in achieving their individual educational goals;

(G) workforce development programs; and

(H) literacy and other basic skills (ABE, ESL, GED) programs to prepare adults to live more functionally.

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 February 23, 1993.

TRD-9319420 James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Effective date: March 16, 1993

Proposal publication date: December 25, 1992

For further information, please call: (512) 483-6160

◆ ◆ ◆
• 19 TAC §§21.53, 21.55-21.57,
21.59, 21.61-21.65

The Texas Higher Education Coordinating Board adopts amendments to §§21. 53, 21.55-21.57, 21.59, 21.61-21.65, concerning the Hinson-Hazlewood College Student Loan Program, without changes to the proposed text as published in the December 25, 1992, issue of the *Texas Register* (17 TexReg 9084).

The rules for the Hinson-Hazlewood program will be in compliance with changes in federal law. Eligible students will receive below-market-interest-rate loans.

The changes must be made if the Hinson-Hazlewood College Student Loan Program is to continue to qualify for federal loan guarantees. The amendments are necessary in order to comply with changes in the federal guaranteed student loan as mandated by the Higher Education Amendments of 1992.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §52.54, which provides the Coordinating Board with the authority to adopt rules regarding the Hinson-Hazlewood College Student Loan Program.

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 February 23, 1993.

TRD-9319421 James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Effective date: March 16, 1993

Proposal publication date: December 25, 1992

For further information, please call: (512) 483-6160

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Subchapter CC. Tuition Credit Program

• 19 TAC §§21.954, 21.956, 21.957

The Texas Higher Education Coordinating Board adopts amendments to §§21. 954, 21.956, and 21.957, concerning the Tuition Credit Program, without changes to the proposed text as published in the December 25, 1992, issue of the *Texas Register* (17 TexReg 6254).

Students will be encouraged to complete high school in three years and to enter college immediately. Procedures will be simplified for students enrolling at eligible private institutions.

The amendments are to emphasize that the student should be fully ready for college; also, to simplify the procedures for students enrolling at eligible private institutions.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Article III, Page III-9, Rider 23, House Bill 1, 72nd Legislature (First Called Session), which provides the Coordinating Board with the authority to adopt rules regarding the Tuition Credit Program.

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 February 23, 1993.

TRD-9319422 James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Effective date: March 16, 1993

Proposal publication date: December 25, 1992

For further information, please call: (512) 483-6160

◆ ◆ ◆
TITLE 25. Health Services
Part I. Texas Department
of Health

Chapter 128. Licensure and
Regulation of Marriage and
Family Therapists

Subchapter A. Introduction

The Texas Department of Health of the Texas State Board of Examiners of Marriage and Family Therapists, adopts amendments to existing sections §§128.2, 128.20, 128.143, 128.234, and 128.237, regarding the licensing and regulation of marriage and family therapists, without changes of the proposed text as

published in the December 4, 1992, issue of the *Texas Register* (17 TexReg 8399). The sections cover definitions; processing applications; supervisor requirements; license renewal; and surrender of a license.

The amendments delete unnecessary language; clarify language concerning regionally accredited universities or colleges; clarify supervisor requirements acceptable to the board; declare applicant and licensee responsibility for address/information changes; and include editorial corrections.

The licensing of marriage and family therapists provided for in this Act will safeguard public health, safety, and welfare by providing a means by which the public can identify licensed marriage and family therapists that meet minimum standards of competence. The regulation of licensed marriage and family therapists will create a means to better serve the public.

There were no comments received from the public during the comment period concerning the proposed amendments.

• 25 TAC §128.2

The amendment is adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code §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 Texas Department of Health, and the commissioner of health.

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 February 22, 1992.

TRD-9319449 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: March 16, 1993

Proposal publication date: December 4, 1992

For further information, please call: (512) 834-8657

◆ ◆ ◆
Subchapter B. The Board

• 25 TAC §128.20

The amendment is adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code §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 Texas Department of Health, and the commissioner of health.

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 February 23, 1993.

TRD-9319448

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

Effective date: March 16, 1992

Proposal publication date: December 4, 1992

For further information, please call: (512) 834-6657

◆ ◆ ◆
Subchapter G. Experience Requirements for Examination and Licensure

◆ ◆ ◆
• 25 TAC §128.143

The amendment is adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code §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 Texas Department of Health, and the commissioner of health.

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 February 23, 1993.

TRD-9319447

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

Effective date: March 16, 1993

Proposal publication date: December 4, 1992

For further information, please call: (512) 834-6657

◆ ◆ ◆
Subchapter J. License Renewal and Inactive Status

◆ ◆ ◆
• 25 TAC §128.234, §128.237

The amendments are adopted under the Licensed Marriage and Family Therapist Act, Texas Civil Statutes, Article 4512c-1, §13(c), which provides the Texas Board of Health, with the advice of the Texas State Board of Marriage and Family Therapists, with the authority to adopt rules to license and regulate marriage and family therapists; and the Health and Safety Code §12.001, which pro-

vides 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 Texas Department of Health, and the commissioner of health.

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 February 23, 1993.

TRD-9319445

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

Effective date: March 16, 1993

Proposal publication date: December 4, 1992

For further information, please call: (512) 834-6657

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Part VIII. Interagency Council on Early Childhood Intervention Program

Chapter 621. Early Childhood Intervention Program

Early Childhood Intervention Service Delivery

The Interagency Council on Early Childhood Intervention (council) adopts amendments to §§621.22-621.24, 621.46, 621.62, and 621.63 concerning the early childhood intervention (ECI) program. Sections 621.22, 621.23, 621.24, are adopted with changes to the proposed text published in the September 22, 1992 issue of the Texas Register (17 TexReg 6539). Sections 621.46, 621.62, and 621.63 are adopted without changes and will not be republished.

The amendments correct citations, clarify language, improve consistency, and modify language to reflect the public comments and recent changes in the federal regulations under the Individuals With Disabilities Education Act, (IDEA) Part H.

The following comments were received concerning the proposed sections.

COMMENT: Concerning §621.22, a commentor noted that the definition of "Public Agency" was not consistent with the federal definition and recommended that the definitions be identical.

RESPONSE: The council concurs and has amended the definition to read "... that is responsible for providing services to eligible children under the Individuals with Disabilities Education Act, Part H."

COMMENT: Concerning §621.23(1)(c) two commentors addressed the language change, stating that this rule change was confusing and asked if the change means at-risk children are not eligible?

RESPONSE: Council agrees that the current

language is confusing and has deleted subparagraph (C)(i) and (ii) in its entirety. The subsequent subparagraphs have been re-numbered accordingly.

COMMENT: Concerning §621.23 (5)(E), a commentor suggested that rule change be changed to correspond to the definition section to read:

"(E) Service options. In a service area, options for instruction or treatment must be available based upon consideration of the medical, social, educational, and developmental needs of the child and the resources, priorities and concerns of the family as stated in the IFSP."

It was also suggested that §621.23(5)(C) include the same change.

RESPONSE: The Council agrees and the changes will be included in both subparagraphs.

COMMENT: Concerning §621.23(5)(D)(ix)(II) and (III), a commentor noted that language would be clearer if amended to incorporate federal rule changes that are forthcoming.

RESPONSE: The Council agrees and has amended the section to read:

"(II) obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems;"

"(III) providing individual or group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and"

COMMENT: Concerning §621.23(5)(E)(iii), a commentor noted that the word "and" should not be deleted from the language.

RESPONSE: The council agrees and will not delete "and" in the clause reading "...including home and community settings in which..."

COMMENT: Concerning §621.24(c)(10)(B), one commentor noted that the subparagraph required programs to obtain inspections from a local sanitation authority. The commentor pointed out that the responsibility for sanitation inspection varies greatly among communities and it was difficult to know when the "authority" had been located.

RESPONSE: The council agrees and has amended the language to allow greater flexibility in obtaining a proper entity for doing the inspection. The language will read:

"(B) Buildings where the ECI program is housed (including offices) must be inspected annually by the local or state fire authority. A safety/sanitation inspection must be completed annually by an entity outside the ECI program using an approved ECI checklist. If the fire or safety/sanitation inspection indicates that hazards exist, these hazards must be corrected."

COMMENT: Concerning §621.24(c)(14)(C), one commentor suggested that the subparagraph be changed to allow activities in a swimming pool to be conducted by a person with only CPR certification if the person is working with only one child.

RESPONSE: The Council agrees with the intent of the comment and is deleting §621.24(14)(C) in its entirety.

The following associations and agencies offered comments during the comment period: The University of Texas Medical Branch, Galveston; Brazoria County Association for Citizens with Handicaps, Angleton; Richmond State School, Richmond; Region Three Education Service Center (ESC), Victoria; Brenham State School, Brenham State School, Brenham; Katy ISD, Katy; Klein ISD, Klein; Harris County Mental Health Mental Retardation (MHMR), Houston; MHMR of Brazos Valley, Bryan; United Cerebral Palsy of Greater Houston, Inc., Houston; Dallas ISD, Dallas; Heart of Texas MHMR, Waco; Fort Worth State School, Fort Worth; Region Nineteen ESC, El Paso; Life Management Center, El Paso; El Paso City-County Health Department, El Paso; Texas Department of Health, El Paso; South Collin County Infant Program, Plano; Region Eight ESC, Mt Pleasant; Sabine Valley Center, Longview; Community Action Corporation of South Texas, Alice; Corpus Christi State School, and Corpus Christi.

The agencies and centers generally supported the amendments but offered some recommendations for change.

• 25 TAC §§621.22-621.24

The amendments are adopted under the Human Resource Code §73.003, which provides the Interagency Council on Early Childhood Intervention with the authority to establish rules regarding services provided for children with developmental delays.

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

Assessment—The ongoing procedures used by appropriate qualified personnel throughout the period of a child's eligibility to identify:

(A) (No change.)

(B) the resources, priorities, and concerns of the family and identification of supports and services necessary to enhance developmental needs of the children; and

(C) the nature and extent of intervention services needed by the child and the family in order to resolve the determinations of this paragraph.

Children—Infants and toddlers with disabilities.

Committee—Advisory Committee to the Interagency Council on Early Childhood Intervention. Its functions are those of the Interagency Coordinating Council described in Individuals with Disabilities Education Act Amendments of 1991 Public Law 102-119.

Include(ing)—The items named are not all of the possible items that are covered whether like or unlike the ones named.

Public agency—The Interagency Council on Early Childhood Intervention and any other political subdivision of the state that is responsible for providing services to eligible children under the Individuals with Disabilities Education Act, Part H.

Qualified—A person who has met state approval or recognized certificate, license, registration, or other comparable requirements that apply to the area in which the person is providing early intervention services.

Service coordinator (case manager)—A staff person who is assigned to a child/family who is the single contact point for families, and who is responsible for assisting and empowering families to receive the rights, procedural safeguards, and services authorized by these rules and ECI policy and procedures.

Transportation services—Travel and other costs that are necessary to enable a child/family to receive early intervention services.

§621.23. *Service Delivery Requirements.* Programs that receive ECI funds must have written policies and procedures which are implemented and evaluated in each of the following areas.

(1) Client eligibility. The program must have written criteria for determining infants and toddlers with disabilities and accepting them into the program.

(A)-(B) (No change.)

(C) Determination of eligibility shall be as follows.

(i)-(ii) (No change.)

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

(5) Individualized family service plan (IFSP). An IFSP must be developed for each eligible child and the child's family.

(A) Procedures for development, review, and evaluation.

(i) The IFSP must be written within 45 days of referral and be developed jointly by the family and appropriate qualified personnel. The IFSP must be based on assessment and evaluation information and include services necessary to enhance the development of the child and the capacity of the family to meet the child's special needs. No IFSP shall be implemented without prior written consent from the parent(s). The contents and the implementation of the IFSP must be fully

reviewed with the parents prior to obtaining their consent.

(ii)-(vi) (No change.)

(B) (No change.)

(C) Required early intervention services. Individualized intervention services, as determined by the interdisciplinary team, must be provided under public supervision to meet the developmental needs of the child, and to address the resources, priorities and concerns of the family related to enhancing the child's development. All services identified as needed for the child by the interdisciplinary team must be addressed in the IFSP. With concurrence of the family, all services identified as needed by the family, may be addressed in the IFSP. The array of services must include, but is not limited to, the following:

(i)-(xvii) (No change.)

(xviii) nutrition services;

(xix) assistive technology; and

(xx) other services.

(D) Types of services. For the purpose of this chapter the following types of services apply.

(i)-(iii) (No changes.)

(iv) Health services includes services necessary to enable a child to benefit from the other early intervention services during the time that the child is receiving the other early intervention services.

(I) The term "health services" includes:

(-a-) such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

(-b-) (No change.)

(II) (No change.)

(v)-(viii) (No change.)

(ix) Physical therapy services include:

(I) (No change.)

(II) obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate or compensate for movement dysfunction and related functional problems;

(III) providing individual or group services or treatment to prevent, alleviate or compensate for movement dysfunction and related functional problems; and

(VI) services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation.

(x)-(xii) (No change.)

(xiii) Speech-language pathology services include:

(I) identification of children with communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;

(II) referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills; and

(III) (No change.)

(xiv) Transportation and related costs include the coverage of cost of travel (e.g., mileage, or travel by taxi, common carrier, or other means) and other costs (e.g., tolls and parking expenses) that are necessary to enable an eligible child and the child's family to receive early intervention services.

(xv) (No change.)

(xvi) Vision services include:

(I) evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;

(II) referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders or both; and

(III) communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities.

(xvii) Assistive technology device means any item, piece of equip-

ment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities. Assistive technology service means a service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include:

(I) evaluating the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(II) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices used by children with disabilities;

(III) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(IV) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(V) training or technical assistance for a child with disabilities or, if appropriate, that child's family; and

(VI) training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(E) Service options. In a service area, options for instruction or treatment must be available based upon consideration of the medical, social, educational, and developmental needs of the child and the resources, priorities and concerns of the family as stated in the IFSP. These options include:

(i)-(ii) (No change.)

