

# TEXAS REGISTER



## IN THIS ISSUE

Volume 21, Number 7 January 23, 1996

Page 557-634

### **Texas Ethics Commission**

#### **Advisory Opinion Requests**

AOR-333-334.....561

#### **Proposed Sections**

#### **Texas Lottery Commission**

#### **Bingo Regulation and Tax Rules**

16 TAC §402.541.....563

16 TAC §402.545.....564

16 TAC §402.546.....566

16 TAC §402.547.....567

16 TAC §402.548.....567

16 TAC §402.549.....567

16 TAC §402.554.....570

16 TAC §402.555.....571

16 TAC §402.556.....573

### **Comptroller of Public Accounts**

#### **Tax Administration**

34 TAC §3.830.....574

#### **Texas Department of Criminal Justice**

#### **General Provisions**

37 TAC §§151.4, 151.6, 151.51, 151.53, 151.71.....575

37 TAC §151.21.....578

#### **Reports and Information Gathering**

37 TAC §155.21.....579

#### **Community Justice Assistance Division Standards**

37 TAC §163.43.....579

Contents Continued Inside



The Texas Register is printed on recycled paper



a section of the Office of the Secretary of State P.O. Box 13824 Austin, TX 78711-3824 (800) 226-7199 (512) 463-5561 FAX (512) 463-5569

Secretary of State Antonio O. Garza, Jr.

Director Dan Procter

Assistant Director Dee Wright

Circulation/Marketing Tamara Joiner Jill S. Ledbetter

Texas Administrative Code Section Dana Blanton Madeline Chrisner Daneane Jarzombek

Documents Section Roberta Knight Jamie McCornack Patty Webster

Production Section Carla Carter Ann Franklin Mimi Sanchez

Receptionist Roy Felps

Texas Register, ISSN 0362-4781, is published semi-weekly 100 times a year except February 23, March 15, November 8, December 3, and December 31, 1996. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78701. Subscription costs: printed, one year \$95, six month \$75. Costs for diskette and online versions vary by number of users (see back cover for rates). Single copies of most issues for the current year are available at \$7 per copy in printed or electronic format.

Material in the Texas Register is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person without permission of the Texas Register Director, provided no such republication shall bear the legend Texas Register or "Official" without the written permission of the director.

The Texas Register is published under the Government Code, Title 10, Chapter 2002. Second class postage is paid at Austin, Texas.

POSTMASTER: Please send form 3579 changes to the Texas Register, P.O. Box 13824, Austin, TX 78711-3824.

How to Use the Texas Register

Information Available: The 11 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 Rules- sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

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

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

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

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 21 (1996) is cited as follows: 21 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 "21 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 21 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, publishes on an annual basis.

The TAC volumes are arranged into Titles (using

Arabic numerals) and Parts (using Roman numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency. The Official TAC also is available on WESTLAW, West's computerized legal research service, in the TX-ADC database.

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

The Titles of the TAC, and their respective Title numbers are:

- 1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the TAC scheme, each section is designated by a TAC number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the Texas Administrative Code; TAC stands for the Texas Administrative Code; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the Texas Administrative Code, please look at the Table of TAC Titles Affected. The table is published cumulatively in the blue-cover quarterly indexes to the Texas Register (January 26, April 9, July 12, and October 8, 1996). 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.dd

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
40 TAC §3.704.....950, 1820

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.

**Adopted Sections**

**Public Utility Commission of Texas**

Substantive Rules

16 TAC §23.11 ..... 581

**Texas Education Agency**

School Districts

19 TAC §61.1031 ..... 582

**Technology**

19 TAC §§65.1-65.4 ..... 584

Transportation

19 TAC §68.11 ..... 584

19 TAC §§68.12-68.14 ..... 584

19 TAC §§68.21-68.26 ..... 584

19 TAC §§68.32-68.34 ..... 584

19 TAC §§68.111-68.113 ..... 584

Vocational and Applied Technology Education

19 TAC §§78.1-78.3 ..... 585

19 TAC §§78.10-78.11 ..... 585

**Planning and Accreditation**

19 TAC §§97.1-97.9 ..... 585

19 TAC §§97.1-97.7 ..... 585

**Foundation School Program**

19 TAC §105.1 ..... 586

19 TAC §105.11 ..... 586

19 TAC §105.31 ..... 586

**Federal Funds to Support Public Education in Texas**

19 TAC §113.1 ..... 587

19 TAC §§113.21-113.22 ..... 587

19 TAC §§113.31-113.32 ..... 587

**Public School Finance-Personnel**

19 TAC §121.1 ..... 587

19 TAC §§121.11-121.14 ..... 587

19 TAC §§121.31-121.35 ..... 587

19 TAC §121.41 §121.42 ..... 588

**Student Attendance**

19 TAC §129.1 ..... 588

19 TAC §129.1, §129.22 ..... 588

19 TAC §129.21, §129.22 ..... 589

**Minimum Standards for Operation of Licensed Texas Driver Training Programs**

19 TAC §§176.1-176.21 ..... 590

19 TAC §§176.101-176.122 ..... 592

**Driver Training Schools**

19 TAC §§176.10-176.20, 176.22, 176.23, 176.25-176.34 ..... 597

**Board of Nurse Examiners**

Licensure and Practice

22 TAC §217.20 ..... 598

**Texas State Board of Podiatric Medical Examiners**

Examinations

22 TAC §§371.1-371.6 ..... 598

22 TAC §§371.7-371.15 ..... 598

**Comptroller of Public Accounts**

Tax Administration

34 TAC §3.193 ..... 599

34 TAC §3.287 ..... 599

34 TAC §3.354 ..... 601

**Texas Department of Criminal Justice**

Institutional Division

37 TAC §152.12 ..... 601

37 TAC §152.51 ..... 602

**Tables and Graphics Sections**

Tables and Graphics ..... 603

**Open Meetings Sections**

Texas Commission on Alcohol and Drug Abuse (TCADA) ..... 607

Texas Court Reporters Certification Board ..... 607

Texas Education Agency ..... 608

Advisory Commission on State Emergency Communications ..... 608

Texas Energy Coordination Council ..... 608

Texas Department of Health ..... 609

Texas Historical Commission ..... 609

Texas State Board of Medical Examiners ..... 611

Texas Mental Health and Mental Retardation Board ..... 613

Texas Council on Offender with Mental Impairments ..... 614

Texas National Guard Armory Board ..... 614

Texas Natural Resource Conservation Commission ..... 614

Board of Nurse Examiners ..... 614

Texas Parks and Wildlife Department .....	614
Polygraph Examiners Board .....	616
Texas Board of Professional Land Surveying.....	616
Texas Department of Protective and Regulatory Services.....	616
Texas State Board of Examiners of Psychologists.....	616
Public Utility Commission of Texas .....	617
Research and Oversight Council on Workers' Compensation .....	617
Texas Residential Property Insurance Market Assistance Program.....	617
Structural Pest Control Board .....	618
Texas Guaranteed Student Loan Corporation.....	618
Texans' War on Drugs.....	618
The Texas A&M University System, Board of Regents.....	619
Texas Department of Transportation .....	619
University of Houston .....	619
University of Texas Health Science Center at San Antonio.....	619
Regional Meetings .....	619

***In Additions Sections***

**Texas Education Agency**

Correction of Error.....	623
--------------------------	-----

**Texas Department of Health**

Correction of Error.....	623
--------------------------	-----

**Health and Human Services Commission**

Public Notice .....	627
---------------------	-----

**Texas Lottery Commission**

Notice of Public Hearing .....	627
Request for Proposals-Advertising Services .....	627

**Texas Natural Resource Conservation Commission**

Enforcement Orders.....	627
Notice of an Application for Conversion of a Water Supply Corporation to a Special Utility District.....	630
Notice of Application for Municipal Solid Waste Management Facilities for the Week Ending January 12, 1996.....	630
Notice of Applications for Waste Disposal Permits.....	631
Notice of Awards.....	632
Notice of Commission Action .....	632
Notice of Opportunity to Comment on Permitting Actions-for the Week Ending January 12, 1996 .....	632
Notice of Public Workgroup.....	633
Notice of Receipt of Application and Declaration of Administrative Completeness for Municipal solid Waste Management Facility for the Week Ending January 12, 1996 .....	633
Provisionally-Issued Temporary Permits to Appropriate State Water.....	634

# TEXAS ETHICS COMMISSION

---

The Texas Ethics Commission is authorized by Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; 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.

---

## Texas Ethics Commission

### Advisory Opinion Requests

**AOR-333** The Ethics Commission has been asked to consider whether a settlement paid to the plaintiffs in a lawsuit may be given to a political party to use for campaign purposes.

**AOR-334** The question raised in this draft is whether the contribution limits in the Judicial Campaign Fairness Act apply to a judicial officeholder's contributions to his child's judicial race.

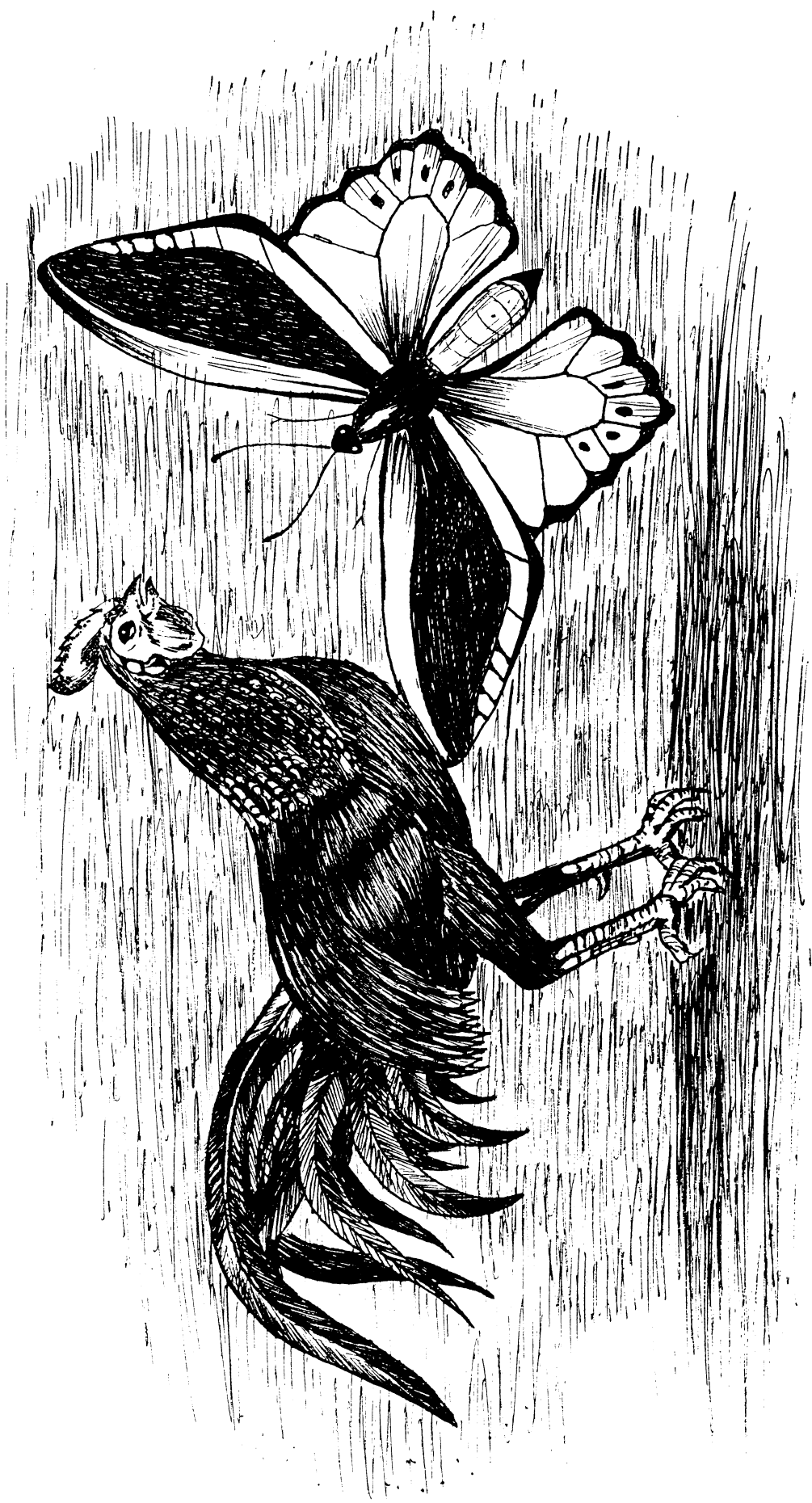
Issued in Austin, Texas, on January 5, 1996

TRD-9600539      Tom Harrison  
                         Executive Director  
                         Texas Ethics Commission

Filed: January 16, 1996

◆        ◆        ◆

Name: Agapito Montanez  
Grade: 10  
School: Harlandale High School, Harlandale ISD



# PROPOSED RULES

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 action is 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 action, 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 16. ECONOMIC REGULATION

### Part IX. Texas Lottery Commission

#### Chapter 402. Bingo Regulation and Tax

##### • 16 TAC §402.541

*(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 Lottery Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Lottery Commission proposes the repeal of §402.541, concerning notification to the Commission because this rule expired by operation of law on April 1, 1995 and the Commission is now proposing new §402.541, concerning definitions.

Richard Sookiasian, Budget Analyst, has determined that for each year of the first five years that the rule will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Sookiasian, also has determined that for each year of the first five years that the rule will be in effect, there will be no material economic cost to persons, including small businesses, who are required to comply with the rule, and that the public benefits expected as a result of adoption of the proposed rule will be clear guidance to persons who hold or seek licenses under the Bingo Enabling Act.

Comments on the proposed repeal may be submitted to Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The repeal is proposed under Texas Civil Statutes, Article 179d, §16(a) and (d), and under Texas Government Code, §467.102, which provide the Texas Lottery Commission with the authority to adopt rules for the enforcement and administration of the Bingo Enabling Act.

Texas Civil Statutes, Article 179d is affected by this action.

##### *§402.541. Notification to the Commission.*

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

Issued in Austin, Texas, on January 12, 1996.

TRD-9600527      Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

##### • 16 TAC §402.541

The Texas Lottery Commission proposes new §402.541, relating to definitions. The rule sets out concise definitions of words contained, but not otherwise explained, in the Bingo Enabling Act.

Richard Sookiasian, budget analyst, 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. Sookiasian 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 clear guidance to persons who hold or seek licenses under the Bingo Enabling Act. 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 Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The new section is proposed under authority of Texas Civil Statutes, Article 179d, §16(a) and (d), and under Texas Government Code, §467.102, which provides the Texas Lottery Commission with the authority to adopt rules for the enforcement and administration of the Bingo Enabling Act.

Texas Civil Statutes, Article 179d is affected by this new section.

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

**Bingo premises**—The area subject to the direct control of, and actual use by, a licensed authorized organization for the purpose of conducting a game of bingo.

**Break-open bingo ticket**—An instant bingo card commonly known as an instant bingo ticket, pull-tab bingo game or instant bingo card as defined by 16 TAC §402.554 (relating to instant bingo).

**Calendar week**—A period of seven consecutive days commencing with Sunday and ending with Saturday.

**Calendar year**—A period of 12 consecutive months commencing with January 1 and ending with December 31.

**Conductor**—A licensed authorized organization.

**Card-minding device**—Any mechanical, electronic, electromechanical or computerized device, and including related hardware and software, that is interfaced with or connected to equipment used to conduct a game of bingo and which allows a player to store, display, and mark a bingo card face five spaces wide by five spaces long, the center space free, and the other spaces containing pre-printed numbers between 1 and 75, inclusive.

**Commission**—The Texas Lottery Commission, the agency created by House Bill 54, 72nd Legislature, First called session, as amended by House Bill 1587 and House Bill 1013, 73rd Legislature, Regular Session.

**Director**—The director of the charitable bingo operations division, commonly known as the bingo division, of the Texas Lottery Commission.

**Executive Director**—The Executive Director of the Texas Lottery Commission.

**Instant bingo ticket**—An instant bingo card commonly known as a break-open bingo ticket, a pull-tab bingo game or an instant bingo card as defined by 16 TAC §402.554 (relating to instant bingo).

**Instant bingo card**—An instant bingo ticket, pull-tab bingo game, break-open bingo ticket or instant bingo card as defined by 16 TAC §402.554 (relating to instant bingo).

**Location**—The area subject to the direct control of, and actual use by, a licensed authorized organization for the purpose of conducting a game of bingo.

**Operator**—A natural person designated pursuant to authority of the Bingo enabling Act, §12(a)(7), Texas Civil Statutes, Article 179d.

**Place**—The area subject to the direct control of, and actual use by, a licensed authorized organization for the purpose of conducting a game of bingo.

**Primary business office**—The physical location at which all records relating to the primary purpose(s) of a licensed authorized organization are maintained in the ordinary course of business.

**Pull-tab bingo game**—An instant bingo card commonly known as a break-open bingo ticket, an instant bingo ticket or an instant bingo card as defined by 16 TAC §402.554 (relating to instant bingo).

**24-hour period**—A period of 24 consecutive hours commencing at 12:00 midnight.

**Working day**—Other than a Saturday, Sunday or holiday authorized by law, a period of nine consecutive hours commencing at 8:00 a.m. and ending at 5:00 p.m.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt. Issued in Austin, Texas, on January 11, 1996.

TRD-9600402  
Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

◆ ◆ ◆  
• **16 TAC §402.545**

The Texas Lottery Commission proposes an amendment to §402.545, relating to licenses, fees and bonds for conduct of bingo occasions and for commercial lessor. The proposed amendment clarifies statutory requirements for bingo conductors and commercial lessors.

Richard Sookiasian, budget analyst, 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. Sookiasian 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 clear guidance to persons who hold or seek licenses under the Bingo Enabling Act. 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 Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The amendment is proposed under Texas Civil Statutes, Article 179d, §16(a) and (d), which authorize the Texas Lottery Commission to adopt rules for the enforcement and administration of the Bingo Enabling Act and Texas Government Code, §467.102, which authorizes the Texas Lottery Commission to adopt rules for the enforcement and administration of Texas Government Code, Chapter 467 and the laws under the Commission's jurisdiction.

Texas Civil Statutes, Article 179d is affected by this amendment.

*§402.545. Licenses, Fees and Bonds for Conduct of Bingo Occasions and for Commercial Lessor.*

(a) Annual license to conduct bingo occasions [games].

(1) Application. An organization that intends [which desires] to conduct bingo on a regular basis shall [must] apply to the commission [Texas Lottery Commission (commission)] for an annual license to conduct bingo occasions. The application must be made on a form prescribed [prepared] by the commission and [must contain] all the information required must be correct and complete [by that form].

(2) Fee. An application for an annual [a] license to conduct bingo occasions must be accompanied by a license fee in accordance with the Bingo Enabling Act, Texas Revised Civil Statutes, Article 179d, §13.

(3) License.

(A) An annual [A] license to conduct bingo occasions expires one [calendar] year from the date of issuance.

(B) A conductor [An organization] may hold only one annual license to conduct bingo occasions, and that license is valid for only that specific [the one] location[, as that term is defined in §402.544 of this title (relating to Definitions).] indicated on the face of its license. A group may not conduct bingo more than three times per calendar week and not more than four hours per 24-hour period.

(C) A conductor [An organization] holding an annual license [to conduct bingo] may receive a temporary license under subsection (c) of this section.

(D) An organization must conduct regular bingo to be eligible to sell pull tabs, instant tickets or break open bingo tickets [See exceptions to license requirements in §402.546 of this title (relating to Exemptions from License Requirements)].

(4) Bond or other security. Each application for an annual license to conduct bingo occasions must be accompanied by a bond or other security equal to the applicant's estimated quarterly tax liability. If the amount is estimated to be less than \$1,900, no bond or other security will be required, unless the commission determines a bond or other security is necessary based on the applicant's history at recordkeeping, reporting, and payment of tax. No new bond will be required upon renewal if the licensee would be eligible to have an existing bond released under subparagraph (D) of this paragraph. If a bond or other form of security is required, no license will be issued until such bond or other security has been posted.

(A)-(C) (No change.)

(D) Release. If the licensee ceases to conduct bingo occasions [games] and relinquishes its license or if the license is revoked by the commission for any reason, the commission will release any bond or security on its determination that no amounts of tax, penalty, or interest remain due and payable under the Act. If the licensee has filed all required returns, has no outstanding amounts of tax, penalty, or interest due and payable under the Act, and has completed seven consecutive quarters without a deficiency determination becoming final, the bond or security will be released at the time the licensee next renews its license.

(E)-(F) (No change.)

(5) Application to conduct bingo occasions at premises of a commercial lessor. An organization applying to conduct bingo occasions at premises other than those used by it for its general



activities shall submit with its application a certified copy of the minutes of the governing board of the local unit of the applicant voting to conduct bingo occasions at a location other than the premises used by the organization for its general activities. If the articles of incorporation, by laws, or other organizing instrument of the applicant requires approval by one or more of the state, national, or other higher governing bodies of the organization for the local unit to conduct any of its activities at a separate location, then the applicant shall also submit certified copies of the required approval by those governing bodies.

(b) Commercial license to lease bingo premises.

(1) Application. Any commercial lessor who intends [desires] to lease premises[, as the terms is defined in §402.544 of this title (relating to Definitions), in a legalized area in Texas] to a licensed authorized organization for the purpose of conducting bingo occasions must apply to the commission for a commercial lessor's license. The application must be made on a form prescribed [prepared] by the commission and [must contain] all information required must be correct and complete [by that form].

(2) (No change.)

(3) License.

(A) A license to lease bingo premises expires one [calendar] year from the date of issuance.

(B) Each location to be leased as a bingo premises[, as that term is defined in §402.544 of this title (relating to Definitions),] must be separately licensed pursuant to separate applications [A commercial lessor, however, may lease the same location under the same license to more than one licensed organization. A commercial lessor who wants to lease more than one location must file a separate application and pay a separate fee for each location].