(iii) to the maximum extent appropriate to the needs of the child, early intervention services must be provided in natural environments, including home and community settings in which children without disabilities participate. Natural environments means settings that are natural or normal for the child's age peers who have no disabilities.

(iv)-(v) (No change.)

(F)-(G) (No change.)

(H) Contents of the plan. Programs which receive ECI funds must have a written IFSP for each child developed jointly by the interdisciplinary team including the child's parents.

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

(v) To the extent appropriate, the IFSP must include:

(I) (No change.)

(II) the funding sources to be used in paying for those services.

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

(I)-(L) (No change.)

§621.24. Program Administration.

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

(c) Program requirements.

(1) (No change.)

(2) Required services. As of January 1, 1993, each program must provide an evaluation and assessment, service coordination, an Individualized family service plan (IFSP), and provide or arrange for services that implement the IFSP for all eligible children.

(3) (No change.)

(4) Interagency coordination. Each program must develop and implement an interagency coordination plan which includes as a minimum procedures:

(A) preventing duplication of assessments and services;

(B) coordinating referrals to and from ECI programs;

(C) participating in local and regional planning and coordination groups affecting services to young children; and

(D) coordinating activities to make the most effective use of staff development and service provision.

(5) Staff composition and qualifications.

(A) Programs must employ staff who meet the appropriate professional requirements and hold current professional

credentials for their profession. Appropriate professional requirements are the entry level professional standards which:

(i) are based on the state's highest requirements applicable to the profession or discipline in which a person is providing early intervention services; and

(ii) establish suitable qualifications for personnel providing early intervention services to eligible children and their families, who are served by state, local, and private agencies.

(B) ECI professional staff must abide by the licensure or certification requirements and the established rules of supervision and conduct for their professions.

(C) For the occupational categories for which state authority has not established professional standards (such as service coordinator, and early intervention specialist), programs must employ staff who are qualified in terms of education and experience for their assigned scopes of responsibilities and the degree of supervision they are required.

(D) The ECI program director must provide and document the amounts of supervision appropriate for all ECI contract staff and program staff to ensure the philosophy and intent of these regulations are met as adopted by the Early Childhood Intervention Council.

(E) Local programs must establish a procedure to ensure that employees have not been convicted of any felony or a misdemeanor related to child abuse or sexual abuse or any other offense against a person or family.

(6) Inservice education. Each provider shall annually assess the training needs of each early childhood intervention (ECI) staff member. Documentation of the development and implementation of each individualized professional development plan (IPDP) shall be maintained by the program.

(7) ECI child service standards.

(A) Determination of staff-child ratios must take into account the degree of each child's developmental level of functioning, the setting in which the child will be served, and the nature of the services to be provided.

(B) Programs which provide child care as defined by the Texas Depart-

ment of Human Services (TDHS) must meet licensing standards of TDHS.

(8) Child health standards. Programs that receive ECI funds must have written policies and procedures which are implemented and evaluated in each of the following areas.

(A) Medication policies. If staff is involved in the administration of medication, written policies must be maintained regarding such administration.

(B) Infectious disease prevention and management.

(i) All programs must adhere to the procedures of the Universal Precautions for the Texas Early Childhood Intervention Program, as issued by the Council.

(ii) All programs must comply with the Texas Communicable Disease Prevention and Control Act, Texas Civil Statutes, Article 4419b-1.

(iii) In the event of an outbreak of a contagious disease, infants attending center-based programs may be excluded if they have not been immunized due to medical or religious contraindications.

(C) Policies regarding serving children who are HIV positive. The following requirements must be enforced in serving children who are HIV positive.

(i) Children with HIV infection must not be discriminated against on the basis of HIV infection. Reasonable accommodations will be made to serve them on the basis of individual need.

(ii) Any information a parent may provide on the HIV status of a child or family member will be deemed confidential and released only to individuals designated by the parent.

(iii) For identified children with HIV infection, with parental consent, the staff must communicate with the physician responsible for medical care and must involve the physician in programmatic decisions about treatment. Communication with the physician must occur prior to assessment and on an ongoing basis as needed.

(iv) Programs cannot require AIDS testing of children.

(9) Safety regulations regarding emergencies for all buildings where ECI programs are housed. Programs that receive ECI funds must have written policies and procedures which are implemented and evaluated in the following areas.

(A) First aid supplies must be maintained on the premises and in vehicles routinely used by the program.

(B) There must be written posted procedures to be followed in the event of actual or threatened natural disasters, such as fire, tornado, flood, hurricane (as appropriate for the area). Evacuation routes must be posted. Procedures must be individualized for each location.

(C) Each facility must conduct quarterly fire drills rehearsing the evacuation of all children. Such drills must be documented.

(D) Each facility must have a working telephone, and emergency telephone numbers must be posted.

(10) Accessibility and safety. Programs that receive ECI funds must have written policies and procedures which are implemented and evaluated in the following areas.

(A) All ECI services must be available in buildings that are physically accessible to persons with disabilities.

(B) Buildings where the ECI program is housed (including offices) must be inspected annually by a local or state fire authority. A safety/sanitation inspection must be completed annually by an entity outside of the ECI program using an approved ECI checklist. If the fire or safety/sanitation inspection indicates that hazards exist, these hazards must be corrected.

(C) Buildings must be clean, free of hazards, free of insect and rodent infestation, in good repair, with adequate light, ventilation, and temperature control.

(D) An external emergency release mechanism must be provided for opening interior doors that can be locked from the inside. Locks may not be used to restrain a child within a room.

(E) Buildings must be able to be safely evacuated in the event of an emergency.

(11) Transportation safety. Programs that receive ECI funds must have written policies and procedures which are implemented and evaluated in the following areas.

(A) The transportation system operated by the ECI Program must meet local and state licensing, inspection, insurance, and capacity requirements.

(B) Children must be transported in an appropriately installed federally approved child passenger restraint seat, appropriate to the child's age and size.

(C) Drivers of vehicles must have valid and appropriate drivers' licenses. Drivers must have current defensive driving certification.

(D) Drivers and driver's aides must have training in first aid, emergency care of seizures, and be certified in cardiopulmonary resuscitation for children and infants.

(12) Reporting child abuse. The program must report suspected child abuse or neglect as required by the Texas Family Code, Chapter 34.

(13) Staff health regulations. Programs that receives ECI funds must have written policies and procedures which are implemented and evaluated in the following areas.

(A) Programs shall not discriminate against employees who have AIDS or HIV infection.

(B) Programs shall not require HIV testing of employees.

(C) All staff must provide written evidence of TB screening (negative tuberculin test or satisfactory chest x-rays) within six months of beginning employment in an ECI program, if required by local health officials or public school officials.

(D) Any staff person with a communicable disease must refrain from working with children while the staff person is ill until cleared by a physician to return to work.

(14) Staff development for health/safety issues. Programs that receive ECI funds must have written policies and procedures which are implemented and evaluated in the following areas.

(A) All staff who work directly with children must receive training in first aid and have certification in cardiopulmonary resuscitation for children and infants.

(B) All staff who work directly with children must receive training in the implementation of Universal Precautions for Texas ECI Programs and in the recognition of common childhood illnesses.

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 February 23, 1993.

TRD-9319444

Tammy Tiner, Ph.D.
Chairperson
Interagency Council on
Early Childhood
Intervention

Effective date: March 16, 1993

Proposal publication date: September 22, 1992

For further information, please call: (512) 458-7673

Procedural Safeguards and Due Process Procedures

• 25 TAC §621.46

The amendment is adopted under the Human Resource Code, §73.3, which provides the Interagency Council on Early Childhood Intervention with the authority to establish rules regarding services provided for children with developmental delays.

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 February 23, 1993.

TRD-9319443

Tammy Tiner, Ph.D.
Chairperson
Interagency Council on
Early Childhood
Intervention

Effective date: March 16, 1993

Proposal publication date: September 22, 1992

For further information, please call: (512) 458-7673

Early Childhood Intervention Advisory Committee

• 25 TAC §621.62, §621.63

The amendments are adopted under the Human Resource Code, §73.3, which provides the Interagency Council on Early Childhood Intervention with the authority to establish rules regarding services provided for children with developmental delays.

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 February 23, 1993.

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TITLE 28. INSURANCE Part II. Texas Workers' Compensation Commission

Chapter 102. Practice and Procedures

• 28 TAC §102.9

The Texas Workers' Compensation Commission adopts new §102.9, concerning Submission of Information Required by the Commission, with changes to the text as published in the December 18, 1992, edition of the *Texas Register* (17 TexReg 8876).

This section establishes that the commission may require participants to supply information necessary for the commission to carry out its obligation of monitoring and enforcing the Texas Workers' Compensation Act. It also establishes that failure to provide the information requested may result in an order to produce the information. It describes the statutory provision that failure to comply with an order of the director may result in further administrative actions and subsequent penalties.

This section is necessary to fully enable the commission to monitor and enforce the Act and commission rules.

Changes to the text, made in response to public comments, included the addition of a new subparagraph in (a)(2) to require that the commission specify the information being requested. A new subsection (b) was added to establish that a telephone request would be followed by a written request before any order for production would be considered. The previous subsection (b) was renumbered to (c) and changed by adding a provision that the period of time for production of information shall be "reasonable" and to delete the reference to the commission specifying the time and the reference to a 24-hour period and to add specific criteria for establishing the ability to provide the information. A new subsection was added to specify that the reasonable time will be no less than 24 hours for benefit issues and 72 hours for other issues. The former subsection (c) was renumbered to (e) and changed to provide that the order shall be in writing and shall be issued only by the executive director or by staff designated by the executive director, that the order shall be mailed or personally delivered, and a record of receipt kept. Another new subsection was added, subsection (f), to clarify that this section does not limit the executive director's ability to issue orders as authorized by statute.

Comments opposing the proposal were received from American International Companies and American Insurance Association.

The 24-hour standard is not practical for most requests. Recommend consideration of a differentiation between legitimately time sensitive requests and that time sensitive requests allow three working days for response.

The commission agrees in part. Changes were made to make the time for reporting a reasonable time and further defined that reasonable is going to mean no less than 24 hours for benefit issues and 72 hours for other issues.

As drafted, this rule is unenforceable for indefiniteness and constitutes a denial of due process. The rule does not provide fair warning since the commission can request any information at any time with only 24 hours to comply. Due process requires prior notice of the information that must be produced.

The commission disagrees. While the statute, and therefore the rule, allows the commission access to a broad range of information without specific limitations on the time within which the commission can require production, the commission has determined that a reasonable application of the broad discretion allowed by statute for access to information consistent with the regulatory requirements of the commission, can best be met by allowing the commission to establish reasonable time periods for the production of information required by the commission. This section, as revised in response to public comment, limits the commission by not allowing the commission to require production in less than 24 hours for benefit related information and 72 hours for other issues. As stated in response to the previous comment, changes to the text of the rule include a provision that the time for response be "reasonable" and that the commission will consider many factors in making a decision.

The proposed rule gives the commission unrestrained discretionary power to determine who must produce information and to select who must comply with the proposed rule.

The commission disagrees. The rule as proposed is not overly broad but limits the commission to information necessary to administer the Act or commission rules. The rule as drafted also establishes that the requirement applies to those subject to the Act.

In general, the proposed rule requires a party to perform an act so vague and involving so many factors of varying effect that no one can safely judge the impact.

The commission disagrees. The proposed rule does not require a party to perform any task without specific direction of the commission. The rule imposes a duty on those subject to the Act to comply with commission requests for information. That is neither vague nor overly complicated. However, in response to public comment, the rule now requires the commission to state in its request the specific information to be submitted. Since most requests for information are currently being responded to, the impact of this new rule will be felt in those cases where someone chooses not to provide the requested information and the rule creates a much better regulatory path for the commission to follow to obtain compliance.

The new section is adopted under Texas Civil Statutes, Article 8308-2.09(a), which authorize the commission to adopt rules necessary to administer the Act, and Texas Civil Statutes, Article 8308-2.11(f), which allows the executive director to prescribe the form, manner, and procedure for transmission of information to the commission.

§102.9. Submission of Information Requested by the Commission.

(a) The commission shall require those subject to the Act to provide information at such times and in such manner as necessary to administer the Act or commission rules. This requirement to provide information shall:

(1) be communicated by telephone or in writing;

(2) inform the participant of:

(A) where the information is to be sent;

(B) when the information must be submitted; and

(C) the specific information to be submitted.

(b) If the request for information is communicated by telephone, the request must be followed up in writing before any order could be requested or issued pursuant to subsection (d) of this section.

(c) Upon receipt of the requirement from the commission, those subject to the Act will have a reasonable period of time to provide the information required to the commission considering:

(1) accessibility of the information;

(2) amount of information requested;

(3) any other circumstances affecting the person's ability to supply the required information.

(d) The reasonable period for responding to the request for information shall not be less than 24 hours if the requested information is needed to administer a benefit issue on a claim. For other requested information, the reasonable period for response shall not be less than 72 hours.

(e) Failure to provide the information may result in a written order requested and issued by staff designated by the Executive Director to request or issue an order to produce the information. Violation of such an order carries a maximum penalty, as provided by the Act, §10.21(c), of up to \$10,000 and sanctions. The written order shall be mailed through certified mail, return receipt requested, or by personal delivery with receipt acknowledged.

(f) Nothing in this section limits the authority of the Executive Director to enter orders pursuant to the Act, §2.11(c)(7).

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 February 23, 1993.