(C) Except as required by the Bingo Enabling Act, Texas Civil Statutes, Article 179d, §13(n)(1) and (2), the commission may not issue more than one license to lease bingo premises for any one location[, as that term is defined in §402.544 of this title (relating to Definitions)].

(D) (No change.)

(E) In order to determine eligibility for purposes of the Bingo Enabling Act, Texas Civil Statutes, Article 179d, §13(q), the commission shall conduct a complete background investigation of each employee, owner, officer and director of, each person active in, and each person with a substantial interest in, any corporation that holds a license under the provisions of the Bingo Enabling Act, Texas Civil Statutes, Article 179d, §13(j).

(4) Bond or other security. Each application for an annual license to lease bingo premises must be accompanied by a bond or other security equal to the applicant's estimated quarterly tax liability. If the quarterly tax liability is estimated to be less than \$100, no bond or other security may be required unless the director determines that a bond or other security is necessary to ensure payment. No new bond will be required upon renewal if the licensee would be eligible to have an existing bond released under subparagraph (D) of this paragraph. If a bond or other form of security is required, no license will be issued until such bond or other security has been posted.

(A)-(E) (No change.)

(c) Temporary license to conduct bingo occasions [games].

(1) Any authorized organization not holding an annual license to conduct bingo that intends [which desires] to conduct bingo occasions [on a limited basis] must apply to the commission for a temporary license. The application must contain the same information and be made on the same form used by applicants for an annual license. The complete application with required attachments should be filed with the commission at least 30 days in advance of the first bingo occasion [game] that will be played under the temporary license. An organization holding an annual license to conduct bingo shall apply no less than seven working days in advance of the proposed occasion [game], provided that the only proposed change is the date, time and/or location.

(2) Fee. An application for a temporary license to conduct bingo occasions must be accompanied by a \$25 license fee. A conductor intending to obtain a temporary license shall pay the \$25 license fee from the conductor's bingo bank account.

(3) License. A temporary license is valid for no more than four consecutive hours during any 24-hour period. [only one day. No more than six temporary licenses may be issued in a calendar year to the same organization.]

[(d) Temporary authorization. After preliminary approval of the applicant for a license, the commission may issue a temporary authorization for an initial period not to exceed 60 days. The commission may extend the period of a temporary authorization for good cause. If the application is approved during the period of the temporary authorization, the temporary authorization will be replaced by the issuance of an annual license which will expire one year from the date of issuance of the temporary authorization.]

(d)[(e)] License to operate. Each applicant for a license to operate bingo occasions [games] must demonstrate that it is organized and operated primarily for purposes other than the operation of bingo activities.

(e)[(f)] Payment of fees. The proper license fee must accompany each application. License fees will not be prorated. The fee and any cash bond must be in the form of cash, cashier's check, money order, or check made payable to the state treasurer. After the filing of the application, fee, and any required bond, the commission will promptly investigate the qualifications of the applicant and either:

(1) notify the applicant in writing if additional information is required before a license can be granted;

(2) notify the applicant in writing why a license is being denied and refund any license fee payment and bond; or

(3) issue a temporary authorization or license authorizing the applicant to conduct bingo at the times and place applied for or to lease premises for the conduct of bingo.

[(g) Notification of election results. No license will be issued until the commission receives from the appropriate governing body written notification of the date and results of a legalization election along with a map of the boundaries in which games may be held.

[(h) Copies of the application. No license or amended license will be issued before a copy of each original application or application for amendment is sent by the applicant to the appropriate governing body of the area in which the games are to be held.

[(i) Copies of licenses. Upon receipt of any license or amended license issued by the commission, the licensee must immediately send a copy to:

[(1) the appropriate governing body of the area in which the games are to be held; and

[(2) the police department of the city or town in which bingo is to be conducted, if it is to be conducted within a city or

town, or to the sheriff of the county in which bingo is to be conducted, if it is to be conducted outside a city or town.

[(j)] Transfer of license. Licenses and renewals issued by the commission may not be transferred or assigned.]

(f)[(k)] Amendments.

(1) Applications. A license may be amended if the subject matter of the amendment properly and lawfully could have been included in the original license. An application for an amendment must be filed on a form approved by the commission and will be processed in the same manner as an original application. **No amendment to the location, the days or the times of a bingo conductor's license will be effective until the existing license has been surrendered to the commission and an amended license has been issued by the commission** [A licensed organization may not change the location, days, or times of its bingo games until it has surrendered its original license and received an amended license from the commission]. An application for an amendment must be accompanied by a \$25 amendment fee.

(2) Effective period. An amended license is only effective for the remainder of the period under the original license.

(g)[(l)] Notification of changes. Each licensee has a continuing responsibility to promptly notify the commission in writing of any changes to information in a filed application, when information filed with the commission becomes inaccurate in any way, or when additions or deletions are necessary to reflect changes in the circumstances of the licensee. Examples of such changes include the name of the organizational officers, the amount of rent charged for leased premises, the name of a member responsible for the conduct of games, or the name of an individual connected with a commercial lessor that would affect its eligibility to hold a license and, in the case of lessors, the name of a new authorized organization that intends to lease premises from it for the purpose of conducting bingo.

(h)[(m)] Representation; personal receipt of documents. For purposes of this subsection, an individual shall be recognized by the commission as an applicant's or licensee's authorized representative only if the commission has on file written authorization in the form of a resolution of the applicant's or licensee's governing body, that such individual has the authority to act on behalf of the applicant or licensee, and the extent of such authority. Written authorization furnished by an applicant or licensee under this section shall apply only to the specific individuals listed in the authorization. Agents or employees of an authorized representative are not authorized representatives of the applicant or licensee unless specifically named in the written authorization on file with the commission. Only the applicant, licensee, or those individuals specifically named in the applicant's or licensee's resolution as authorized representatives shall be recognized by the commission concerning any matter relating to the licensing process or any corrective measures to be taken after an audit or field investigation. Only the applicant or its authorized representative may personally receive from the commission documents relating to an applicant's license.

(i) Voluntary cancellation of license. A licensee shall be able to surrender its license for cancellation. The cancellation of the license shall be final and effective upon receipt by the director of a certified copy of the resolution, or other authoritative statement of the licensee, requesting cancellation of the license. Cancellation of the license does not relieve the licensee from filing the reports, returns and remittances required by law. The license shall be surrendered to the agency at the time of request.

(j) Voluntary suspension of license. A licensee shall be able to voluntarily suspend its license. The suspension shall be effective upon receipt by the director of a certified copy of the resolution, or other authoritative statement of the licensee, re-

questing suspension of the license. A license that has been voluntarily suspended may be reactivated during the term of the original license. Suspension of the license does not relieve the licensee from filing the reports, returns and remittances required by law. Suspension of the license does not relieve the licensee from the requirement of filing a timely and sufficient application for renewal of the license.

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

Issued in Austin, Texas, on January 11, 1996.

TRD-9600403 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

◆ ◆ ◆  
• 16 TAC §402.546

*(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 Lottery Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Lottery Commission proposes the repeal of §402.546, concerning exemptions from licensing requirements because this rule expired by operation of law on April 1, 1995 and the Commission is proposing new rule 402.546 concerning temporary authorization.

Richard Sookiasian, Budget Analyst, has determined that for each year of the first five years that the rule will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Sookiasian, also has determined that for each year of the first five years that the rule will be in effect, there will be no material economic cost to persons, including small businesses, who are required to comply with the rule, and that the public benefits expected as a result of adoption of the proposed rule will be clear guidance to persons who hold or seek temporary authorization to conduct bingo occasions.

Comments on the proposed repeal may be submitted to Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The repeal is proposed under Texas Civil Statutes, Article 179d, §16(a) and (d), and under Texas Government Code, §467.102, which provide the Texas Lottery Commission with the authority to adopt rules for the enforcement and administration of the Bingo Enabling Act.

Texas Civil Statutes, Article 179d is affected by this action.

§402.546. Exemptions from Licensing Requirements.

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

Issued in Austin, Texas, on January 12, 1996.

TRD-9600528 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

◆ ◆ ◆  
• 16 TAC §402.547

*(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 Lottery Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Lottery Commission proposes the repeal of §402.547, concerning books and records-bingo licenses because this rule expired

by operation of law on April 1, 1995 and the Commission is proposing new rule 402.547 concerning prohibited bingo occasion.

Richard Sookiasian, Budget Analyst, has determined that, for each year of the first five years that the rule will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Sookiasian also has determined that, for each year of the first five years that the rule will be in effect, there will be no material economic cost to persons, including small businesses, who are required to comply with the rule, and that the public benefits expected as a result of adoption of the proposed rule will be clear guidance to persons who hold or seek a license to conduct bingo occasions.

Comments on the proposed repeal may be submitted to Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The repeal is proposed under Texas Civil Statutes, Article 179d, §16(a) and (d), and under Texas Government Code, §467.102, which provide the Texas Lottery Commission with the authority to adopt rules for the enforcement and administration of the Bingo Enabling Act.

Texas Civil Statutes, Article 179d is affected by this action.

#### §402.547. Books and Records-Bingo Licensees.

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

Issued in Austin, Texas, on January 12, 1996.

TRD-9600529 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

#### • 16 TAC §402.548

*(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 Lottery Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

Texas Lottery Commission proposes the §402.548, concerning general restrictions on the conduct of bingo because this rule expired by operation of law on April 1, 1995 and the Commission is proposing new rule §402.548 concerning general restrictions on the conduct of bingo.

Richard Sookiasian, Budget Analyst, has determined that for each year of the first five years that the rule will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Sookiasian also has determined that for each year of the first five years that the rule will be in effect, there will be no material economic cost to persons, including small businesses, who are required to comply with the rule, and that the public benefits expected as a result of adoption of the proposed rule will be clear guidance to persons who hold or seek a license to conduct bingo occasions.

Comments on the proposed repeal may be submitted to Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The repeal is proposed under Texas Civil Statutes, Article 179d, §16(a) and (d), and under Texas Government Code, §467.102, which provide the Texas Lottery Commission with the authority to adopt rules for the enforcement and administration of the Bingo Enabling Act.

Texas Civil Statutes, Article 179d is affected by this action.

#### §402.548. General Restrictions on the Conduct of Bingo.

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

Issued in Austin, Texas, on January 12, 1996.

TRD-9600530 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

#### • 16 TAC §402.549

*(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 Lottery Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Lottery Commission proposes the repeal §402.549, concerning allowable expenditures of receipt from bingo because this rule expired by operation of law on April 1, 1995 and the Commission is proposing new rule 402.549 concerning exemption from licensing requirements.

Richard Sookiasian, Budget Analyst, has determined that for each year of the first five years that the rule will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Sookiasian also has determined that for each year of the first five years that the rule will be in effect, there will be no material economic cost to persons, including small businesses, who are required to comply with the rule, and that the public benefits expected as a result of adoption of the proposed rule will be clear guidance to persons who seek exemption from the licensing requirements of the Bingo Enabling Act.

Comments on the proposed repeal may be submitted to Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The repeal is proposed under authority of Texas Civil Statutes, Article 179d, §16(a) and (d), and under Texas Government Code, §467.102, which provide the Texas Lottery Commission with the authority to adopt rules for the enforcement and administration of the Bingo Enabling Act.

Texas Civil Statutes, Article 179d is affected by this action.

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

Issued in Austin, Texas, on January 12, 1996.

TRD-9600531 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

#### • 16 TAC §402.546

The Texas Lottery Commission proposes new §402.546, relating to temporary authorization. The rule establishes the requirements for issuance of temporary authorization under the Bingo Enabling Act, §13.

Richard Sookiasian, budget analyst, 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. Sookiasian 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 clear guidance to persons who hold or seek temporary authorization to conduct bingo occasions. 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 Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The new section is proposed under authority of Texas Civil Statutes, Article 179d, §16(a) and (d), and under Texas Government Code,

§467.102, which provide the Texas Lottery Commission with the authority to adopt rules for the enforcement and administration of the Bingo Enabling Act.

Texas Civil Statutes, Article 179d is affected by this new section.

*§402.546. Temporary Authorization.*

(a) A temporary authorization shall be issued only to a person who is not licensed by the commission but who has filed an original application.

(b) A temporary authorization to conduct a bingo-related activity may only be issued to a person who will conduct a bingo-related activity at the same location for which the person has a pending original application to conduct a bingo-related activity. A temporary authorization shall not be issued to a person if the proposed location to conduct bingo is not authorized under the provisions of the Bingo Enabling Act, Texas Civil Statutes, Article 179d.

(c) A temporary authorization shall be issued for a stated period of time not to exceed 60 days. A temporary authorization may be extended upon written request by the person to whom the temporary authorization was issued. Such request must be filed with the commission at least seven working days prior to the time the temporary authorization expires. Extensions shall be for a period of time not to exceed 60 days. No more than two extensions may be issued.

(d) A request for an extension shall include:

(1) the complete name of the organization requesting the extension;

(2) the Texas taxpayer identification number of the organization requesting the extension;

(3) a complete explanation of the basis for the request; and

(4) the specific reason(s) supporting the need for an extension.

(e) An organization who is not in compliance with the Bingo Enabling Act, Texas Civil Statutes, Article 179d, and/or the Bingo rules and regulations will not be granted an extension unless the organization becomes compliant during the period of the original temporary authorization.

(f) An organization conducting bingo under a temporary authorization that desires to obtain a temporary license shall be subject to the same requirements in §402.545(c)(1) of this title relating to an organization not holding an annual license to conduct bingo.

(g) A temporary authorization is not a license.

(h) A temporary authorization may not be amended.

(i) An annual license that has been issued to an applicant shall expire one year from the date of the first issuance of any temporary authorization under this section.

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

Issued in Austin, Texas, on January 11, 1996.

TRD-9600404 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

• 16 TAC §402.547

The Texas Lottery Commission proposes new §402.547, relating to prohibited bingo occasion. The rule requires bingo games to be actively supervised by the conductor.

Richard Sookiasian, budget analyst, 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. Sookiasian 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 clear guidance to persons who hold or seek a license to conduct bingo occasions. 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 Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The new section is proposed under authority of Texas Civil Statutes, Article 179d, §16(a) and (d), and under Texas Government Code, §467.102, which provides the Texas Lottery Commission with the authority to adopt rules for the enforcement and administration of the Bingo Enabling Act.

Texas Civil Statutes, Article 179d is affected by this new section.

*§402.547. Prohibited Bingo Occasion.* No licensee shall commence or continue a bingo occasion unless an active member that has been designated pursuant to the Bingo Enabling Act, Texas Civil Statutes, Article 179d, §12(a)(7) is physically present at the bingo premises and is actively supervising and directing the bingo occasion. Any occasion, and any game of bingo, conducted in violation of this provision is a violation of the Bingo Enabling Act, Texas Civil Statutes, Article 179d.

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

Issued in Austin, Texas, on January 11, 1996.

TRD-9600405 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

◆ ◆ ◆  
• 16 TAC §402.548

The Texas Lottery Commission proposes new §402.548, relating to general restrictions on the conduct of bingo. The rule sets out specific requirements governing the conduct of bingo occasions.

Richard Sookiasian, budget analyst, 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. Sookiasian 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 clear guidance to persons who hold or seek a license to conduct bingo occasions. 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 Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The new section is proposed under authority of Texas Civil Statutes, Article 179d, §16(a) and (d), and under Texas Government Code, §467.102, which provides the Texas Lottery Commission with the authority to adopt rules for the enforcement and administration of the Bingo Enabling Act.

Texas Civil Statutes, Article 179d is affected by this new section.

§402.548. *General Restrictions on the Conduct of Bingo.*

(a) Advertising. Any advertising or promotion of a bingo occasion shall clearly identify the conductor, by name as shown exactly as it is shown on the license.

(b) Inspection of equipment, tampering prohibited. All bingo equipment is subject to inspection at any time by any representative of the commission. No licensee may tamper with or modify any bingo equipment in any manner which would affect the randomness of numbers chosen or which changes the numbers or symbols appearing on the face of a bingo card. A licensed authorized organization has a continuing responsibility to ensure that all bingo equipment used by it is in proper working condition.

(c) Location of bingo occasion. A bingo occasion may be conducted only on premises which are:

- (1) owned by the conductor;
- (2) owned by a governmental agency;
- (3) leased, or used only by the holder of a temporary license; or
- (4) owned or leased by a licensed commercial lessor.

(d) Merchandise prizes. Any merchandise awarded as a prize in a bingo occasion shall be valued at its current retail price. If a merchandise prize is donated to a licensed organization, it may not be reported as an expenditure for any purpose.

(e) Notice of law and regulation. Each conductor shall obtain, maintain, keep current and make available for review to any person upon request a copy of the Bingo Enabling Act and the rules of the commission.

(f) Notification of name of operator. Each conductor shall conspicuously display during all bingo occasions a sign indicating the name of the operator in charge of the occasion. The letters on the sign shall be no less than one inch tall. The sign shall inform the players at that location that they should direct any questions or complaints regarding the conduct of the bingo occasion to the operator listed on the sign. The sign should further state that if the player is not satisfied with the response given by the operator that the player has the right to contact the commission and file a formal complaint.

(g) Reservation of bingo cards. Except where otherwise expressly permitted by this title, no conductor may reserve, or allow to be reserved, any bingo card or cards for use by a bingo player.

(h) Workers and employees prohibited from playing. No bingo occasion shall be continued if, during such occasion, any worker or employee who is conducting or assisting in the conduct of the occasion participates as a player, either directly or by surrogate.

(i) Verification.

(1) Verification of winning cards. The numbers appearing on the winning card must be verified at the time the winner is determined and prior to prize(s) being awarded in order to insure that the numbers on the card in fact have been drawn from the receptacle. This verification shall be done either in the immediate presence of one or more players at a table or location other than the winners, or displayed on a TV monitor visible by all of the players, or by an electronic verifier system visible by all the players. Each winning disposable paper card or an electronic representation of the card shall also be posted on the licensed premises where it may be viewed in detail by the players until at least 30 minutes after the completion of the last bingo game of that organization's occasion.

(2) Verification of numbers drawn. Any player may request a verification of the numbers drawn at the time a winner is determined and a verification of the balls remaining in the receptacle

and not drawn. Verification shall take place in the immediate presence of the operator, one or more players other than the winner, and player requesting the verification.

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

Issued in Austin, Texas, on January 11, 1996.

TRD-9600406 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

◆ ◆ ◆  
• 16 TAC §402.549

The Texas Lottery Commission proposes new §402.549, relating to exemptions from licensing requirements. The rule contains express language governing the exemptions from the licensing requirements as set out in 39 of the Bingo Enabling Act.

Richard Sookiasian, Budget Analyst, has determined that for each year of the first five years that the rule will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Richard Sookiasian, Budget Analyst, has also determined that for each year of the first five years that the rule will be in effect, there will be no material economic cost to persons, including small businesses, who are required to comply with the rule, and that the public benefits expected as a result of adoption of the proposed rule will be clear guidance to persons who seek exemption from the licensing requirements of the Bingo Enabling Act.

Comments on the proposed rule may be submitted to Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The new section is proposed under authority of Texas Civil Statutes, Article 179d, §16(a) and (d), and under Texas Government Code, §467.102, which provides the Texas Lottery Commission with the authority to adopt rules for the enforcement and administration of the Bingo Enabling Act.

Texas Civil Statutes, Article 179d is affected by this new section.

§402.549. *Exemptions from Licensing Requirements.*

(a) Any group or organization that intends to conduct a game under Texas Civil Statutes, Article 179d, §39, shall submit in writing to the Texas Lottery Commission (commission), the facts that support its exemption from the licensing requirements. If the organization or group is exempt, the commission will issue a letter of exemption which must be available on the premises at all times during the conduct of bingo. The group or organization must notify the commission within ten working days if there is any change in their status which may affect their eligibility for an exemption.

(b) An exemption issued by the commission is valid for two years from the date of issuance. It is the responsibility of the group or organization holding the exemption to reapply in a timely manner.

(c) Types of allowable exemptions.

(1) An organization conducting on behalf of persons 60 years of age or over shall submit a written request for an exemption describing the organization itself and who will be eligible to participate in the bingo games conducted by the organization, as per the eligibility requirements of Texas Civil Statutes, Article 179, §39.

(2) A Senior Citizens' Association shall submit a written request for an exemption describing the association and how it is organized. Additionally, the request shall include who will be eligible to participate in the bingo games conducted by the association.

(3) A community center having any program operated or funded by a governmental entity shall submit a written request for an exemption. The request shall include the type of program funded by the governmental entity and who will be eligible to participate in the bingo games conducted by the community center.

(4) A nursing home or hospital shall submit a written request for an exemption. The request shall include a copy of the certificate from the Texas Health Department and a statement regarding who will be eligible to participate in the bingo games conducted by the nursing home or hospital.

(5) A retirement home shall submit a written request for an exemption. The request shall include a brochure or other documentation describing the retirement home and a statement regarding who will be eligible to participate in the bingo games conducted by the retirement home.

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

Issued in Austin, Texas, on January 11, 1996.

TRD-9600407 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

◆ ◆ ◆  
• 16 TAC §402.554

The Texas Lottery Commission proposes an amendment to §402.554, relating to instant bingo. The proposed amendment clarifies the definition and manufacturing requirements governing instant bingo cards.

Richard Sookiasian, budget analyst, 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. Sookiasian 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 clearer expression of the description and manufacturing requirements of instant bingo cards. 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 Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The amendment is proposed under Texas Civil Statutes, Article 179d, §16(a) and (d), which authorize the Texas Lottery Commission to adopt rules for the enforcement and administration of the Bingo Enabling Act and Texas Government Code, §467.102, which authorizes the Texas Lottery Commission to adopt rules for the enforcement and administration of Texas Government Code, Chapter 467 and the laws under the Commission's jurisdiction.

Texas Civil Statutes, Article 179d is affected by this amendment.