TRD-9319403

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Effective date: April 1, 1993

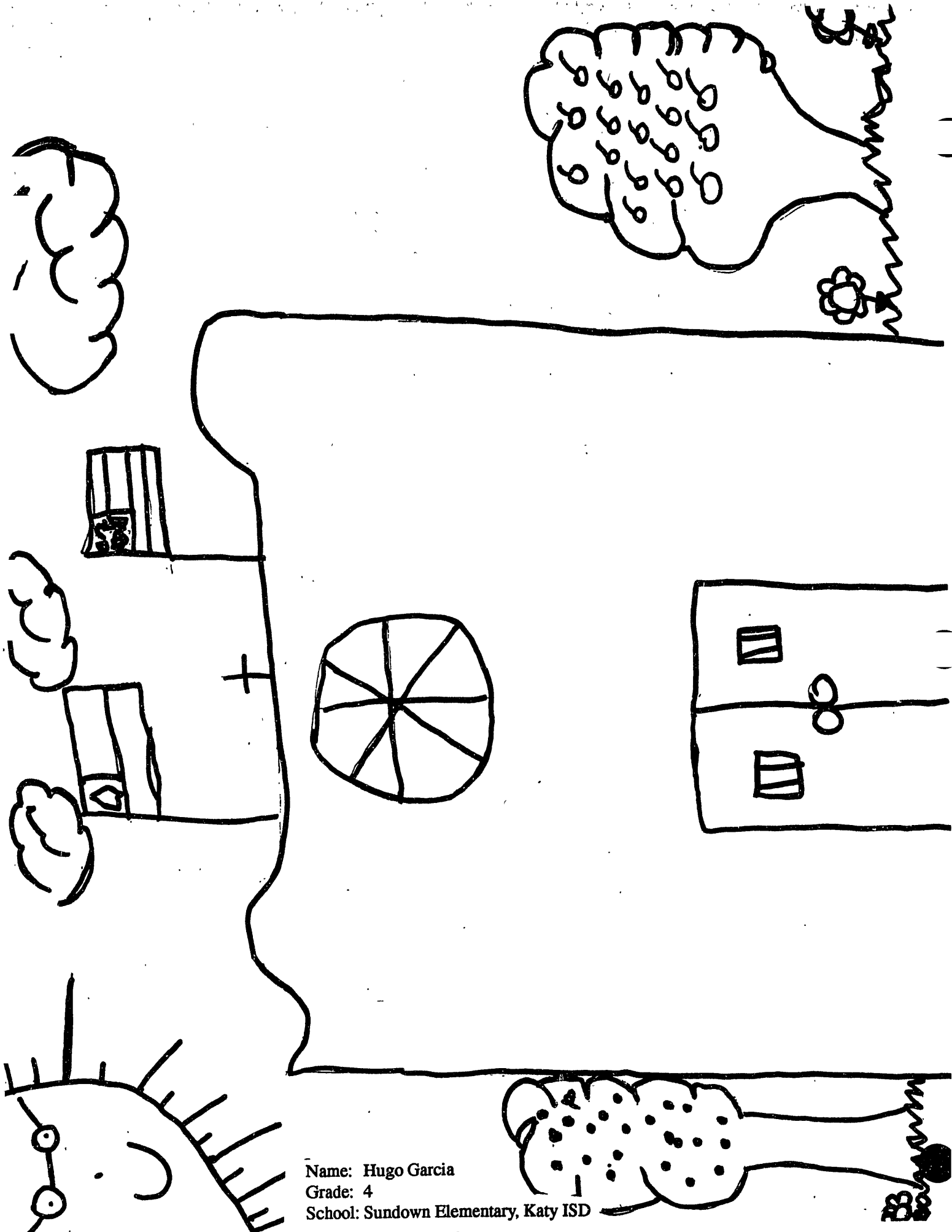
Proposal publication date: December 18, 1992

For further information, please call: (512) 440-3592

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BEN HOGAN GRADE-1 AGE-7
RICHARDSON HEIGHTS ELEMENTARY
RICHARDSON, TEXAS



Name: Hugo Garcia
Grade: 4
School: Sundown Elementary, Katy ISD

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 Board on Aging

Wednesday, March 3, 1993, 9:30 a.m. The Area Agency on Aging (AAA) Operations Committee of the Texas Board on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Large Conference Room, Austin. According to the complete agenda, the committee will consider and possibly act upon: call the meeting to order; discuss approval of the February 4, 1993, minutes; review comments on published standards and recommend to Board for final adoption (Adult Day Care, Rules for designation of planning and service areas, emergency response); status report on residential repair request for proposals; status report on indirect costs; consider staff recommendation on the FY 1993 area plans with conditions of Ark-Tex and West Central Texas AAAs; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-1717.

Filed: February 23, 1993, 1:47 p.m.

TRD-9319411

Texas Air Control Board

Wednesday, March 10, March 24, 1993, 9 a.m., Thursday, March 25, Thursday, April 8, 1993, 9 a.m. The Permits Program of the Texas Air Control Board will meet at 12118 North IH-35, Park 35 Technology Center, Building A, Room 201S, Austin. According to the complete agenda, the board will conduct three work sessions to solicit comments and discuss implementation of the Federal Clean Air Act Title V operating permit program.

Contact: Art Corcoran, 12118 North IH-35, Park 35 Technology Center, Austin, Texas 78753, (512) 908-1237.

Filed: February 24, 1993, 2:04 p.m.

TRD-9319472

Texas Board of Architectural Examiners

Thursday, March 4, 1993, noon. The Committee of the Texas Board of Architectural Examiners will meet at the Plaza of the Americas Hotel, 650 North Pearl Street, Dallas. According to the agenda summary, the committee will call the meeting to order; hear chairman's opening remarks; consider and possibly act on committee matters; 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 Carolyn Lewis at (512) 458-1363 two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Robert H. Norris, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78757, (512) 458-1363.

Filed: February 24, 1993, 2:19 p.m.

TRD-9319474

Friday, March 5, 1993, 9 a.m. The Texas Board of Architectural Examiners will meet at the Plaza of the Americas Hotel, 650 North Pearl Street, Dallas. According to the agenda summary, the committee will call the meeting to order; recognize guests; take roll call; hear chairman's opening remarks; consider and possibly act on the following categories: discuss approval of minutes; consent on director's report; hold hearings; discuss committee matters; examinations; rules and regulations; legislative matters; renewals; conferences/meetings; hear public comment; meet in executive session to dis-

cuss/consider legal advice in accordance with the Texas Open Meetings Act, Article 6252-17, §2(e); 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 Carolyn Lewis at (512) 458-1363 two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Robert H. Norris, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78757, (512) 458-1363.

Filed: February 24, 1993, 2:19 p.m.

TRD-9319473

Texas Department of Criminal Justice

Wednesday, March 3, 1993, 10 a.m. The Board of Criminal Justice, Subcommittee on Site Selection 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 convene meeting; review private bid RFP responses; and discuss recommendations for full board consideration; and adjourn.

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

Filed: February 23, 1993, 2:30 p.m.

TRD-9319425

Texas General Land Office

Wednesday, March 10, 1992, 10 a.m. The Oil Spill Division (Texas Oil Spill Commis-

sion) of the Texas General Land Office will meet at the Stephen F. Austin Building, Room 831 (Large Conference Room), 1700 North Congress Avenue, Austin. According to the complete agenda, the division will discuss approval of minutes; presentations from speakers representing Loop, Phillips, and Safe Harbour; develop workplan for 1993; and set next meeting.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 740, Austin, Texas 78701, (512) 463-6556.

Filed: February 24, 1993, 3:40 p.m.

TRD-9319486

Health and Human Services Commission

Friday, February 26, 1993, 9:30 a.m. (Rescheduled). The Medical Care Advisory Executive Committee of the Health and Human Services Commission met at 1100 West 49th Street, Sixth Floor, Tower Building, Room T-607, Austin. According to the complete emergency revised agenda, the committee changed the meeting time from 1:30 p.m. to 9:30 a.m. The emergency status was necessary due to members not being able to attend at a later time.

Contact: Geri Willems, P.O. Box 13247, Austin, Texas 78711, (512) 402-3256.

Filed: February 23, 1993, 2:37 p.m.

TRD-9319427

Texas Department of Human Services

Friday, March 5, 1993, 10 a.m. The Aged and Disabled Services Advisory Committee will meet at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the committee will make opening comments; hear associate commissioner's comments; discuss approval of minutes; hear reports on deletion of NF residents' freedom of choice of pharmacy provider, federal legislative update, 73rd Legislative Session/testimony, House Bill 7 transition update; subcommittee on services to persons with disabilities; addition of rules for children in LTC/NFR for licensure and Medicaid certification, and persons with disabilities video "Making Connections"; PASARR; client eligibility criteria, provider payment standards and provider reimbursement methodology for nursing facility waiver program; family care eligibility criteria; transfer of resources penalty period; exclusion of certain Medicaid-qualifying trusts; deeming policy; home and community-based services waiver changes and program changes; residential care pro-

gram; replacement health assessment form for DAHS; deletion of advanced directives in HCS, HCS-O, and CLASS Medicaid waivers; eligibility change to four waiver programs; medically dependent children program eligibility rule change; open discussion by members; plan next meeting; and adjourn.

Contact: Anthony Venza, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4780.

Filed: February 23, 1993, 10:51 a.m.

TRD-9319402

Texas Department of Insurance

Wednesday, March 3, 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 of proposed amendment to 28 TAC §3.5702 concerning credit life and accident and health insurance; consider whether a meeting or hearing will be granted regarding a petition filed by the Texas Car and Truck Rental and Leasing Association proposing amendments to Endorsement Number 523B (Rental Reimbursement Coverage) of the Texas Automobile Rules and Rating Manual and the Declaration page of the Texas Personal Auto Policy; and consider staff report from the Fraud Unit on disclosure of complaints.

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

Filed: February 23, 1993, 3:13 p.m.

TRD-9319428

Thursday, March 4, 1993, 3 p.m. 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 agenda, the board will consider personnel matters involving the evaluation of the commissioner of insurance or employees (Article 6252-17, §2(g)).

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

Filed: February 24, 1993, 3:05 p.m.

TRD-9319476

Judicial Districts Board

Wednesday, March 10, 1993, 2 p.m. The Judicial Districts Board will meet at the

Texas Law Center, Rooms 202/203, 1414 Colorado Street, Austin. According to the complete agenda, the board will discuss recent federal court cases and legislative proposals regarding judicial redistricting; and may meet in executive session to consult with legal counsel with respect to pending litigation.

Contact: C. Raymond Judice, 1414 Colorado Street, Suite 602, Austin, Texas 78701, (512) 463-1625.

Filed: February 23, 1993, 2:21 p.m.

TRD-9319423

Texas Board of Professional Land Surveying

Friday, April 2, 1993, 9 a.m. The Texas Board of Professional Land Surveying will meet at 7701 North Lamar Boulevard, Suite 400, Austin. According to the complete agenda, the board will hold a public hearing to receive comments concerning proposed Rule 663.18(b). 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 Sandy Smith at (512) 452-9427 two work days prior to the hearing so that appropriate arrangements can be made.

Contact: Sandy Smith, 7701 North Lamar Boulevard, Suite 400, Austin, Texas 78752, (512) 452-9427.

Filed: February 23, 1993, 3:57 p.m.

TRD-9319434

Friday-Saturday, April 2-3, 1993, 9 a.m. The Texas Board of Professional Land Surveying will meet at 7701 North Lamar Boulevard, Suite 400, Austin. According to the complete agenda, the board will discuss approval of the minutes of the previous meeting; excuse absences; consider the adoption of proposed Rule 663.18(b); conduct interviews; hear presentation of complaints; discuss continuing education, standards, and surveyor intern requirements; discuss correspondence; discuss old business; and consider new business. 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 Sandy Smith at (512) 452-9427 two work days prior to the hearing so that appropriate arrangements can be made.

Contact: Sandy Smith, 7701 North Lamar Boulevard, Suite 400, Austin, Texas 78752, (512) 452-9427.

Filed: February 23, 1993, 3:57 p.m.

TRD-9319433

Texas State Board of Medical Examiners

Thursday-Friday, February 25-26, 1993, 1 p.m. and 8:30 a.m. (Respectively). The Disciplinary Process Review Committee of the Texas State Board of Medical Examiners held an emergency revised agenda at 1812 Centre Creek Drive, Suite 300, Austin. According to the agenda summary, the committee had no agenda item changed, but had discussion items moved to the beginning of the agenda; The emergency status was necessary due to information which had come to the attention of the agency and required prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-4502.

Filed: February 25, 1993, 9:53 a.m.

TRD-9319499

Friday-Saturday, February 26-27, 1993, 1:30 p.m. and 8:30 a.m. (Respectively). The Texas State Board of Medical Examiners held an emergency revised agenda at 1812 Centre Creek Drive, Suite 300, Austin. According to the agenda summary, the board discussed approval of Agreed Board Order and approval of Modification/Termination Request Order which were added to previously posted agenda; and met in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s) (1), and Op. A.G. 1974, Number 484. The emergency meeting was necessary due to information which had come to the attention of the agency and required prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-4502.

Filed: February 25, 1993, 9:52 a.m.

TRD-9319498

State Pension Review Board

Tuesday, March 2, 1993, 9:15 a.m. (Rescheduled from February 23, 1993, 8:30 to 9:15 a.m.). The Legislative Advisory Committee of the State Pension Review Board will meet at the William P. Clements Building, 300 West 15th Street, Pension Review Board Conference Room, Fourth Floor, Room 406, Austin. According to the complete emergency revised agenda, the committee will prepare actuarial impact statements on bills for which actuarial information is available by meeting time, and for which requests have been received from legislative committees. The emergency status is necessary due to the meeting time

changing from 8:30 a.m. to 9:15 a.m.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: February 24, 1993, 8:48 a.m.

TRD-9319454

Tuesday, March 9, 1993, 9:15 a.m. (Rescheduled from February 23, 1993, 8:30 a.m. to 9:15 a.m.). The Legislative Advisory Committee of the State Pension Review Board will meet at the William P. Clements Building, 300 West 15th Street, Pension Review Board Conference Room, Fourth Floor, Room 406, Austin. According to the complete emergency revised agenda, the committee will prepare actuarial impact statements on bills for which actuarial information is available by meeting time, and for which requests have been received from legislative committees. The emergency status is necessary due to meeting time changing from 8:30 a.m. to 9:15 a.m.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: February 24, 1993, 8:48 a.m.