§402.554. *Instant Bingo.*

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Deal of series—Each separate, serialized package of instant bingo cards.

(2) Instant Bingo Card—A device used to play a specific game of chance consisting of an individual card, the face of which is initially hidden from view to conceal numbers. Each individual card must:

(A) bear an impression of the commission's seal with the words "Texas Lottery Commission" engraved around the margin and a five-pointed star in the center;

(B) contain the letters B-I-N-G-O on its face in a conspicuous location in no less than 29-point type;

(C) be imprinted in no less than nine-point type with the words "Authorized by the Texas Lottery Commission";

(D) contain the series number assigned by the manufacturer;

(E) contain the manufacturer's name or trademark;

(F) disclose the amount and number of prize winners, the number of individual cards contained in a deal, and the cost per card; [and]

(G) contain no other symbols, emblems, or characters ;[.]

(H) be constructed of cardboard and glued or otherwise securely sealed along all four edges of the card and between the individual break-open tabs on the card;

(I) have numbers or symbols that are concealed behind perforated window tabs;

(J) allow such numbers or symbols to be revealed only after the player has physically removed the perforated window tabs; and

(K) prevent the determination of a winning or losing instant bingo ticket by any means other than the physical removal of the perforated window tabs by the player.

(3) Instant bingo game. A game of chance played by the random selection of one or more individually prepackaged instant bingo cards from a series of instant bingo cards. Prize winners are determined by the preprinted appearance of numbers in a prescribed order, according to winning arrangements indicated on the reverse side of the card.

(b) (No change.)

(c) Manufacturing requirements.

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

(4) Each individual card must be constructed so that it is substantially impossible, in the opinion of the commission, to determine a concealed number or numbers until it has been opened by a player. Without limiting the requirements of the previous sentence of this paragraph, for all instant bingo cards offered for sale by a licensed organization on or after February 1, 1988, such cards shall be required to be constructed of cardboard and in such a manner so that cardboard [card] gluing occurs on all four edges of the card and between the individual break-open tabs on the card. The glue must be of sufficient strength and type so as to prevent the undetectable separation of the card.

(5)-(6) (No change.)

(d) Prizes, costs, sales, percentages.

(1) The cost to purchase an individual instant bingo card may not exceed \$1.00 [\$.50] and must be clearly posted in the vicinity of the location where cards are sold.

(2) (No change.)

(3) All sales of instant bingo cards must be performed under the same condition and in the same manner as sales of regular and paper special bingo cards. Thus, a licensed organization may sell instant bingo cards on the premises specified in its license and where regular or paper special bingo cards are sold[, prior to its licensed times]. They may be redeemed for cash or other cards only[:]

[(A) during the times that bingo cards are being sold;]

[(B)] during the organization's licensed times where regular or paper special bingo games are being conducted[; or]

[(C) during a required 30-minute intermission between the bingo occasions of two organizations].

(4)-(7) (No change.)

(e)-(f) (No change.)

(g) Records.

(1) (No change.)

(2) The sales of and prizes paid for instant bingo cards, including the series number, shall be shown on the daily cash report and aggregate total sales for the organization must be recorded on the cash register [as required by §402.547 of this title (relating to Books and Records-Bingo Licensees)].

(3)-(5) (No change.)

(h)-(i) (No change.)

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

Issued in Austin, Texas, on January 11, 1996.

TRD-9600408 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791



• 16 TAC §402.555

The Texas Lottery Commission proposes new §402.555, relating to cardminding devices. The rule implements statutory changes and establishes standards for the manufacture, distribution and use of cardminding devices as set out in the Bingo Enabling Act, §2 and §11.

Richard Sookiasian, budget analyst, 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. Sookiasian 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 clear expression of the standards concerning manufacture, distribution and use of cardminding devices in the conduct of bingo. 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 Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The new section is proposed under authority of Texas Civil Statutes, Article 179d, §16(a) and (d), and under Texas Government Code, §467.102, which provides the Texas Lottery Commission with the authority to adopt rules for the enforcement and administration of the Bingo Enabling Act.

Texas Civil Statutes, Article 179d is affected by this new section.

§402.555. Cardminding Device.

(a) Policy Statement. All cardminding devices must be operated in accordance with subsection (g)(2) of this section.

(b) Approval of Cardminding Devices.

(1) No cardminding device may be sold, leased, or otherwise furnished to any person in this state or used in the conduct of bingo for public play unless and until a cardminding device which is identical to the cardminding device intended to be sold, leased, or otherwise furnished has first been presented to the commission by its manufacturer, at the manufacturer's expense, and has been approved by the commission for use within the state.

(2) An identical cardminding device to the cardminding device intended to be sold, leased, or otherwise furnished must be presented to the commission in Austin for review. If granted, approval extends only to the specific cardminding device approved. Any modification must be approved by the commission.

(3) Once a cardminding device has been approved, the commission may keep the cardminding device for further testing and evaluation for as long as the commission deems necessary.

(c) Manufacturing Requirements.

(1) Manufacturers of cardminding devices must manufacture each cardminding device in such a manner to ensure that the internal accounting system of the cardminding device is capable of continuously monitoring all disposable bingo cards and cardminders sales so that at any bingo occasion sales of cardminders do not exceed 30% of gross bingo receipts.

(2) The cardminding device must have a dial-up capability so that the commission may remotely monitor the operation and internal accounting systems of the cardminding device at any time.

(3) Manufacturers of cardminding devices incorporating erasable programmable read only memory modules (EPROM) and EPROM receptacle or similar logic storage and/or retrieval components must seal these modules and their associated circuitry to secure against unauthorized removal, additions, changes or other alterations by utilizing commission-approved protective seal tape. No security seal shall be broken except when authorized by the commission.

(4) Manufacturers of cardminding devices must manufacture each cardminding device to insure that the internal accounting system records and retains for a period of not less than twelve months, the serial number of each bingo card sold for cardminder use, the price of each card sold, the total amount of the cardminder sales for each occasion and the total amount of cardminder card faces sold for each occasion. This information must be secure and shall not be accessible for alteration during the occasion. The cardminder system must be able to verify winning cards and to print them for posting. The capabilities and information must not be lost through power failure or other disruption during the occasion.

(5) If the commission detects or discovers any problem with the cardminding device that affects the security and/or integrity of the bingo game or cardminding device, the commission may direct the manufacturer, distributor, or conductor to cease the sale, lease, or use of the cardminding device, as applicable. The commission may require the manufacturer to correct the problem or recall the cardminding device immediately upon notification by the commission to the manufacturer. If the manufacturer, distributor, or conductor detects or discovers any defect, malfunction, or problem with the cardminding device, the manufacturer, distributor, or conductor, as applicable, shall immediately remove the cardminding device from use or play and immediately notify the commission of such action.

(6) The toll-free "800" number operated by the Problem Gamblers' Help Line of the Texas Council on Problem and Compulsive Gambling must be displayed on each cardminding device in such a manner that it is conspicuous and clearly visible to a player using the cardminding device.

(d) Conductor requirements.

(1) Before initial use by a licensed authorized organization, each licensed authorized organization that leases or purchases a cardminding device must notify the commission in writing of the make, model, serial number and dial-up telephone number of the cardminding device.

(2) No conductor shall require a player to use a cardminding device in playing bingo.

(3) Prior to the start of the bingo occasion, no cardminding device may be reserved for use by any player, with the exception of a player who is disabled in accordance with the provisions of the American with Disabilities Act, or, a player who is playing more than one consecutive bingo occasion.

(4) The price for a cardface played through a cardminding device shall be the same price as that of a disposable paper cardface or bingo hardcard, sold separately or in combination.

(e) Inspection. The commission or the commission's authorized representative(s) may examine and inspect any individual cardminding device and related systems. Such examination and inspection includes immediate access to the cardminding device and unlimited inspection of all parts of the cardminding device.

(f) Records.

(1) Each manufacturer selling cardminding devices must maintain a log showing the date, and serial number of the purchased cardminding device and to whom the cardminding device was sold.

(2) Each distributor selling, leasing, or otherwise furnishing cardminding devices must maintain a log showing the following information:

(A) the date, model and serial number of the cardminding device;

(B) the name and Texas taxpayer identification number of the licensed organization to whom the cardminding device was furnished;

(C) name, address, and Texas taxpayer identification number of the manufacturer or distributor from whom the cardminding device was purchased; and

(D) name, address and Texas taxpayer identification number of the distributor to whom the cardminding device was sold, leased or otherwise furnished.

(3) Each conductor purchasing, leasing, or otherwise utilizing a cardminding device must maintain a record showing the date, model, and serial number of the cardminding device and, the name, address, and Texas taxpayer identification number of the distributor from whom the cardminding device was purchased, leased, or otherwise furnished. If multiple conductors hold an interest in a cardminding device, each must maintain a separate record.

(4) All records, reports and receipts relating to the cardminding device's sales, maintenance, and repairs must be retained by the conductor on the premises where the conductor is licensed to conduct bingo or at a location designated in writing by conductor for a period of four years for examination by the commission. Any change in the designated location must be submitted to the commission in writing at least ten days prior to the change.

(5) Manufacturers and distributors must provide and maintain for four years the following information on each invoice or other document used in connection with a sale or lease, as applicable:

(A) date of sale or lease;

(B) quantity sold or leased;

(C) cost per cardminding device;

(D) model and serial number of each cardminding device;

(E) name and address of the purchaser or lessee; and

(F) Texas taxpayer identification number of the purchaser or lessee.

(g) Restrictions.

(1) No licensee may display, use or otherwise furnish a cardminding device which has in any manner been marked, defaced, tampered with, or which otherwise may deceive the public or affect a person's chances of winning.

(2) A cardminding device may be used by a bingo player only when operated in the following manner:

(A) The bingo player must perform at least the following functions:

(i) input each number or symbol called by the conductor into the memory of the cardminding device by use of a separate input function. Automatic marking of numbers or symbols is prohibited;

(ii) notify the conductor when a winning pattern or "bingo" occurs by means that do not utilize the cardminding device or the associated system; and

(iii) identify the winning cardface and display the cardface to the conductor.

(B) Each player using a cardminding device is limited to playing a maximum of sixty-six cardfaces during any game.

(C) The bingo player must be physically present on the premises where the game is actually conducted.

(h) Verification.

(1) Verification of winning cardface. The numbers appearing on the winning cardface must be verified at the time the winner is determined and prior to prize(s) being awarded in order to insure that the numbers on the cardface in fact have been drawn from the receptacle. This verification shall be done in the immediate presence of one or more players at a table other than the winner's. Alternatively, each winning cardface played on a cardminding device shall be displayed on any television monitors in use. Each winning cardface played on a cardminding device shall also be printed by the conductor through use of the cardminding system and posted on the licensed premises where it may be viewed in detail by the players until at least 30 minutes after the completion of the last bingo game of that organization's occasion.

(2) Verification of numbers drawn. Any player may request a verification of the numbers drawn at the time a winner is



determined and a verification of the balls remaining in the receptacle and not drawn. Verification shall take place in the immediate presence of the operator, one or more players other than the winner, and the player requesting the verification.

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

Issued in Austin, Texas, on January 11, 1996.