TRD-9319453

Tuesday, March 16, 1993, 9:15 a.m. (Rescheduled from February 23, 1993, 8:30 to 9:15 a.m.). The Legislative Advisory Committee of the State Pension Review Board will meet at the William P. Clements Building, 300 West 15th Street, Pension Review Board Conference Room, Fourth Floor, Room 406, Austin. According to the complete emergency revised agenda, the committee will prepare actuarial impact statements on bills for which actuarial information is available by meeting time, and for which requests have been received from legislative committees. The emergency status is necessary due to meeting time changing from 8:30 a.m. to 9:15 a.m.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: February 24, 1993, 8:48 a.m.

TRD-9319452

Tuesday, March 23, 1993, 9:15 a.m. (Rescheduled from February 23, 1993, 8:30 to 9:15 a.m.). The Legislative Advisory Committee of the State Pension Review Board will meet at the William P. Clements Building, 300 West 15th Street, Pension Review Board Conference Room, Fourth Floor, Room 406, Austin. According to the complete emergency revised agenda, the committee will prepare actuarial impact statements on bills for which actuarial information is available by meeting time, and for which requests have been received from legislative committees. The emergency status is necessary due to meeting time changing from 8:30 a.m. to 9:15 a.m.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: February 24, 1993, 8:48 a.m.

TRD-9319451

Tuesday, March 30, 1993, 9:15 a.m. (Rescheduled from February 23, 1993, 8:30 to 9:15 a.m.). The Legislative Advisory Committee of the State Pension Review Board will meet at the William P. Clements Building, 300 West 15th Street, Pension Review Board Conference Room, Fourth Floor, Room 406, Austin. According to the complete emergency revised agenda, the committee will prepare actuarial impact statements on bills for which actuarial information is available by meeting time, and for which requests have been received from legislative committees. The emergency status is necessary due to meeting time changing from 8:30 a.m. to 9:15 a.m.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: February 24, 1993, 8:47 a.m.

TRD-9319450

Public Utility Commission of Texas

Tuesday, April 8, 1993, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 11747-joint application of Clear Lake Cogeneration Limited Partnership and Houston Lighting and Power Company for certification of cogeneration agreement.

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

Filed: February 24, 1993, 3:07 p.m.

TRD-9319477

Texas Savings and Loan Department

Wednesday, March 10, 1993, 10 a.m. The Texas Savings and Loan Department will meet at 300 West 15th Street, Room 408, State Office of Administrative Hearings, Austin. According to the agenda summary, the department will hold a hearing to accumulate a record of evidence in regard to the application of Coastal Banc Savings Association, Houston, Harris County, to relocate a branch office from 919 Avenue C, Katy, to 870 South Mason Road, Katy, from which record the Commissioner will determine whether to grant or deny the application.

Contact: Shirley T. Burton, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1350.

Filed: February 23, 1993, 12:26 p.m.

TRD-9319409

Texas Southern University

Tuesday, March 2, 1993, 5 p.m. The Personnel and Academic Affairs Committee of the Board of Regents of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider reports on progress of academic activities and programs; and discuss personnel actions.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: February 24, 1993, 9:44 a.m.

TRD-9319463

Friday, March 5, 1993, 8:30 a.m. The Board of Regents of Texas Southern University will meet at Texas Southern University, University Library, Fifth Floor, Houston. According to the complete agenda, the board will consider approval of minutes; hear report of the president; report from standing committees; and meet in executive session.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: February 24, 1993, 9:45 a.m.

TRD-9319464

University Interscholastic League

Tuesday-Wednesday, March 2-3, 1993, 9 a.m. The Ad Hoc Sportsmanship Committee of the University Interscholastic League will meet at the Sheraton Hotel, Fifth Street and IH-35, Austin. According to the agenda summary, the committee will review and discuss general requirements to begin meeting; proposals and staff recommendations; public hearing of proposals for solutions; discuss old business; discuss presentations and make recommendations; make announcements; and adjourn.

Contact: Gina Mazzolini, 2622 Wichita Street, Austin, Texas 78705, (512) 471-5883.

Filed: February 24, 1993, 3:36 p.m.

TRD-9319485

University of Texas System

Monday, March 1, 1993, 2 p.m. The Board of Regents of the University of Texas System met at the Ashbel Smith Hall, Regents' Meeting Room, Ninth Floor, 201 West Seventh Street, Austin. According to the complete agenda, the board will consider personnel matters related to the election of officers of the Board as set forth in the Regents' Rules and Regulations, Part One, Chapter I, Sections 3, 4, and 5. If appropriate, the board will meet in executive session pursuant to Vernon's Texas Civil Statutes, Article 6252-17, §2(g) related to this personnel matter.

Contact: Arthur H. Dilly, P.O. Box N, U.T. Station, Austin, Texas 78713-7328, (512) 499-4402.

Filed: February 23, 1993, 2 p.m.

TRD-9319418

Texas Water Commission

Wednesday, March 3, 1993, 9 a.m. (Revised agenda). The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the revised agenda summary, the commission will meet in executive session to discuss contemplated or pending litigation related to the Honorable Pete P. Gallego versus Texas Water Commission, 98th Judicial District, Travis County, Cause Number 9302025.

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

Filed: February 23, 1993, 2:31 p.m.

TRD-9319426

Wednesday, March 10, 1993, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a hearing on Texas Utilities Mining Company's Application Number TA-6978 for a temporary permit to authorize the construction and operation of a sedimentation control Pond H-2 on an unnamed tributary of Blundell Creek, tributary of Cypress Creek, Cypress Basin; and the redirection of an adjacent unnamed tributary of Blundell Creek into H-2 Diversion (ditch) which directs water into Pond H-2 in the company's Monticello-Winfield South H-Area Mine in Titus County. This application is for the control and treatment of disturbed area runoff. No other consumptive use of the diverted and impounded surface water in Pond H-2 is proposed. South H-Area Mine is located eight miles southwest of Mount Pleasant.

Contact: Lann Bookout, P.O. Box 13087, Austin, Texas 78711, (512) 463-8195.

Filed: February 25, 1993, 9:53 a.m.

TRD-9319500

Wednesday, March 24, 1993, 7 p.m. The Texas Water Commission will meet at the Southwest High School Auditorium, 11914 Dragon Lane, San Antonio. According to the agenda summary, the commission will hold a public meeting on an application for a municipal solid waste facility permit by the City of San Antonio, Application Number MSW1237-A. The site 2.5 miles west of the intersection of IH-410 and FM 2536, four miles southwest of the intersection of IH-410 and U.S. Highway 90, 3.5 miles southeast of the intersection of U.S. Highway 90 and FM 1604, and 2.5 miles north of the intersection of FM 1604 and FM 2536 in Bexar County.

Contact: Charles Stavley, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 25, 1993, 9:55 a.m.

TRD-9319505

Thursday, April 15, 1993, 10 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Stephen F. Austin Building, Room 1028A, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a hearing on Pete Bell doing business as Pete Bell Water Systems' application for a certificate of convenience and necessity (CCN) to allow Pete Bell Water Systems to provide water utility service in Johnson County. Applicant is also proposing decertification of a portion of Johnson County Rural Water Supply Corporation's certificated area authorized under CCN Number 10081, and a portion of Skycorp, Inc.'s certificated area authorized under CCN Number 11796. The proposed service area is approximately 14 miles north-northwest of Cleburne, Docket Number 9358-C.

Contact: Kerry Sullivan, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 25, 1993, 9:54 a.m.

TRD-9319503

Monday, April 19, 1993, 10 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Stephen F. Austin Building, Room 1028A, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a hearing on Community Utilities, Inc.'s water and sewer rate increases effective September 22, 1992 for its service area located in Harris County. The commission staff is requesting a hearing because the number of protests is very close to the 10% requirement and staff wants to ensure rates are reasonable; utility is requiring all cur-

rent customers pay new deposit included in amended tariff; utility is proposing a meter installation fee of \$90; staff has concerns about calculation of seasonal reconnect fee; and the tariff submitted by utility is not in accordance with commission requirements. Docket Number 9584-G.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 25, 1993, 9:54 a.m.

TRD-9319502

Monday, April 19, 1993, 10 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the William B. Travis Building, Room 1-100, 1701 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a hearing on Glenwood Acres Water System's water rate increase effective November 1, 1992 for its service area in Upshur County. Docket Number 9793-G.

Contact: Heidi Jackson, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 25, 1993, 9:55 a.m.

TRD-9319504

Friday, April 23, 1993, 10 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Stephen F. Austin Building, Rooms 1149A and B, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hold a hearing on Lollipop Water Works, Inc.'s water rate increase effective December 25, 1992 for its service area located in Henderson County. Docket Number 9865-G.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 25, 1993, 9:54 a.m.

TRD-9319501

Texas Water Development Board

Thursday, March 4, 1993, 10 a.m. The Texas Water Development Board will meet at the Stephen F. Austin Building, Room 513-F, 1700 North Congress Avenue, Austin. According to the complete agenda, the board will consider authorizing the executive administrator and the development fund manager to take all actions necessary for the sale of assets in the TWRFA portfolio and implementation of an Interim Finance Program.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: February 24, 1993, 4:23 p.m.

TRD-9319488

Texas Water Resources Finance Authority

Thursday, March 4, 1993, 10 a.m. The Texas Water Resources Finance Authority will meet at the Stephen F. Austin Building, Room 513-F, 1700 North Congress Avenue, Austin. According to the complete agenda, the board will consider authorizing the executive administrator and the development fund manager to take all actions necessary for the sale of assets in the TWRFA portfolio and implementation of an Interim Finance Program.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: February 24, 1993, 4:22 p.m.

TRD-9319487

Regional Meetings

Meetings Filed February 23, 1993

The Atascosa County Appraisal District Board of Directors held an emergency meeting at Fourth and Avenue J, Poteet, February 25, 1993, at 8:30 a.m. The emergency status was necessary due to pending litigation. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065-0139, (210) 742-3591. TRD-9319441.

The Central Texas Council of Governments Executive Committee met at 302 East Central Street, Belton, February 25, 1993, at 12:45 p.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9319406.

The El Oso Water Supply Corporation held an emergency meeting at their Office on FM 99, Karnes City, February 26, 1993, at 7:30 p.m. The emergency status was necessary due to need to act quickly on nursing home to see who would supply water. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (210) 780-3539. TRD-9319405.

The Jasper County Appraisal District JCAD Board of Directors met at the Jasper County Appraisal District, 137 North Main Street, Jasper, February 26, 1993, at noon. Information may be obtained from David W. Luther, 137 North Main Street, Jasper, Texas 75951, (409) 384-2544. TRD-9319400.

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, March 2, 1993, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9319407.

The Middle Rio Grande Development Council Executive Committee held an emergency meeting at the JTPA Office, 1200 Ferry Street, Eagle Pass, February 23, 1993, at 6 p.m. The emergency status was necessary due to the need to discuss issues with committee before the end of month. Information may be obtained from Michael Patterson, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9319408.

The South Texas Private Industry Council, Inc. will meet at 901 Kennedy Street, Zapata, March 4, 1993, at 4 p.m. Information may be obtained from Myrna V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (210) 722-3973. TRD-9319432.

Meetings Filed February 24, 1993

The Appraisal Review Board will meet at the Commissioners' Courtroom, Second Floor, Eastland County Courthouse, Eastland, March 17, 1993, at 10 a.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597. TRD-9319461.

The Cash Water Supply Corporation will meet at the Administration Office on FM 1564 East, Greenville, March 8, 1993, at 7 p.m. Information may be obtained from Donna Mohon, P.O. Box 8129, Greenville, Texas 75404, (903) 883-2695. TRD-9319457.

The Dawson County Central Appraisal District Board of Directors will meet at 1806 Lubbock Highway, Lamesa, March 3, 1993, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9319458.

The Grayson Appraisal District Appraisal Review Board will meet at 205 North Travis Street, Sherman, March 3, 1993, at 9 a.m. Information may be obtained from Angie Keeton, 205 North Travis Street, Sherman, Texas 75090, (903) 893-9673. TRD-9319462.

The Guadalupe-Blanco River Authority Board of Directors will meet at the Hyatt Regency Hotel, 208 Barton Springs Road, Foothills Restaurant, 17th Floor, Austin, February 25, 1993, at 7:45 a.m. Information may be obtained from John H. Specht, P.O.

Box 271, Sequin, Texas 78156-0271, (210) 379-5822. TRD-9319470.

The Upshur County Appraisal District Board of Directors will meet at the Upshur County Appraisal District Office, Warren and Trinity Street, Gilmer, March 8, 1993, at 1 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280. TRD-9319489.



Meetings Filed February 25, 1993

The Bell-Milam-Falls Water Supply Corporation Board of Directors will meet at the WSC Office, West FM 485, Cameron, March 4, 1993, at 8:30 a.m. Information may be obtained from Dwayne Jekel, P.O. Drawer 150, Cameron, Texas 76520, (817) 697-4016. TRD-9319495.

The Tyler County Appraisal District Board of Directors will meet at the West Bluff, Woodville, March 4, 1993, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9319497.



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 Antiquities Committee Notice of Continuation of Prehearing

The Texas Antiquities Committee issued notice of a prehearing conference, scheduled for February 22, and a hearing on the merits, scheduled for March 9-10. The notice was published in the February 9, 1993, issue of the *Texas Register* (18 TexReg 903). These proceedings were scheduled to hear a challenge to the Committee's permitting process in connection with the South Austin Outfall Project Phase II. The notice contained an error which may have unfairly limited the rights of potential participants. The prehearing conference has been continued and will be reconvened on March 9 at 10 a.m. at 300 West 15th Street, in Room 410A, William P. Clements Building, Austin, Texas 78701. Persons or organizations interested in participating in the hearing on the merits should submit written application by 5 p.m. on March 8 to the State Office of Administrative Hearings at 300 West 15th Street, Suite 408, Austin, or attend the hearing on March 9 at the previous address with their written application.