TRD-9600409 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

◆ ◆ ◆  
• 16 TAC §402.556

The Texas Lottery Commission proposes new §402.556, relating to pull-tab or instant bingo dispensers. The rule implements recent statutory changes and establishes requirements governing pull-tab or instant bingo dispensers as set out in the Bingo Enabling Act, §2 and §11.

Richard Sookiasian, budget analyst, 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. Sookiasian 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 clear expression of the standards concerning manufacture, distribution and use of pull-tab or instant bingo dispensers in the conduct of bingo. 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 Kimberly L. Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630.

The new section is proposed under authority of Texas Civil Statutes, Article 179d, §16(a) and (d), and under Texas Government Code, §467.102, which provides the Texas Lottery Commission with the authority to adopt rules for the enforcement and administration of the Bingo Enabling Act.

Texas Civil Statutes, Article 179d is affected by this new section.

§402.556. *Pull-tab or Instant Bingo Dispensers.*

(a) Approval of Pull-tab or Instant Bingo Dispensers.

(1) No pull-tab or instant bingo dispenser may be sold, leased, or otherwise furnished to any person in this state or used in the conduct of bingo for public play unless and until a dispenser which is identical to the dispenser intended to be sold, leased, or otherwise furnished has first been presented to the commission by its manufacturer, at the manufacturer's expense, and has been approved by the commission for use within the state.

(2) An identical dispenser to the dispenser intended to be sold, leased, or otherwise furnished must be presented to the commission in Austin for review. If granted, approval extends only to the specific dispenser model approved. Any modification must be approved by the commission.

(3) Once a dispenser has been approved, the commission may keep the dispenser for further testing and evaluation for as long as the commission deems necessary.

(b) Manufacturing requirements.

(1) Manufacturers of pull-tab or instant bingo dispensers must manufacture each dispenser in such a manner to ensure that the dispenser dispenses a break-open bingo ticket, an instant bingo ticket, a pull-tab bingo game or instant bingo card only after the

player inserts money into the dispenser, and that such ticket, game or card is the sole thing of value which may be redeemed for cash.

(2) Manufacturers of dispensers must manufacture each dispenser in such a manner to ensure that the device neither displays nor has the capability to determine whether a break-open bingo ticket, an instant bingo ticket, or a pull-tab bingo game is a winning or non-winning ticket.

(3) Manufacturers of dispensers must manufacture each dispenser in such a manner that any visual animation does not simulate or display rolling or spinning reels.

(4) Manufacturers of dispensers must manufacture each dispenser in such a manner that any stacking column is adjustable for varying lengths of break-open bingo tickets, instant bingo tickets, or pull-tab bingo games. As an option, a dispenser may use replaceable stacking columns that accommodate varying lengths of break-open bingo tickets, instant bingo tickets, or pull-tab bingo games. The dispenser must be adjustable for varying thicknesses of break-open tickets, instant bingo tickets, or pull-tab bingo games.

(5) If the commission detects or discovers any problem with the dispenser that affects the security and/or integrity of the break-open bingo ticket, an instant bingo ticket, or a pull-tab bingo game or dispenser, the commission may direct the manufacturer, distributor, or conductor to cease the sale, lease, or use of the dispenser, as applicable. The commission may require the manufacturer to correct the defect, malfunction, or problem or recall the dispenser immediately upon notification by the commission to the manufacturer. If the manufacturer, distributor, or conductor detects or discovers any defect, malfunction, or problem with the dispenser, the manufacturer, distributor, or conductor, as applicable, shall immediately remove the dispenser from use or play and immediately notify the commission of such action.

(6) The toll-free "800" number operated by the Problem Gamblers' Help Line of the Texas Council on Problem and Compulsive Gambling must be displayed on each pull-tab or instant bingo dispenser in such a manner that it is conspicuous and clearly visible to a player using the device.

(c) Conductor requirements.

(1) A conductor who has purchased or leased a dispenser may not allow another conductor to use such dispenser unless and until the former conductor has removed its break-open bingo tickets, instant bingo tickets, pull-tab bingo games and instant bingo cards from the dispenser.

(2) Each conductor who uses a dispenser at its bingo occasion shall affix to the dispenser an identification label which displays the conductor's name and Texas taxpayer identification number.

(3) The keys to open the locked doors to the dispenser's ticket dispensing area and coin and/or cash box must be in the possession and control of the operator in charge of the occasion, or someone designated by the operator. The operator in charge or the person designated shall present the keys to a Commission representative immediately upon request. The operator in charge shall be responsible for ensuring that the person so designated shall have the keys available at all times during the occasion.

(4) The entire deal or package shall be offered for sale, except as otherwise provided by 16 TAC §402.554(d)(5) (relating to Instant Bingo). All break-open bingo tickets, instant bingo tickets, pull-tab bingo games or instant bingo cards in any one column or sleeve must have the same serial number, color description, and must be of the same kind and type.

(d) Inspection. The commission or the commission's authorized representative(s) may examine and inspect any individual pull-tab or instant bingo dispenser. Such examination and inspection

includes immediate access to the dispenser and unlimited inspection of all parts of the dispenser.

(e) Records.

(1) Each manufacturer selling pull-tab or instant bingo dispensers must maintain a log showing the date, model, and serial number of the purchased dispenser and to whom the dispenser was sold.

(2) Each distributor selling, leasing, or otherwise furnishing pull-tab or instant bingo dispensers must maintain a log showing the following information:

(A) the date, model and serial number of the dispenser;

(B) the name and Texas taxpayer identification number of the licensed organization to whom the pull-tab or instant bingo dispenser was furnished;

(C) name, address, and Texas taxpayer identification number of the manufacturer or distributor from whom the dispenser was purchased; and

(D) name, address, and Texas taxpayer identification number of the distributor to whom the dispenser was sold, leased, or otherwise furnished.

(3) Each conductor purchasing, leasing, or otherwise utilizing pull-tab or instant bingo dispensers must maintain a log showing the date, model, and serial number of the dispenser and, the name, address, and Texas taxpayer identification number of the distributor from whom the dispenser was purchased, leased, or otherwise furnished. If multiple conductors hold an interest in a dispenser, each must maintain a separate record.

(4) All records, reports, and receipts relating to the pull-tab or instant bingo dispenser sales, maintenance, and repairs must be retained by the conductor on the premises where the conductor is licensed to conduct bingo or at a location designated in writing by the conductor for a period of four years for examination by the commission. Any change in the designated location must be submitted to the commission in writing at least ten days prior to the change.

(5) Manufacturers and distributors must provide and maintain for a period of four years the following information on each invoice or other document used in connection with a sale or lease, as applicable:

(A) date of sale or lease;

(B) quantity sold or leased;

(C) cost per dispenser;

(D) model and serial number of each dispenser;

(E) name and address of the purchaser or lessee; and

(F) Texas taxpayer identification number of the purchaser or lessee.

(f) Restrictions. No licensee may display, use or otherwise furnish a dispenser which has in any manner been marked, defaced, tampered with, or which otherwise may deceive the public or affect a person's chances of winning.

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

Issued in Austin, Texas, on January 11, 1996.

TRD-9600410

Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 323-3791

◆ ◆ ◆  
**TITLE 34. PUBLIC FINANCE**  
**Part I. Comptroller of Public Accounts**  
**Chapter 3. Tax Administration**  
**Subchapter GG. Insurance Tax**  
**• 34 TAC §3.830**

The Comptroller of Public Accounts proposes new §3.830, concerning the premium tax credit for examination expenses and valuation fees. The new section defines which examination expenses and/or valuation fees are allowed to offset the premium tax liability due. The new section also clarifies the proper application of these credits to the premium tax due.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities.

This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the new section may be submitted to Karey W. Barton, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Insurance Code, Article 1.16; Article 1.28; Article 4.10, §13; Article 4.11, §8; Article 20A.17; and Article 4.07, §B.

*§3.830. Premium Tax Credit for Examination Expenses and Valuation Fees.*

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Direct examination expenses—These expenses include travel (food, lodging, and transportation) and miscellaneous expenses incurred by Texas Department of Insurance (TDI) examiner(s) during the examination of an insurer.

(2) Indirect examination expenses—These expenses include TDI examiner salaries, any costs paid directly by the insurance company under examination to third party examiners hired by the TDI to conduct the examination, the overhead assessment, and examination expenses paid to other State of Texas regulatory agencies.

(3) Overhead assessment—The overhead assessment is billed by the TDI to cover the operating expenses of the examinations section. These expenses include, but are not limited to, support staff salaries, utilities, rent, office equipment, furniture and fixtures, supplies, and miscellaneous expenses.

(4) Rehabilitation fees—These fees are assessed on companies that have undergone a successful rehabilitation by TDI to cover the costs of the rehabilitation.

(5) Valuation fee—An annual fee which is assessed by the TDI on Texas domestic life insurance carriers. The fee is used to offset the cost of valuing life insurance policies issued by these carriers. The fee is based on the amount of direct life insurance in force at the end of the calendar year and is reported on the Annual Maintenance, Assessment and Retaliatory Report (Form 25-102).

(b) Examination expense credit.

(1) Domestic insurers may elect to maintain all or a portion of their books and records outside of Texas under the Insurance Code, Article 1.28. Companies electing to maintain their books and records out of state are allowed to claim indirect examination expenses and the overhead assessment, as defined in subsection (a) of this section, paid during the tax year as a credit.

(2) Domestic insurers who maintain all of their books and records in Texas and foreign insurers can claim direct examination expenses, indirect examination expenses, and the overhead assessment, as defined in subsection (a) of this section, paid during the tax year as a credit.

(c) Valuation fee credit. This credit can be taken by any company that has paid the valuation fee during the tax year for which the premium tax is due.

(d) Limitation of credit. The aggregate of the examination expense credit and the valuation fee credit is limited to the premium tax liability due prior to the application of any premium tax prepayments and/or guaranty association assessment credits available. Any credit which exceeds the premium tax liability for a given year is lost and can not be carried forward to future year(s) nor carried back to previous year(s). Only examination expenses specifically enumerated in subsection (a) of this section are allowed to be used in the computation of the examination expense credit. Rehabilitation fees assessed by the TDI under the Insurance Code, Article 21. 28, are not allowed as a credit.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600611      Martin Cherry  
Chief, General Law  
Comptroller of Public Accounts

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 463-4028

◆                    ◆                    ◆  
**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

**Part VI. Texas Department of Criminal Justice**

**Chapter 151. General Provisions**

• 37 TAC §§151.4, 151.6, 151.51, 151.53, 151.71

The Texas Department of Criminal Justice (TDCJ) proposes amendments to §151.4 and new §§151.6, 151.51, 151.53, and 151.71, concerning general provisions. The amendments to §151.4 incorporate a new subsection (a), add changes to former subsection (c), and add new subsections (e)-(g) to the original rule which was effective February 15, 1993, (18 TexReg 590). The amendments are proposed to comply with Government Code §492.007, which requires opportunity for public appearance before the Board of Criminal Justice, balanced against the constraint of the Open Meetings Act, specifically Government Code §551.042, which prohibits deliberation on issues raised

before the Board but not posted for deliberation. New §151.6 covers the steps required to petition the agency for adoption of a rule, as required by Texas Government Code §2001.021. New §151.51 establishes guidelines and eligibility criteria for authorizing custodial officer certification and hazardous duty pay to employees of the Texas Department of Criminal Justice under the authority of Texas Government Code, §§659.062, 813.506, and 815.505; and House Bill 1, General Appropriations Act, 74th Legislature, 1995. New §151.53 provides procedures regarding applications for and administration of multiple employments with the State of Texas by employees of the Texas Department of Criminal Justice, as required by Texas Government Code, Chapter 574 to comply with Texas Constitution, Article XVI, Section 40. Finally, new §151.71 concerns the marking of state vehicles of the Department of Criminal Justice in accordance with Texas Civil Statutes, Article 6701m-1.