Refer to the February 9, 1993, issue for other information pertaining to this notice.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319460 Lillie Thompson
 Administrative Technician
 Texas Antiquities Committee

Filed: February 24, 1993



Office of the Attorney General 1993 Tax Chart

Pursuant to the Texas Family Code, §14.53(h), the Attorney General of Texas as the "agency charged with enforcing child support orders under Part D of Title IV of the federal Social Security Act" has promulgated the following charts to assist courts in establishing the amount of a child support order. These tax charts are applicable to employed and self-employed persons in computing net monthly income.

Instructions For Use

To use these tables, first compute the obligor's annual gross income. Then recompute to determine the obligor's average monthly gross income. These tables provide a method for calculating "monthly net income" for child support purposes, subtracting from monthly gross income the social security taxes and the federal income tax withholding for a single person claiming one personal exemption and the standard deduction.

Thereafter, in many cases the guidelines call for a number of additional steps to complete the necessary calculations. For example, §14.53 provides for appropriate additions to "income" as that term is defined for federal income tax purposes, and for certain subtractions from monthly net income, in order to arrive at the net resources of the obligor available for child support purposes. Computation of the obligee's net resources should follow similar steps.

**OFFICE OF THE ATTORNEY GENERAL
1993 TAX CHARTS**

Pursuant to Section 14.053(h) of the Texas Family Code, the Attorney General of Texas as the "agency charged with enforcing child support orders under Part D of Title IV of the federal Social Security Act" has promulgated the following charts to assist courts in establishing the amount of a child support order. These tax charts are applicable to employed and self-employed persons in computing net monthly income.

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**EMPLOYED PERSONS
1993 TAX CHART**

Monthly Gross Wages	Social Security Taxes		Federal Income Taxes**	Net Monthly Income
	Old-Age, Survivors and Disability Insurance Taxes (6.2%)*	Hospital (Medicare) Insurance Taxes (1.45%)*		
100.00	6.20	1.45	-0-	92.35
200.00	12.40	2.90	-0-	184.70
300.00	18.60	4.35	-0-	277.05
400.00	24.80	5.80	-0-	369.40
500.00	31.00	7.25	-0-	461.75
600.00	37.20	8.70	14.38	539.72
700.00	43.40	10.15	29.38	617.07
800.00	49.60	11.60	44.38	694.42
900.00	55.80	13.05	59.38	771.77
1,000.00	62.00	14.50	74.38	849.12
1,100.00	68.20	15.95	89.38	926.47
1,200.00	74.40	17.40	104.38	1,003.82
1,300.00	80.60	18.85	119.38	1,081.17
1,400.00	86.80	20.30	134.38	1,158.52
1,500.00	93.00	21.75	149.38	1,235.87
1,600.00	99.20	23.20	164.38	1,313.22
1,700.00	105.40	24.65	179.38	1,390.57
1,800.00	111.60	26.10	194.38	1,467.92
1,900.00	117.80	27.55	209.38	1,545.27
2,000.00	124.00	29.00	224.38	1,622.62
2,100.00	130.20	30.45	239.38	1,699.97
2,200.00	136.40	31.90	254.38	1,777.32
2,300.00	142.60	33.35	269.38	1,854.67
2,400.00	148.80	34.80	291.42	1,924.98
2,500.00	155.00	36.25	319.42	1,989.33
2,600.00	161.20	37.70	347.42	2,053.68
2,700.00	167.40	39.15	375.42	2,118.03
2,800.00	173.60	40.60	403.42	2,182.38
2,900.00	179.80	42.05	431.42	2,246.73
3,000.00	186.00	43.50	459.42	2,311.08
3,100.00	192.20	44.95	487.42	2,375.43
3,200.00	198.40	46.40	515.42	2,439.78
3,300.00	204.60	47.85	543.42	2,504.13
3,400.00	210.80	49.30	571.42	2,568.48
3,500.00	217.00	50.75	599.42	2,632.83
3,600.00	223.20	52.20	627.42	2,697.18
3,700.00	229.40	53.65	655.42	2,761.53
3,800.00	235.60	55.10	683.42	2,825.88
3,900.00	241.80	56.55	711.42	2,890.23
4,000.00	248.00	58.00	739.42	2,954.58
4,250.00	263.50	61.63	809.42	3,115.45
4,500.00	279.00	65.25	879.42	3,276.33
4,750.00	294.50	68.88	949.42	3,437.20
5,000.00	297.60 ***	72.50	1,020.54	3,609.36
5,250.00	297.60	76.13	1,098.04	3,778.23
5,500.00	297.60	79.75	1,175.54	3,947.11
5,750.00	297.60	83.38	1,253.04	4,115.98
6,000.00	297.60	87.00	1,330.54	4,284.86
6,250.00	297.60	90.63	1,408.04	4,453.73
6,500.00	297.60	94.25	1,485.54	4,622.61
6,750.00	297.60	97.88	1,563.04	4,791.48
7,000.00	297.60	101.50	1,640.54	4,960.36
7,500.00	297.60	108.75	1,795.54	5,298.11
8,000.00	297.60	116.00	1,950.54	5,635.86
8,500.00	297.60	123.25	2,105.54	5,973.61
9,000.00	297.60	130.50	2,260.54	6,311.36
9,500.00	297.60	137.75	2,419.18	6,645.47
10,000.00	297.60	145.00	2,576.61	6,980.79
10,500.00	297.60	152.25	2,735.26	7,314.89

11,000.00	297.60	159.50	2,892.68	7,650.22
11,500.00	297.60	163.13 ****	3,050.11	7,989.16
12,000.00	297.60	163.13	3,208.75	8,330.52
12,500.00	297.60	163.13	3,366.18	8,673.09
13,000.00	297.60	163.13	3,524.83	9,014.44

Footnotes to Employed Persons 1993 Tax Chart:

- * An employed person not subject to the Old-Age, Survivors and Disability Insurance/Hospital (Medicare) Insurance taxes will be allowed the reductions reflected in these columns, unless it is shown that such person has no similar contributory plan such as teacher retirement, federal railroad retirement, federal civil service retirement, etc.
- ** These amounts represent one-twelfth (1/12) of the annual Federal income tax calculated for a single taxpayer claiming one personal exemption (\$2,350.00, subject to reduction in certain cases, as described in the next paragraph of this footnote) and taking the standard deduction (\$3,700.00).
For a single taxpayer with an adjusted gross income in excess of \$108,450.00, the deduction for the personal exemption is reduced by two percent (2%) for each \$2,500.00 or fraction thereof by which adjusted gross income exceeds \$108,450.00. In no case is the deduction for the personal exemption reduced by more than 100%. For example, monthly gross wages of \$9,500.00 times 12 months equals \$114,000.00. The excess over \$108,450.00 is \$5,500.00. \$5,500.00 divided by \$2,500.00 equals 2.22. The 2.22 amount is rounded up to 3. The reduction percentage is 6% (3 x 2% = 6%). The \$2,350.00 deduction for one personal exemption is reduced by \$141.00 (\$2,350.00 x 6% = \$141.00) to \$2,209.00 (\$2,350.00 - \$141.00 = \$2,209.00).
- *** For annual gross wages above \$57,600.00, this amount represents a monthly average of the Old-Age, Survivors and Disability Insurance tax based on the 1993 maximum Old-Age, Survivors and Disability Insurance tax of \$3,571.20 per person (6.2% of the first \$57,600.00 of annual gross wages equals \$3,571.20). One-twelfth (1/12) of \$3,571.20 equals \$297.60.
- **** For annual gross wages above \$135,000.00, this amount represents a monthly average of the Hospital (Medicare) Insurance tax based on the 1993 maximum Hospital (Medicare) Insurance tax of \$1,957.50 per person (1.45% of the first \$135,000.00 of annual gross wages equals \$1,957.50). One-twelfth (1/12) of \$1,957.50 equals \$163.13.

* * * * *

References Relating to Employed Persons 1993 Tax Chart:

1. Old-Age, Survivors and Disability Insurance Tax
 - (a) Contribution Base
 - (1) Social Security Administration's notice dated October 20, 1992, and appearing in 57 Fed. Reg. 48,619 (October 27, 1992)
 - (2) Section 3121(x)(1) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3121(x)(1))
 - (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)
 - (b) Tax Rate
 - (1) Section 3101(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3101(a))
2. Hospital (Medicare) Insurance Tax
 - (a) Contribution Base
 - (1) Social Security Administration's notice dated October 20, 1992, and appearing in 57 Fed. Reg. 48,619 (October 27, 1992)
 - (2) Section 3121(x)(2) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3121(x)(2))
 - (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)
 - (b) Tax Rate
 - (1) Section 3101(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3101(b))
3. Federal Income Tax
 - (a) Inflation Adjusted Tax Rate Table for 1993 for Single Taxpayers
 - (1) Revenue Procedure 92-102, Section 2, Table 3, which appears at page 21 of Internal Revenue Bulletin 1992-52, dated December 28, 1992
 - (2) Section 1(c) and (f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1(c) and (f))
 - (b) Standard Deduction
 - (1) Revenue Procedure 92-102, Section 3, which appears at page 21 of Internal Revenue Bulletin 1992-52, dated December 28, 1992
 - (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 63(c))
 - (c) Personal Exemption
 - (1) Revenue Procedure 92-102, Section 4, which appears at page 21 of Internal Revenue Bulletin 1992-52, dated December 28, 1992
 - (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 151(d))

SELF-EMPLOYED PERSONS
1993 TAX CHART

Monthly Net Earnings From Self-Employment*	Social Security Taxes		Federal Income Taxes***	Net Monthly Income
	Old-Age, Survivors and Disability Insurance Taxes (12.4%)**	Hospital (Medicare) Insurance Taxes (2.9%)**		
100.00	11.45	2.68	-0-	85.87
200.00	22.90	5.36	-0-	171.74
300.00	34.35	8.03	-0-	257.62
400.00	45.81	10.71	-0-	343.48
500.00	57.26	13.39	-0-	429.35
600.00	68.71	16.07	8.02	507.20

700.00	80.16	18.75	21.96	579.13
800.00	91.61	21.43	35.90	651.06
900.00	103.06	24.10	49.84	723.00
1,000.00	114.51	26.78	63.78	794.93
1,100.00	125.97	29.46	77.72	866.85
1,200.00	137.42	32.14	91.66	938.78
1,300.00	148.87	34.82	105.60	1,010.71
1,400.00	160.32	37.49	119.54	1,082.65
1,500.00	171.77	40.17	133.48	1,154.58
1,600.00	183.22	42.85	147.42	1,226.51
1,700.00	194.67	45.53	161.36	1,298.44
1,800.00	206.13	48.21	175.30	1,370.36
1,900.00	217.58	50.88	189.24	1,442.30
2,000.00	229.03	53.56	203.18	1,514.23
2,100.00	240.48	56.24	217.12	1,586.16
2,200.00	251.93	58.92	231.06	1,658.09
2,300.00	263.38	61.60	245.00	1,730.02
2,400.00	274.83	64.28	258.94	1,801.95
2,500.00	286.29	66.95	272.88	1,873.88
2,600.00	297.74	69.63	295.99	1,936.64
2,700.00	309.19	72.31	322.01	1,996.49
2,800.00	320.64	74.99	348.03	2,056.34
2,900.00	332.09	77.67	374.05	2,116.19
3,000.00	343.54	80.34	400.07	2,176.05
3,100.00	354.99	83.02	426.09	2,235.90
3,200.00	366.44	85.70	452.12	2,295.74
3,300.00	377.90	88.38	478.14	2,355.58
3,400.00	389.35	91.06	504.16	2,415.43
3,500.00	400.80	93.74	530.18	2,475.28
3,600.00	412.25	96.41	556.20	2,535.14
3,700.00	423.70	99.09	582.23	2,594.98
3,800.00	435.15	101.77	608.25	2,654.83
3,900.00	446.60	104.45	634.27	2,714.68
4,000.00	458.06	107.13	660.29	2,774.52
4,250.00	486.68	113.82	725.35	2,924.15
4,500.00	515.31	120.52	790.40	3,073.77
4,750.00	543.94	127.21	855.46	3,223.39
5,000.00	572.57	133.91	920.51	3,373.01
5,250.00	595.20 ****	140.60	986.40	3,527.80
5,500.00	595.20	147.30	1,060.45	3,697.05
5,750.00	595.20	153.99	1,136.92	3,863.89
6,000.00	595.20	160.69	1,213.38	4,030.73
6,250.00	595.20	167.38	1,289.84	4,197.58
6,500.00	595.20	174.08	1,366.30	4,364.42
6,750.00	595.20	180.78	1,442.77	4,531.25
7,000.00	595.20	187.47	1,519.23	4,698.10
7,500.00	595.20	200.86	1,672.15	5,031.79
8,000.00	595.20	214.25	1,825.08	5,365.47
8,500.00	595.20	227.64	1,978.00	5,699.16
9,000.00	595.20	241.03	2,130.93	6,032.84
9,500.00	595.20	254.42	2,285.06	6,365.32
10,000.00	595.20	267.82	2,440.42	6,696.56
10,500.00	595.20	281.21	2,595.77	7,027.82
11,000.00	595.20	294.60	2,752.34	7,357.86
11,500.00	595.20	307.99	2,907.69	7,689.12
12,000.00	595.20	321.38	3,064.26	8,019.16
12,500.00	595.20	326.25 *****	3,220.93	8,357.62
13,000.00	595.20	326.25	3,378.36	8,700.19

Footnotes to Self-Employed Persons 1993 Tax Chart:

* Determined without regard to Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C.) (the "Code").