David P. McNutt, Assistant Director for Budget and Management 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. McNutt also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules will be increased accountability of the Department of Criminal Justice and clarification of procedures for meetings of the Board.

There will be no effect on small business. There is no anticipated economic cost to persons required to comply with the rules as proposed.

Comments should be directed to Carl Reynolds, General Counsel, Texas Board of Criminal Justice, P.O. Box 13084, Austin, Texas 78711. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amendment and new sections are proposed under the Government Code, §492.013, which grants general rulemaking authority to the Board; Texas Government Code, Chapter 574, and §§492.007, 551.042, 659.062, 813.506, 815.505, and 2001.021; House Bill 1, General Appropriations Act, 74th Legislature, 1995; and Texas Civil Statutes, Article 6701m-1.

Cross Reference to Statute: Texas Government Code, Chapter 574, §§492.007, 551.042, 659.062, 813.506, 815.505, and 2001.021; Texas Civil Statutes, Article 6701m-1.

*§151.4. Presentations to the Texas Board of Criminal Justice.*

(a) Policy. The Texas Board of Criminal Justice is committed to provide access and opportunity for public comment on issues within the jurisdiction of the board, and invites public testimony on items that are part of the board's posted agenda as provided for in subsection (b) of this section. Because the Open Meetings Act prohibits deliberation on items that are not posted, however, the board does not provide for public presentation on non-posted issues. Persons outside the agency who wish to have items placed on the board agenda are invited to follow the procedure in subsection (d) of this section.

(b) Statements concerning items that [which] are part of the board's posted agenda. Persons who desire to make presentations to the board concerning matters on the agenda for a scheduled board meeting or subcommittee meeting shall complete registration cards which shall be made available at the entry to the place where the board's scheduled meeting is to be held. The registration cards shall include blanks in which all of the following information must be disclosed:

- (1) name of the person making a presentation;
- (2) a statement as to whether the person is being reimbursed for the presentation; and if so, the name of the person or entity on whose behalf the presentation is made;
- (3) a statement as to whether the presenter has registered as a lobbyist in relationship to the matter in question;

(4) a reference to the agenda item which the person wishes to discuss before the board;

(5) an indication as to whether the presenter wishes to speak for or against the proposed agenda item;

(6) a statement verifying that all factual information to be presented shall be true and correct to the best of the knowledge of the speaker.

(c)[(b)] Discretion of the chairman of the board. The chairman of the Texas Board of Criminal Justice shall have discretion in setting reasonable limits on the time to be allocated for each presentation. If several persons wish to address the board on the same agenda item, it shall be within the discretion of the chair to request that persons who wish to address the same side of the issue coordinate their comments, or limit their comments to an expression for views previously articulated by persons speaking on the same side of an issue. The chairman shall provide opportunity for testimony of a person who has submitted a registration card prior to the board taking action on the item that the person indicates a wish to discuss.

(d)[(c)] Requests that issues be placed on an agenda. Persons outside the agency who wish to bring issues before the board shall [first] address their request to the Chairman, Texas Board of Criminal Justice, P.O. Box 13084, Austin, Texas 78711. Such requests should be submitted at least 50 [20] days in advance of the board meeting. The decision whether to calendar a matter for discussion before the full board, a board committee, a board liaison [or alternatively before a board subcommittee], or with a designated staff member, shall be within the discretion of the chairman.

(e) Disability accommodation. Persons with disabilities who have special communication or accommodation needs and who plan to attend a meeting may contact the office of the administrative assistant to the chairman in Austin. Requests should be made at least two days before a meeting. The department will make every reasonable effort to accommodate these needs.

(f) Conduct and decorum. The board will receive public input as authorized by this section, subject to the following guidelines.

(1) Questioning of those making presentations will be reserved to board members and staff recognized by the chairman.

(2) Presentations shall remain pertinent to the issue being discussed.

(3) A person who disrupts a meeting must leave the meeting room if ordered to do so by the chairman.

(4) A person may not assign a portion of his or her time to another speaker.

(g) It is a crime to carry a licensed concealed handgun at a meeting of the board.

#### *§151.6. Petition for the Adoption of a Rule.*

(a) Submission of the petition.

(1) Any person may petition the agency to adopt a rule.

(2) The petition shall be mailed or delivered to the general counsel of the Texas Board of Criminal Justice at the Austin headquarters office of the Texas Department of Criminal Justice.

(3) The petition shall be in writing, shall contain the petitioner's name and address, and shall describe the rule and the reason for it. If the general counsel of the Texas Board of Criminal Justice determines that further information is necessary to assist the

agency in reaching a decision, the general counsel may require that the petitioner resubmit the petition and that it contain:

(A) a brief explanation of the proposed rule;

(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(C) a statement of the statutory or other authority under which the rule is to be promulgated; and

(D) the public benefit anticipated as a result of adopting the rule or the anticipated injury of inequity that could result from the failure to adopt the proposed rule.

(b) Consideration and disposition of the petition.

(1) Except as provided in subsection (c) of this section, the agency shall consider and dispose of all petitions submitted.

(2) Within 60 days after receipt by the general counsel's office of the petition, or within 60 days after receipt by the general counsel's office of a resubmitted petition in accordance with subsection (a)(1)-(3) of this section, the agency shall deny the petition or institute rulemaking procedure in accordance with the Administrative Procedure Act. The agency may deny parts of the petition or institute rulemaking procedures on parts of the petition.

(3) If the agency denies the petition, the general counsel shall give the petitioner written notice of the agency's denial and the reasons for the denial.

(4) The petitioner may appeal the denial to the Board Chairman, whose decision is final.

(c) Subsequent petitions to adopt the same or similar rule. All initial petitions for the adoption of a rule shall be presented to and decided by the agency in accordance with the provisions of paragraphs (1) and (2) of this subsection. The general counsel may refuse to consider any subsequent petition for the adoption of the same or similar rule submitted within six months after the date of the initial petition.

#### *§151.51. Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines.*

(a) Purpose. The purpose of this section is to establish guidelines and eligibility criteria for authorizing custodial officer certification and hazardous duty pay to employees of the Texas Department of Criminal Justice (hereinafter, Agency), under the authority of the Texas Government Code, §§659.062, 813.506, and 815.505; and House Bill 1, General Appropriations Act, 74th Legislature, 1995. In accordance with these provisions and in keeping with the responsibilities of the Board, this rule relating to custodial officer certification and hazardous duty pay applies effective September 1, 1995.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.

(1) Custodial Officer Certification-Service certification to the Employees Retirement System based on meeting the eligibility requirements within subsection (d)(1) of this section.

(2) Direct Inmate/Confinee Contact-When an employee's job assignment requires routine contact with the general inmate/confinee population in close proximity to inmates/confinees without the protection of bars, doors, security screens, etc. Such contact would normally involve supervision of inmates/confinees in

housing areas, educational and recreational facilities, industrial shops, kitchens, laundries, medical areas, agricultural shops and fields, and other areas whether on or away from Agency property.

(c) Hazardous Duty Pay.

(1) For the biennium beginning September 1, 1995, the Agency is authorized to pay hazardous duty pay at a rate of \$7.00 per month for each year of State service up to and including the 30th year for those employees authorized to receive hazardous duty pay.

(2) Full-time employees and officials of the Parole Division who have routine direct contact with inmates/confinees of any penal or correctional institution or with administratively released prisoners subject to the jurisdiction or supervision of the Parole Division are authorized to receive hazardous duty pay.

(3) All employees authorized hazardous duty pay shall be required to complete all training as may be prescribed by departmental policies. The appropriate Division Director may waive any portion or all of the training requirements.

(d) Procedures for Custodial Officer Certification and Hazardous Duty Pay

(1) The following employees are eligible for custodial officer certification and hazardous duty pay:

(A) all persons classified as Correctional Officer I through Warden, including Training Officers;

(B) all other employees assigned to work on a unit and whose job routinely requires direct contact with inmates/confinees. Examples include: Farm Managers, Livestock Supervisors, Maintenance Foremen, Shop Foremen, Medical Assistants, Food Service Supervisors, Stewards, Education Consultants, Commodity Specialists, and Correctional Counselors;

(C) employees assigned to administrative offices whose job requires routine direct contact with inmates/confinees at least 50% of the time. Managers must document and submit the criteria used to verify this eligibility. Examples include: Investigators, Compliance Monitors, Accountants routinely required to audit unit operations, Sociologists, Interviewers, Classification Officers, and Supervisor Counselors;

(D) administrative positions whose jobs require response to emergency situations involving inmates/confinees. Examples include: the Executive Director, Deputy Director, Institutional Division Director, some Assistant Directors, and not more than 25 Administrative Duty Officers.

(2) Employees receiving custodial officer certification and hazardous duty pay on August 31, 1985, who do not meet the criteria in paragraph (1) of this subsection shall continue to receive custodial officer certification and be paid hazardous duty pay only for so long as they remain in their current position. A change in position, whether by promotion or otherwise, except by reclassification or title change required by the Legislature or State Classification Officer, to a position that does not qualify for custodial officer certification and hazardous duty pay under provisions of paragraph (1) of this subsection causes the person to become ineligible for such pay.

(3) In requesting authorization to receive custodial officer certification and hazardous duty pay, the following procedures shall be followed.

(A) The Employee Classification Section of the Huntsville Human Resources Department, or its successor office or

function within the Agency, shall conduct a review of the position for which custodial officer certification and hazardous duty pay is sought and shall document conformance with the criteria listed in paragraph (1) of this subsection.

(B) The Human Resources Department shall forward the request (complete with state title, working title, and job number) to the Executive Director or appropriate Division Director who shall review the request and approve or disapprove. Approved requests shall be presented to the Board of Criminal Justice at the next regular meeting of the Board. Disapproved requests shall be returned to the originating supervisor.

(C) The Board shall take the request into consideration, review the conformance with paragraph (1) of this subsection, and either approve or disapprove the request.

(D) Custodial officer certification shall become effective on the first day of occupancy in the position authorized to receive custodial officer certification and hazardous duty pay by Board action.

(4) The Executive Director shall use the eligibility requirements listed in paragraph (1) of this subsection to determine custodial officer certification. The names of employees and the amount of service each performed as a custodial officer during each fiscal year shall be certified to the Employee Retirement System.