** In calculating each of the Old-Age, Survivors and Disability Insurance tax and the Hospital (Medicare) Insurance tax, net earnings from self-employment are reduced by the deduction under Section 1402(a)(12) of the Code. The deduction under Section 1402(a)(12) of the Code is equal to net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) multiplied by one-half (1/2) of the sum of the Old-Age, Survivors and Disability Insurance tax rate (12.4%) and the Hospital (Medicare) Insurance tax rate (2.9%). The sum of these rates is 15.3% (12.4% + 2.9% = 15.3%). One-half (1/2) of the combined rate is 7.65% (15.3% x 1/2 = 7.65%). The deduction can be computed by multiplying the net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) by 92.35%. This gives the same deduction as multiplying the net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) by 7.65% and then subtracting the result.

For example, the Social Security taxes imposed on monthly net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) of \$2,500.00 are calculated as follows:

(i) Old-Age, Survivors and Disability Insurance Taxes:

$$\$2,500.00 \times 92.35\% \times 12.4\% = \$286.29$$

(ii) Hospital (Medicare) Insurance Taxes:

$$\$2,500.00 \times 92.35\% \times 2.9\% = \$66.95$$

*** These amounts represent one-twelfth (1/12) of the annual Federal income tax calculated for a single taxpayer claiming one personal exemption (\$2,350.00, subject to reduction in certain cases, as described below in this footnote) and taking the standard deduction (\$3,700.00).

In calculating the annual Federal income tax, gross income is reduced by the deduction under Section 164(f) of the Code. The deduction under Section 164(f) of the Code is equal to one-half (1/2) of the self-employment taxes imposed by Section 1401 of the Code for the taxable year. For example, monthly net earnings from self-employment of \$9,500.00 times 12 months equals \$114,000.00. The Old-Age, Survivors and Disability

Insurance taxes imposed by Section 1401 of the Code for the taxable year equal \$7,142.40 (\$57,600.00 x 12.4% = \$7,142.40). The Hospital (Medicare) Insurance taxes imposed by Section 1401 of the Code for the taxable year equal \$3,053.09 (\$114,000.00 x .9235 x 2.9% = \$3,053.09). The sum of the taxes imposed by Section 1401 of the Code for the taxable year equals \$10,195.49 (\$7,142.40 + \$3,053.09 = \$10,195.49). The deduction under Section 164(f) of the Code is equal to one-half (1/2) of \$10,195.49 or \$5,097.75.

For a single taxpayer with an adjusted gross income in excess of \$108,450.00, the deduction for the personal exemption is reduced by two percent (2%) for each \$2,500.00 or fraction thereof by which adjusted gross income exceeds \$108,450.00. In no case is the deduction for the personal exemption reduced by more than 100%. For example, monthly net earnings from self-employment of \$9,500.00 times 12 months equals \$114,000.00. The \$114,000.00 amount is reduced by \$5,097.75 (i.e., the deduction under Section 164(f) of the Code -- see the immediately preceding paragraph of this footnote for the computation) to arrive at adjusted gross income of \$108,902.25. The excess over \$108,450.00 is \$452.25. \$452.25 divided by \$2,500.00 equals 0.18. The 0.18 amount is rounded up to 1. The reduction percentage is 2% (1 x 2% = 2%). The \$2,350.00 deduction for one personal exemption is reduced by \$47.00 (\$2,350.00 x 2% = \$47.00) to \$2,303.00 (\$2,350.00 - \$47.00 = \$2,303.00).

**** For annual net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) above \$57,600.00, this amount represents a monthly average of the Old-Age, Survivors and Disability Insurance tax based on the 1993 maximum Old-Age, Survivors and Disability Insurance tax of \$7,142.40 per person (12.4% of the first \$57,600.00 of net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) equals \$7,142.40). One-twelfth (1/12) of \$7,142.40 equals \$595.20.

**** For annual net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) above \$135,000.00, this amount represents a monthly average of the Hospital (Medicare) Insurance tax based on the 1993 maximum Hospital (Medicare) Insurance tax of \$3,915.00 per person (2.9% of the first \$135,000.00 of net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) equals \$3,915.00). One-twelfth (1/12) of \$3,915.00 equals \$326.25.

* * * * *

References Relating to Self-Employed Persons 1993 Tax Chart:

1. Old-Age, Survivors and Disability Insurance Tax

(a) Contribution Base

- (1) Social Security Administration's notice dated October 20, 1992, and appearing in 57 Fed. Reg. 48,619 (October 27, 1992)
- (2) Section 1402(k)(1) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(k)(1))
- (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)

(b) Tax Rate

- (1) Section 1401(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1401(a))

(c) Deduction Under Section 1402(a)(12)

- (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12))

2. Hospital (Medicare) Insurance Tax

(a) Contribution Base

- (1) Social Security Administration's notice dated October 20, 1992, and appearing in 57 Fed. Reg. 48,619 (October 27, 1992)
- (2) Sections 1402(k)(2) and 3121(x)(2) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §§ 1402(k)(2) and 3121(x)(2))
- (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)

(b) Tax Rate

- (1) Section 1401(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1401(b))

(c) Deduction Under Section 1402(a)(12)

- (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12))

3. Federal Income Tax

(a) Inflation Adjusted Tax Rate Table for 1993 for Single Taxpayers

- (1) Revenue Procedure 92-102, Section 2, Table 3, which appears at page 21 of Internal Revenue Bulletin 1992-52, dated December 28, 1992
- (2) Section 1(c) and (f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1(c) and (f))

(b) Standard Deduction

- (1) Revenue Procedure 92-102, Section 3, which appears at page 21 of Internal Revenue Bulletin 1992-52, dated December 28, 1992
- (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 63(c))

(c) Personal Exemption

- (1) Revenue Procedure 92-102, Section 4, which appears at page 21 of Internal Revenue Bulletin 1992-52, dated December 28, 1992
- (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 151(d))

(d) Deduction Under Section 164(f)

- (1) Section 164(f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 164(f))

Issued in Austin, Texas, on February 26, 1993.

TRD-9319404

Jerry Benedict
Assistant Attorney General
Office of the Attorney General

Filed: February 23, 1993

◆ ◆ ◆
Comptroller of Public Accounts
Correction of Error

The Comptroller of Public Accounts submitted a notice of Texas Lottery Game Procedures Instant Game Number 09, which appeared in the February 16, 1993, *Texas Register* (18 TexReg 1038).

Due to an error by the *Texas Register* the list of Play Symbol values was printed under the wrong paragraph. It should have followed "2.0 Determination of Prize Winners."

The table under Number and Value of Instant Prizes should have appeared under paragraph 4.0. It was printed at the end of the entire notice.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Section 2.1 of rules adopted by the Lottery for this purpose, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "TEXAS CASH ROUNDUP" Instant Game is determined when the latex on the ticket is rubbed off to expose the eight Play Symbols on the front of the ticket. The holder of a ticket wins that like Play Symbol prize amount, if the same Play Symbol prize amount appears in three separate play spots on that ticket. No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the Instant Game. The Play Symbol amounts have the following instant values:

- \$1.00
- \$2.00, or
- \$3.00, or
- \$5.00, or
- \$20.00, or
- \$25.00, or
- \$30.00, or
- \$35.00, or
- \$300, or
- \$3,000.

4.0 Number and Value of Instant Prizes. There will be approximately 70,000,000 tickets in the Instant Game Number 09. The expected number and value of prizes in the game are as follows:

<u>PRIZE</u>	<u>APPROXIMATE NUMBER OF WINNERS IN THE GAME</u>	<u>CHANCES OF WINNING</u>
\$1	8,689,920	1:8.06
\$2	3,819,360	1:18.35
\$3	770,880	1:90.91
\$5	560,640	1:125.00
\$20	245,280	1:285.71
\$25	70,080	1:1,000.00
\$30	70,080	1:1,000.00
\$35	70,080	1:1,000.00
\$300	10,220	1:6,857.14
\$3,000	584	1:120,000.00

las and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

◆ ◆ ◆
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 formu-

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer ⁽³⁾/Agricultural/ Commercial ⁽⁴⁾ thru \$250,000</u>	<u>Commercial⁽⁴⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	03/01/93-03/07/93	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(1)	03/01/93-03/31/93	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	04/01/93-06/30/93	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11(3)	04/01/93-06/30/93	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d)(3)	04/01/93-06/30/93	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2)(2)	04/01/93-06/30/93	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11(3)	04/01/93-06/30/93	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	03/01/93-03/31/93	10.00%	10.00%

(1)For variable rate commercial transactions only. (2)Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. (3)Credit for personal, family or household use. (4)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on February 22, 1993.

TRD-9319459 Al Endsley
Consumer Credit Commissioner

Filed: February 24, 1993

◆ ◆ ◆
Court Reporters Certification Board
Certification of Court Reporters

Following the examination of applicants on January 22, 1993, the Court Reporters Certification Board certified to the Supreme Court that the following individuals are qualified in the method indicated to practice shorthand reporting pursuant to the Government Code, Chapter 52, Texas Civil Statutes.

Oral Stenography: Luetta Kellum Durham-Harlingen.

Machine Shorthand: Teresa Anderson-Abilene; DeAnna Lee Bair-Arlington; Beth A. Baker-Garland; Jill Ann Bartek-Houston; Tammy Lyn Broker-Colleyville; Leica Kaye Chandler-Carrollton; Candace S. Conner-Garland; Carol Ann Ernst-Bedford; Mary Ann Gaither-Mobile, Alabama; Corinna Nieto Garcia-Richwood; Sandra S. Givens-Austin; Susan Lynne Griggs-Dennis; Judith Sulak Hodges-Alvin; Cindy Harris Holovach-Kingwood; Jennifer Nina Horan-Arlington; Natalie Fay Hunsucker-San Antonio; Toni Lachelle Johnson-Ardmore, Oklahoma; Leslie Shawn Kelley-Houston; Janice Ruth Koch-Alcorn-Houston; Wendy Rae Kuhl-Albuquerque, New Mexico; Melinda Sue Lorenzoni-Dallas; Donna K. Martin-Jarrell; Danita L. Merrill-Houston; Shellie Diann Miller-Garland; Yvonne J. Nichols-Austin; Kimberly Nuby-Smithville; Jennifer Kay O'Neal-Abilene; Elizabeth L. Patterson-San Marcos; Ginger Gaydell Preston-Round Rock; Dana Joy Richardson-Santa Fe; Dana Griffin Riggs-Sour Lake; Cynthia T. Rodriguez; Saralyn Ruth Rollins-Burleson; Irene Jo Salazar-Austin; Sheila Stacy Sitton-Splendor; Kelly Jean Taylor-Houston; Robin Marie Thorson-Tucson, Arizona; Brenda Dominguez Valdez-Norfolk, Virginia; Lora Langston Zachek-Albuquerque, New Mexico.

Issued in Austin, Texas, on February 22, 1993.

TRD-9319424 Peg Liedtke
Executive Secretary
Court Reporters Certification Board

Filed: February 23, 1993

Texas Education Agency
Correction of Error

The Texas Education Agency submitted a notice of Invitation for Private Consultants to Officer Services, which appeared in the February 26, 1993, *Texas Register* (18 TexReg 1305).

The agency's submission gave the closing date for receiving offers of consultant services as March 12, 1993. The date should be March 17, 1993.

◆ ◆ ◆
Request for Applications

RFA #701-93-003. This request for application is filed in accordance with the individuals with Disabilities Education Act, As Amended, Subchapter IV: Training Personnel for the Education of Individuals with Disabilities (§1431, CFDA Number 84.029H).

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications (RFA #701-93-003) from school districts or cooperatives of school districts, regional education service centers, and institutions of higher education for the development of projects designed to improve the quality of services provided by professionals to meet the educational needs of students with disabilities.

Description. The RFA seeks applications in three areas: meeting the multicultural needs of bilingual students in special education; providing instructional modifications and educational technology to support students with learning disabilities in an inclusive environment; and establishing a collaborative graduate program in speech-language pathology resulting in licensure. The application must address either preservice or inservice needs of teachers, administrators, and other professional support personnel who provide services to students with disabilities and are designed to assist in personnel recruitment and retention. The applicant must demonstrate a coordination of services and efforts between education service centers, universities, and school districts to provide this training.

Dates of Projects. All projects will be implemented during the 1992-1993 and 1993-1994 school years. Applicants should plan for a starting date no earlier than May 1, 1993, and ending no later than March 31, 1994.

Project Amount. Funding will be provided for three projects. The projects in bilingual special education and in educational modifications and technology will receive

funding initially at a level not to exceed \$55,176 and \$65,176 respectively. The third project which pertains to licensure in speech-language pathology is a two-year project. Funding for the continuation of this project in the second year will be contingent upon satisfactory progress of the first-year objectives and activities and general budget authority by the State Board of Education and the commissioner of education. All projects are funded 100% from Part VI-D federal funds totaling \$246,646.

Selection Criteria. Applications will be approved based on the ability of each applicant to carry out all requirements contained in the request for application. Special consideration will be given to applicants that establish projects: in districts and/or on campuses with high numbers of students with disabilities; that are replicable; that adequately address the needs in the district/region; and that are diverse with respect to geographic location.

Requesting the Application. A copy of the complete request for application (RFA #701-93-003) may be obtained by writing or calling the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304. Please refer to the RFA number in your request.

Further Information. For clarifying information about this application, contact Dr. Rebecca Martinez, Division of Special Education, Texas Education Agency, (512) 463-9414.

Deadline for Receipt of Applications. The deadline for submitting an application is 5 p.m., Friday, April 16, 1993.

Issued in Austin, Texas, on February 22, 1993.

TRD-9319466 Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: February 24, 1993

◆ ◆ ◆
RFA #701-93-008. This request for application is filed in accordance with the Texas Education Code, §13.50, Centers for Professional Development and Technology.

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications from institutions of higher education (IHEs) with approved teacher education programs, or from a consortium of eligible IHEs in collaboration with local school districts, education service center (ESCs), and other entities or businesses. Those IHEs funded under Phase 2 are not eligible to apply for Phase 4. Private IHEs with approved teacher preparation programs are eligible to apply.

Description. The TEA is requesting applications (RFA #701-93-008) from IHEs with approved teacher education programs for the establishment of Centers for Professional Development and Technology whose primary purpose is to integrate technology and innovative teaching practices into the preservice and staff development training of teachers and administrators to meet the needs of the youth of Texas in an experientially-based program.

Dates of Projects. The professional development and technology project will be implemented during the 1993-1994 school year. Applicants should plan for a starting date of Monday, September 13, 1993, and an ending date of Wednesday, August 31, 1994.

Project Amount. Funding, contingent upon legislative appropriation, will be provided to IHEs with approved teacher education programs at a level not to exceed \$2 million dollars for each project awarded.

Selection Criteria. Applications will be approved based upon the ability of each applicant to carry out all the requirements contained in the application. All applications must be collaboratively developed with local school districts, regional education service centers, IHEs, and other entities or businesses. The Texas Education Agency reserves the right to select from the highest ranking applications which: emphasize systemic change which will have a substantial impact on teacher preparation and student learning; focus on the capacity of a center to incorporate various technologies and its applications for teachers and their students; have the potential to assess how the various technologies are intended to function in educational settings; and possess the capacity to produce leaders in the state who will strive for the improvement of the quality and the product of experiential-based teacher preparation programs in Texas.

Requesting the Application. A copy of the complete request for application (RFA #701-93-008) may be obtained by writing the Document Control Center, Room 6-108, TEA, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to RFA #701-93-008 in your request.

Further Information. For clarifying information about this request, contact Pat Linares, Division of Professional Educator Preparation, Texas Education Agency, (512) 463-9327.

Deadline for Receipt of Applications. The deadline for receipt of an application is 5 p.m., Thursday, June 3, 1993.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319467 Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: February 24, 1993

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Request for Exhibits

The Texas Education Agency (TEA), Office of Programs and Instruction, is requesting exhibits on commercially available materials and services pertaining to dropout prevention and recovery at the Sixth Annual Texas Conference on Students in At-Risk Situations on April 18-21, 1993, at the Austin Convention Center in Austin. The conference will be attended by more than 2,000 school district personnel, state agency personnel, Job Training Partnership Act service providers, and other state and local service providers. No more than 100 exhibits will be accepted due to space limitations. A fee of \$250 will be charged for two and one half days on Sunday (April 18, 3 p.m.-7 p. m.), Monday (April 19, 7 a.m.-5 p.m.), and Tuesday (April 20, 7 a.m.-5 p.m.). Minority businesses or businesses with minority representatives are encouraged to apply. All inquiries should be made to Darlene Yanez, Exhibits Chairperson, Division of Accelerated Instruction, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494, or (512) 463-9374.

Issued in Austin, Texas, on February 24, 1993.

TRD-9319465

Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: February 24, 1993

materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

◆ ◆ ◆
Texas Department of Health
Licensing Actions for Radioactive
Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Throughout Texas	Mobile-Lab, Inc.	L04650	Houston	0	01/29/93
Throughout Texas	Lead Check	L04657	San Antonio	0	02/04/93
Throughout Texas	Golder Construction Services, Inc.	L04645	Houston	0	02/10/93

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Amarillo	High Plains Baptist Hospital	L01259	Amarillo	40	02/09/93
Bishop	Robert L. Westra	L04008	Bishop	7	02/10/93
Brownsville	Valley Regional Medical Center	L02274	Brownsville	15	02/04/93
Carrollton	Theratronics International Limited	L02623	Carrollton	17	01/29/93
College Station	Brazos Valley Medical Center	L02559	College Station	15	02/01/93
Corpus Christi	Spohn Hospital	L02495	Corpus Christi	37	01/29/93
Dallas	Southern Methodist University	L02887	Dallas	9	01/28/93
Dallas	Humana Hospital Medical City Dallas	L01976	Dallas	74	01/28/93
Dallas	Presbyterian Hospital of Dallas	L01586	Dallas	57	01/29/93
Deer Park	Rollins Environmental Services (TX), Inc.	L02870	Deer Park	9	02/08/93
Denton	Denton Regional Medical Center	L02764	Denton	24	02/04/93
Fort Worth	Maxum Diagnostic Center	L03807	Fort Worth	12	01/28/93
Fort Worth	Nuclear Imaging Center	L04634	Fort Worth	1	01/29/93
Fort Worth	Harris Methodist Hospital	L01837	Fort Worth	48	02/02/93
Fort Worth	Jaime H. Castro, M.D.	L03751	Fort Worth	3	01/27/93
Gonzales	Southern Clay Products, Inc.	L04103	Gonzales	10	01/29/93
Houston	Du Pont Merck Pharmaceutical Co.	L02481	Houston	12	01/28/93
Houston	The Methodist Hospital	L00457	Houston	68	02/02/93
Houston	Memorial City Medical Center	L01168	Houston	36	02/09/93
Houston	Aprogenex, Inc.	L04358	Houston	1	02/11/93
Killeen	Metroplex Hospital	L03185	Killeen	10	01/29/93
Mauriceville	S & T International, Inc.	L03652	Mauriceville	20	02/04/93
Mesquite	Medical Center of Mesquite	L02428	Mesquite	18	01/29/93
Orange	Inland-Orange, Inc.	L01029	Orange	38	01/28/93
Pasadena	Ethyl Corporation	L04072	Pasadena	8	02/11/93

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Port Arthur	Fina Oil and Chemical Company	L03498	Port Arthur	9	01/28/93
San Angelo	Ethicon, Inc.	L00720	San Angelo	37	02/09/93
San Antonio	Southwest Foundation for Biomedical Research	L00468	San Antonio	39	01/28/93
San Antonio	Snip and Ference, P.A.	L00106	San Antonio	16	01/29/93
San Antonio	Women's and Children's Hospital	L03656	San Antonio	12	02/04/93
Sherman	Wilson N. Jones Memorial Hospital	L02384	Sherman	13	02/03/93
Sweeny	Phillips 66 Company	L00337	Sweeny	31	02/04/93
Temple	Scott and White Memorial Hospital	L00331	Temple	45	01/29/93
The Woodlands	Triplex Pharmaceutical Corporation	L04344	The Woodlands	5	02/11/93
Throughout Texas	Global X-Ray & Testing Corp.	L03663	Aransas Pass	27	01/28/93
Throughout Texas	Sperry-Sun Drilling Services, Inc.	L02603	Houston	35	01/28/93
Throughout Texas	Tubular Inspectors, Inc.	L03083	Houston	16	01/27/93
Throughout Texas	Lead Based Paint Testing Services, Inc.	L04586	Houston	2	01/28/93
Throughout Texas	P & S Perforators	L02396	Victoria	14	01/29/93
Throughout Texas	Longview Inspection, Inc.	L03720	Longview	43	02/04/93
Throughout Texas	Excel Wireline, Inc.	L03114	Corpus Christi	11	02/04/93
Throughout Texas	Longview Inspection, Inc.	L03720	Longview	44	02/09/93
Throughout Texas	Mobile-Lab, Inc.	L04650	Houston	1	02/08/93
Throughout Texas	Southwest Research Institute	L00775	San Antonio	45	02/08/93
Throughout Texas	Southwest Research Institute	L00775	San Antonio	44	02/04/93
Throughout Texas	Pro-Technics II, Inc.	L03835	Houston	16	02/05/93
Throughout Texas	Bo-Mac Contractors, Inc.	L04589	Beaumont	1	02/05/93
Throughout Texas	Aviles Engineering Corporation	L03016	Houston	9	02/05/93
Throughout Texas	Chief Inspection, Inc.	L03381	Huffman	16	02/04/93
Throughout Texas	Capitol Aggregates, Inc.	L04208	Austin	3	02/04/93
Throughout Texas	Corpus Christi Inspection & Engineering, Inc.	L04379	Corpus Christi	23	02/08/93
Throughout Texas	Wilson Inspection X-Ray Services, Inc.	L04469	Corpus Christi	13	02/05/93
Throughout Texas	E. I. du Pont de Nemours & Company	L00314	La Porte	58	02/11/93
Throughout Texas	Century Inspection, Inc.	L00062	Dallas	60	02/10/93
Throughout Texas	Ultrasonic Specialists, Inc.	L01774	Houston	67	02/10/93
Throughout Texas	Guardian NDT Services, Inc.	L04099	Corpus Christi	21	02/10/93
Throughout Texas	Schlumberger Technology Corporation	L01833	Houston	86	02/09/93
Victoria	Victoria Regional Medical Center	L03575	Victoria	9	02/04/93
Webster	Clear Lake Regional Medical Center	L01680	Webster	31	02/02/93

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Arlington	Medical Physics Consultants	L03319	Arlington	3	02/03/93
Clute	Bath Electrical Systems, Inc.	L02817	Clute	6	01/29/93
Corpus Christi	City of Corpus Christi	L02284	Corpus Christi	12	02/08/93
Houston	SmithKline Bio-Science Laboratories	L02787	Houston	7	01/28/93
Orange	Chevron Chemical Company	L00031	Orange	32	02/10/93
Pasadena	ZENECA, Inc.	L02216	Pasadena	17	02/05/93
Throughout Texas	MLA Labs Inc.	L01820	Austin	22	01/27/93
Throughout Texas	Union Wireline Services, Inc.	L04176	Odessa	3	01/27/93
Throughout Texas	Hooper Engineering Laboratories, Inc.	L02309	Dallas	8	01/29/93
Throughout Texas	Comal County Unit Road System	L03388	New Braunfels	6	01/28/93

TERMINATIONS OF LICENSES ISSUED:

Location -----	Name -----	License# -----	City -----	Amend- ment # -----	Date of Action -----
Dallas	Occidental Chemical Corporation	L04539	Dallas	1	02/04/93
Grand Saline	East Texas Medical Center Grand Saline	L03338	Grand Saline	6	02/03/93
Saratoga	Mobile Exploration & Producing U.S., Inc.	L04143	Saratoga	6	01/28/93
Throughout Texas	Mobile Mining and Minerals Company	L03399	Pasadena	10	02/03/93
Throughout Texas	J.E. Haynes Construction Company, Inc.	L04527	Decatur	1	02/10/93
Tyler	VESUVIUS USA	L03712	Tyler	3	02/10/93
Waco	Hillcrest Baptist Medical Center	L02326	Waco	10	02/04/93

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas, 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, The Exchange Building, 8407 Wall Street, Austin, Texas, from 8 a.m. to 5 p.m. Monday-Friday (except holidays).

Issued in Austin, Texas, on February 18, 1993.

TRD-9319361 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: February 22, 1993

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 of an application on January 22, 1993, to amend a Certificate of Convenience and Necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number. Application of West Texas Utilities to amend certificate of convenience and necessity for a proposed transmission line within Concho County, Docket Number 11738 before the Public Utility Commission of Texas.

The Application. In Docket Number 11738, West Texas Utilities Company requests approval of its application to construct approximately 0.46 miles 69-kV transmission line in Concho County.

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 Public Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319429 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: February 23, 1993

Notice of Intent To File Pursuant to PUC Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to PUC Substantive Rule 23.27 for approval of customer-specific CentraNet service for Texas Stadium, Irving.

Tariff Title and Number. Application of GTE Southwest Incorporated for Approval of CentraNet Service for Texas

Stadium Pursuant to PUC Substantive Rule 23.27(k). Tariff Control Number 11802.

The Application. GTE Southwest Incorporated is requesting approval of CentraNet Service for Texas Stadium. The geographic service market for this specific service is the Irving area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on February 22, 1993.

TRD-9319430 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: February 23, 1993

Notice of Proceeding For Certificate of Cogeneration Agreement

Notice is given to the public of the filing with the Public Utility Commission of Texas of a joint application on February 1, 1993, seeking certification of a cogeneration agreement pursuant to the Public Utility Regulatory Act, §41A. The following is a summary of the nature of the joint application.

Docket and Title and Number. Application of Clear Lake Cogeneration Limited Partnership and Houston Lighting & Power Company for Certification of Cogeneration Agreement, Docket Number 11747 before the Public Utility Commission of Texas.

The Joint Application. Certification is sought of a cogeneration agreement effective November 25, 1992, between Clear Lake Cogeneration Limited Partnership and Houston Lighting & Power Company which provides for the purchase by Houston Lighting & Power Company of approximately 50 MW of capacity and associated energy from a cogeneration facility owned and operated by Clear Lake Cogeneration Limited Partnership in Pasadena, Harris County. The Public Utility Commission of Texas is asked to make two determinations: that the payments provided for in the cogeneration agreement are equal to or less than Houston Lighting & Power Company's avoided costs as established by the Public Utility Commission of Texas and in effect at the time the cogeneration agreement was signed (Docket Number 7931); the cogeneration agreement provides Houston Lighting & Power Company the opportunity to acquire the cogeneration installation before the installation is offered to another purchaser in the event of its abandonment, or provides other sufficient assurances that Houston Lighting and Power Company will provide with a comparable supply of electricity, if Clear Lake Cogeneration Limited Partnership ceases to operate the installation.

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 (512) 458-0256; or (512) 458-0221 for teletypewriter for the deaf within 15 days of this notice.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319431 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: February 23, 1993

Texas State Personnel Administrators Association (TSPAA), Task Force on Employee Assistance Programs Employee Assistance Program Forum Announcement

The Texas State Personnel Administrators Association Task Force will hold an Employee Assistance Program Forum on Wednesday, March 24, 1993, at 9 a.m.-3 p.m. at the Department of Human Resources Board Meeting Room at 51st and Lamar Boulevard in Austin. All State Agency Human Resource professionals and all EAP provider representatives are welcome. The forum will feature a panel of EAP provider representatives who will present information about their programs and company philosophy, followed by an interactive discussion about such issues as scope of services, cost, uniform data collection, and other related topics. Reservations must be made by calling Debra Nesbitt at (512) 454-8631 by March 18th.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319455 Carol R. LeFevre
Member
Texas State Personnel Administrators
Association Task Force

Filed: February 24, 1993

Texas Department of Transportation Public Hearing Notice

Pursuant to the Texas Coastal Waterway Act of 1975, Texas Civil Statutes, Article 5415e-2, §6(g), the Texas Transportation Commission will conduct a public hearing to receive data, evidence, comments, views, and/or testimony concerning the acquisition of land or interest therein by donation, lease, purchase, or condemnation which is environmentally suitable for use as disposal sites for materials dredged from the main channel of the Gulf Intracoastal Waterway. The location of the individual proposed site to be considered by the commission is near Jones Lake in the vicinity of West Bay and is more specifically described as follows.

Galveston County—one site of 180 acres more or less located on the north side of the Highland Bayou Diversion Channel near the mouth of Basford Bayou, being more specifically identified by the United States Army Corps of Engineers as opposite their station number 37+000.

The public hearing will be held at 9:30 a.m., Wednesday, March 24, 1993, in the first floor hearing room, Dewitt C. Greer State Highway Building, 11th and Brazos, Austin.

Any interested person may appear and offer comments or testimony, either orally or in writing; however, questioning of commentors or witnesses will be reserved exclusively to the commission as may be necessary to ensure a complete record. While any person with pertinent comments or

testimony will be granted an opportunity to present them during the course of the hearing, the commission reserves the right to restrict testimony in terms of time or repetitive content.

Maps, environmental impact statements, and other displays concerning the proposed site will be exhibited at the public hearing. Prior to the public hearing, information about the proposed site will be on file and available for inspection at the Texas Department of Transportation, Division of Transportation Planning, Building Number 1, 40th and Jackson Streets, Austin with B. C. Gersch, P.E., (512) 467-3832.

The State's Relocation Assistance Program concerning the benefits and services for displacees, and information about the site acquisition process are available at the previously noted office.

For further information, please contact Alvin R. Luedecke, Jr., P.E., Director of Transportation Planning, P.O. Box 5051, Austin, Texas 78763-5051, (512) 465-7346; or Marcus L. Yancey, Jr., P.E., Associated Executive Director, Planning and Policy, (512) 463-8627.

Issued in Austin, Texas, on February 23, 1993.

TRD-9319412 Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: February 23, 1993

◆ ◆ ◆
**Texas Department of
Transportation/Division of Aviation**
Notices of Contract Award

Under the provisions of the Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6118).

The consultant will provide professional engineering services for the design and construction administration phases for the following TxDOT Project: 94-24-031, TSTC/Waco Airport.

The engineering firm for these services is: Austin Research Engineers, Inc., 2600 Dellana Lane, Austin, Texas 78746.

The total value of the contract is \$80,000 and the contract period starts on February 4, 1993, until the completion of the project.

Issued in Austin, Texas, on February 22, 1993.

TRD-9319413 Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: February 23, 1993

◆ ◆ ◆
Under the provisions of the Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the October 20, 1992, issue of the *Texas Register* (17 TexReg 7480).

The consultant will provide professional engineering services for the design and construction administration phases for the following TxDOT Project: 93-36-033, Gatesville City-County Airport.

The engineering firm for these services is: Aviation Alliance, Inc., 101 North Timberline-P.O. Box 799, Colleyville, Texas 76034.

The total value of the contract is \$19,000 and the contract period starts on February 1, 1993, until the completion of the project.

Issued in Austin, Texas, on February 22, 1993.

TRD-9319415 Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: February 23, 1993

◆ ◆ ◆
Under the provisions of the Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the October 20, 1992, issue of the *Texas Register* (17 TexReg 7481).

The consultant will provide professional engineering services for the design and construction administration phases for the following TxDOT Project: 93-37-043, Panhandle/Carson County.

The engineering firm for these services is: Merriman and Barber Consulting Engineers, Inc., 117 North Frost, Pampa, Texas 79065.

The total value of the contract is \$23,010 and the contract period starts on February 17, 1993, until the completion of the project.

Issued in Austin, Texas, on February 22, 1993.

TRD-9319414 Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: February 23, 1993

◆ ◆ ◆
Under the provisions of the Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 4, 1992, issue of the *Texas Register* (17 TexReg 6116).

The consultant will provide professional engineering services for the design and construction administration phases for the following TxDOT Project: 94-14-041, Littlefield Municipal Airport.

The engineering firm for these services is: Hibbs, Oller and Todd, Inc., 7806 Indiana Avenue, Suite 202, Lubbock, Texas 79423.

The total value of the contract is \$73,767 and the contract period starts on February 17, 1993, until the completion of the project.

Issued in Austin, Texas, on February 22, 1993.

TRD-9319416

Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: February 23, 1993

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Texas Water Commission

Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of February 15-19, 1993.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Ameranda Hess Corporation; a petroleum bulk storage terminal; the plant site is west of and adjacent to Poth Lane and north of Interstate Highway 37 in the Port of Corpus Christi, Nueces County; renewal; 02070.

City of Big Lake; the wastewater treatment facilities; are south of and adjacent to U.S. Highway 67; approximately 1/2 mile southeast of the intersection of U.S. Highway 67 and State Highway 137 in Reagan County; renewal; 10038-01.

Village of Briarcliff; wastewater treatment facilities; approximately 3.8 miles northeast of the intersection of State Highway 71 and FM Road 2322; approximately 0.4 mile northeast of the intersection of FM Road 2322 and Cat Hollow Club Drive in Travis County; new; 13639-01.

City of Corpus Christi; the Broadway Wastewater Treatment Facility; the plant site is near the intersection of North Staples and Broadway Street in Corpus Christi in Nueces County; amendment; 10401-05.

City Public Service of San Antonio; Leon Creek Steam Electric Station; at 7118 Quintana Road at Pitluk Avenue in the City of San Antonio, Bexar County; renewal; 01517.

Degussa Corporation; the Aransas Pass Carbon Black Plant; the plant site is adjacent to and on the west side of State Highway 35, approximately six miles south of the City of Rockport in Aransas County; renewal; 02077.

Fruitvale Independent School District; the wastewater treatment facilities; are approximately 2.1 miles east of State Highway 19 and 1,100 feet north of U. S. Highway 80 in Van Zandt County; renewal; 12369-01.

Harris County Fresh Water Supply District 1A; the wastewater treatment facilities; are approximately 1/4 mile north of the intersection of Wade Road Interstate and Highway 10, north of the City of Baytown in Harris County; renewal; 11195-01.

Harris County Municipal Utility District Number 185; wastewater treatment plant; the plant site is at 5300 Addicks-Satsuma Road, approximately 5.1 miles north of Interstate Highway 10 and approximately 1,600 feet east of State Highway 6 in Harris County; renewal; 12124-01.

City of Kerrville; the wastewater treatment facilities; are at 3650 Loop 534, at the end of Beach Street on the City Farm in the southeast of the City of Kerrville in Kerr County; renewal; 10576-01.

City of Lago Vista; the wastewater treatment facilities; are west of Country Club Drive and Lago Vista Golf Course on the east shore of Lake Travis in Lago Vista, approximately five miles west of Jonestown in Travis County; renewal; 1175201.

R. W. McDonnell Construction Company, Inc.; wastewater treatment facilities; approximately 0.8 mile east of the intersection of FM Road 753 and State Highway 31 in Henderson County; amendment; 13587-01.

Buford Mooney; the Country Squire Wastewater Treatment Facilities; are immediately west of State Highway 87, approximately 4.5 miles north of the intersection of State Highway 87 and Interstate Highway 10 and approximately 6.9 miles north of the business district of the City of Orange in Orange County; amendment; 11589-01.

City of Omaha; the wastewater treatment facilities; are south of United States Highway 67, between FM Road 144 and United States Highway 259, in the southeast portion of the City of Omaha in Morris County; renewal; 10239-01.

PCS Development Company, the wastewater treatment facilities; are approximately 1,000 feet north of Interstate Highway 10 and 1.7 miles east of the intersection of Interstate Highway 10 and FM Road 1132 in Orange County; renewal; 11916-01.

San Antonio Water System; the Dos Rios Wastewater Treatment Facilities; on Valley Road near the confluence of the San Antonio and Medina Rivers, approximately one mile west of Interstate 37 and 2 1/4 miles east of FM Road 1937 in Bexar County; renewal; 10137-33.

Southwestern Water Corporation; the Goforth Utility Company Wastewater Treatment Facilities; the plant site is approximately four miles southeast of the intersection of Interstate Highway 35 and FM Road 2001 and five miles north of the intersection of State Highway 21 and FM Road 2720 in Hays County; renewal; 13293-01.

Stockham Valves and Fittings, Inc.; the wastewater treatment facilities; are approximately 9.8 miles west of the City of Conroe central business district on the south side

of FM Road 2854, immediately west of Johnson Road in Montgomery County; renewal; 12456-01.

Texaco Pipeline, Inc.; a petroleum products tank station; on Old West Port Arthur Road at the intersection of State Highways 73 and 823 in the City of Port Arthur, Jefferson County; new; 03530.

United Refining Corporation; a crude oil refining plant; the plant site is approximately 150 yards south of Highway 87 and approximately 1.4 miles west of Highway 80 in the City of Nixon, Wilson County; renewal; 02497.

Weatherford-Petco, Inc.; the American Aero Wastewater Treatment Facilities; the plant site is at 11909 Spencer Road FM Road 529, between State Highway 6 and U.S. Highway 290 in Harris County; renewal; 12522-01.

City of West Columbia; the wastewater treatment facilities; are on Washington Street, approximately 1.7 miles east of the intersection of State Highways 35 and 36; and 2,000 feet west of the Brazos River in Brazoria County; renewal; 10312-01.

Woody Lesikar Aircraft Sales and Service, Incorporated; the Lakeside Airport Wastewater Treatment Facilities; the plant site is on Lakeside Airport property at 18000 Groschke Road in Harris County; renewal; 12516-01.

Issued in Austin, Texas, on February 22, 1993.

TRD-9319371

Gloria A. Vasquez
Chief Clerk
Texas Water Commission

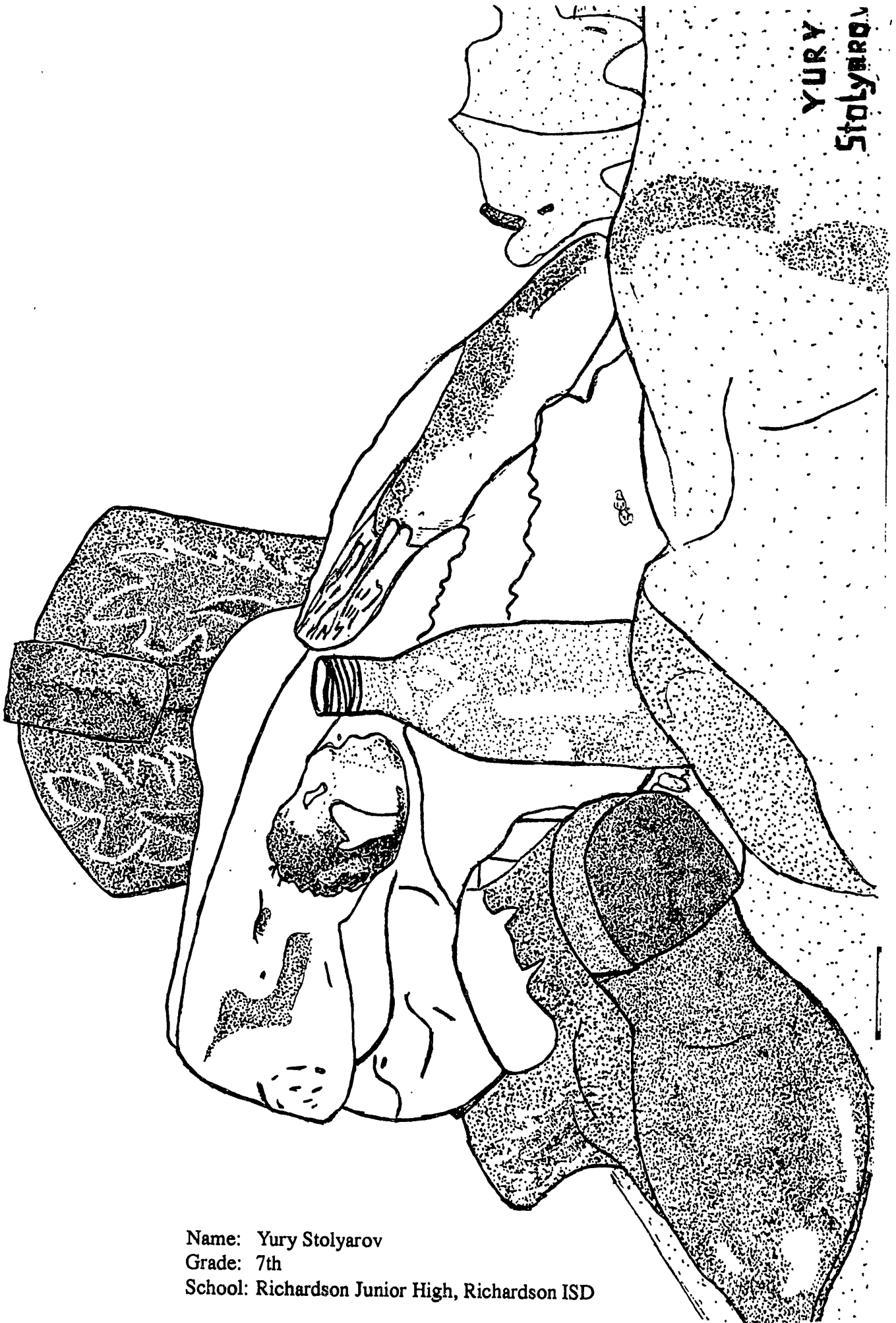
Filed: February 22, 1993





Name Mark Bayer
Grade 11
School Plano East Senior High, Plano ISD

YURY
Stolyarov



Name: Yury Stolyarov
Grade: 7th
School: Richardson Junior High, Richardson ISD

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	

Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues requested. Each copy of a back issue is \$5 including postage. You may use your Mastercard or Visa to purchase back issues or subscription services. To order by credit card, please call the *Texas Register* at (512) 463-5561. All purchases made by credit card will be subject to an additional 1.9% service charge. For more information, please write to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824 or call (512) 463-5561.

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