(e) The department shall file a report annually with the Governor's Office and the Legislative Budget Office indicating the numbers and position titles of employees authorized to receive hazardous duty pay.

*§151.53. Multiple Employments With The State.*

(a) Purpose. The purpose of this section is to provide procedures regarding applications for and administration of multiple employments with the State of Texas by employees of the Texas Department of Criminal Justice (hereinafter, Agency).

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Multiple Employments-Simultaneous paid employment for more than one position with one or more State agencies.

(2) Principal Employer-The Agency is considered the principal employer for all full-time employees.

(3) Additional Employer-For employees whose principal employer is the Agency, the additional employer is the other State agency to which they are applying for multiple employment.

(c) Procedures.

(1) Qualifications. Multiple employments with the State are contingent upon there being no conflict between the office or position with the principal employer and the additional employer. The proposed multiple employments must be of benefit to the Agency and to the State of Texas; Additional employment must not interfere with the performance of duties with the Agency. The employee's work hours or cycle will not be changed to accommodate additional employment unless there is a clear benefit to the Agency.

(2) Application Procedures. Multiple employment may not commence until it is approved by the Texas Board of Criminal Justice. Approval is valid only while the employee remains in his or her current position within the Agency or in the approved additional position. If an employee changes positions or work schedule within the Agency or with the additional employer, a new request and

Board approval will be required. The Agency shall establish a procedure for requests to be submitted and processed.

(3) Administration. Upon Board approval of multiple employment, the Payroll Department will coordinate with the additional State Agency payroll department to ensure that there is an official record of Board approval and of the compensation to be received by the employee, including salary, bonus, per diem, or other types of compensation; and compliance with the provisions of the current General Appropriations Act.

*§151.71. Marking of State Vehicles of the Department of Criminal Justice.*

(a) Except as provided in subsections (b) and (c) of this section, all TDCJ vehicles shall be inscribed in accordance with Texas Civil Statutes, Article 6701m-1.

(b) The purposes for not inscribing TDCJ vehicles are to legitimately maintain anonymity for law enforcement purposes, to avoid damage to a vehicle or danger to staff that could occur if it were identified as a TDCJ vehicle, or to avoid hindrance of TDCJ efforts in an emergency, such as an escape, attempted escape, or riot. Accordingly, the following vehicles are exempt from inscription:

(1) vehicles used for surveillance, undercover work, or investigation of law or TDCJ policy violations by the Internal Affairs Division or other investigatory unit within TDCJ; and

(2) vehicles assigned to officials holding administrative positions whose jobs require response to emergency situations involving offenders.

(c) The department shall establish a procedure for determining whether a vehicle is subject to an exemption in subsection (b) of this section. If the executive director determines that a vehicle should be exempt but does not fit into an exemption under subsection (b) of this section, the executive director may authorize the non-inscription of the vehicle subject to ratification at the next regularly scheduled board meeting. Ratification may be by inclusion on the consent agenda of the board.

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

Issued in Austin, Texas, on January 12, 1996.

TRD-9600489 Carl Reynolds  
General Counsel  
Texas Department of Criminal Justice

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 463-9693

◆ ◆ ◆  
• 37 TAC §151.21

The Texas Department of Criminal Justice proposes new §151.21, concerning prohibition on carrying weapons.

The new section is proposed in response to the passage of Article 4413(29ee), Revised Statutes, and authorized by Penal Code, §30.05, Attorney General Opinion Number DM-363 (August 30, 1995), and Attorney General Letter Opinion Number 95-058 (September 15, 1995).

David P. McNutt, Assistant Director for budget and Management has determined that there will be no fiscal implications for state or local government because signs required will be manufactured by Texas Correctional Industries.

Mr. McNutt also has determined that the public benefit anticipated as a result of enforcing the section as proposed will be safety on property owned by TDCJ and clarity of notice to handgun license holders of the rights of the property owner.

There will be no effect on small businesses. There is no anticipated

economic cost to persons required to comply with the section as proposed.

Comments should be directed to Carl Reynolds, General Counsel, Texas Board of Criminal Justice, P.O. Box 13084, Austin, Texas 78711. Written comments from the general public should be received within 30 days of the publication of this proposal.

The new section is proposed under the Government Code, §492.013, which grants general rulemaking authority to the Board. The proposal is in response to Article 4413(29ee), Revised Statutes, and authorized by Penal Code, §30.05, Attorney General Opinion Number DM-363, and Attorney General Letter Opinion Number 95-058.

Cross Reference to Statute: Article 4413(29ee), Revised Statutes. Penal Code, §30.05, Attorney General Opinion Number DM-363; Attorney General Letter Opinion Number 95-058.

*§151.21. Prohibition on Carrying Weapons.*

(a) Policy.

(1) It is criminal trespass for a person to enter or remain on property of the Texas Department of Criminal Justice (TDCJ) with a deadly weapon on his person or in his vehicle.

(2) It is a felony under Penal Code, §46.035, for a person licensed to carry a handgun under Article 4413(29ee), Revised Statutes, to carry a handgun on the premises of a correctional facility, regardless of whether the handgun is concealed.

(3) In addition to the prohibitions in paragraphs (1) and (2) of this subsection, an employee of TDCJ is prohibited from carrying a firearm in a state-owned vehicle, and except as provided in the Use of Force Plan or other applicable agency policies, no employee may use or carry a firearm on his person or in his vehicle while on duty.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Deadly weapon—A firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury, or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(2) Exempt employee—An employee in the position of warden, assistant warden, or an administrative position eligible for custodial officer certification and hazardous duty pay under §151.51(d)(1)(D) of this title (relating to Custodial Officer Certification and Hazardous Duty Pay Guidelines).

(3) Firearm—Any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

(4) Handgun—Any firearm that is designed, made, or adapted to be fired with one hand.

(5) Property of TDCJ—

(A) land owned or leased by TDCJ;

(B) a building owned, leased, contracted for, or operated by TDCJ, including a correctional facility, parole office, and office space; and

(C) an area controlled or owned by TDCJ that is appurtenant to a building owned, leased, contracted for, or operated by TDCJ, such as a driveway, parking lot, walkway, or sidewalk.

(c) Exceptions.

(1) An exempt employee may carry a firearm in his vehicle for purposes of responding to emergency situations involving inmates or confinees, or on his person in the event of an actual emergency situation.

(2) State-owned housing, other than Bachelor Officers' Quarters, is excepted from this rule, only to the extent that weapons are secured under lock and key within the house.

(3) A person who is authorized by law, other than Article 4413(29ee), Revised Statutes, to carry a firearm, is excepted from this rule, including a security officer who has a defense to prosecution for Unlawful Carrying Weapons, §46.02, Penal Code.

(4) The written consent of the executive director or his designee to an individual is effective to create an exception from this rule.

(d) Duties of the Executive Director.

(1) The executive director shall ensure that agency policies are consistent with this rule. Policies adopted to ensure the safety and security of correctional facilities may be more restrictive than this rule and may encompass weapons not covered by this rule.

(2) The executive director shall ensure that signs are posted in English and Spanish to provide adequate notice of subsection (a)(1) and, where applicable, subsection (a)(2) of this section, stating: "IT IS A CRIME (MISDEMEANOR) FOR A PERSON TO ENTER OR REMAIN ON PROPERTY OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE WITH A DEADLY WEAPON, INCLUDING A DEADLY WEAPON ANYWHERE IN A VEHICLE." "IT IS A CRIME (FELONY) FOR A HANDGUN LICENSE HOLDER TO CARRY A HANDGUN ON THE PREMISES OF A CORRECTIONAL FACILITY."

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt. Issued in Austin, Texas, on January 12, 1996.

TRD-9600486 Carl Reynolds  
General Counsel  
Texas Department of Criminal Justice

Earliest possible date of adoption: February 23, 1996  
For further information, please call: (512) 463-9693



## Chapter 155. Reports and Information Gathering

### Subchapter B. Site Selection and Facility Names

#### • 37 TAC §155.21

The Texas Department of Criminal Justice (TDCJ) proposes new §155.21, concerning naming of TDCJ units and facilities.

David P. McNutt, Assistant Director for Budget and Management 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. McNutt also has determined that for each year of the first five years the new rule as proposed is in effect the public benefit anticipated as a result of enforcing the new rule will be clear guidance for a community interested in influencing the name of a facility in the community.

There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the rule as proposed.

Comments should be directed to Carl Reynolds, General Counsel, Texas Board of Criminal Justice, P.O. Box 13084, Austin, Texas 78711. Written comments from the general public should be received within 30 days of the publication of this proposal.

The new section is proposed under the Government Code, §492.013, which grants general rulemaking authority to the Board.

Cross Reference to Statute: Government Code, §492.013.

#### §155.21. Naming of TDCJ Units and Facilities.

(a) Purpose. The purpose of this section is to establish procedures for the naming of units and facilities of the TDCJ.

(b) Policy. It is the policy of the Board to name units and facilities of the TDCJ based upon geographical location, function, and in recognition of persons who have contributed to the process of criminal justice in the State of Texas. Generally, the Board will name facilities for persons whose careers or actions were important to, and well known in, the locality of the unit/facility. However, the Board specifically reserves the right to choose a name other than any proposals submitted from the locality of the unit/facility.

(c) Procedures.

(1) Proposals for the naming of TDCJ units and facilities shall be thoroughly researched and coordinated as follows.

(A) All proposals for the naming of TDCJ units and facilities must include the following information to be considered:

- (i) location of the unit/facility to be named;
- (ii) proposed name for the unit/facility;
- (iii) biographical sketch of the person;
- (iv) synopsis of the reasons, achievements, incidents and other justification forming the basis for the recommendation; and
- (v) approval from the individual or, if the individual is deceased, the individual's next-of-kin.

(B) TDCJ staff will maintain a file on all requests and when necessary conduct a preliminary review of appropriate sources to determine the merit of each proposal. Staff shall also compile a packet of proposals for review by the Board, or a designated committee or liaison of the Board.

(2) The Board will review the proposals submitted by staff and will select a name for the unit/facility being considered by a majority vote. Receiving public testimony on name selection shall be at the discretion of the Chairman.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt. Issued in Austin, Texas, on January 12, 1996.

TRD-9600487 Carl Reynolds  
General Counsel  
Texas Department of Criminal Justice

Earliest possible date of adoption: February 23, 1996  
For further information, please call: (512) 463-9693



## Chapter 163. Community Justice Assistance

### Division Standards

#### • 37 TAC §163.43

The Texas Board of Criminal Justice proposes an amendment to §163.43, Funding and Financial Management, concerning the eligibility of community supervision and corrections departments (CSCDs) for discretionary grant funds under Government Code, §509.011(b). The effect of the proposed amendment is to require the judges who manage CSCDs to hold open meetings when planning for or deliberating the expenditure of any state aid from the Department of Criminal Justice.

David P. McNutt, assistant director for budget and management services of the Department of Criminal Justice, has determined that there

will be no fiscal effect on state government for the first five-year period of operations. David P. McNutt has further determined that there will also be no fiscal effect on local government for the next five-year period, and that the implementation of this amendment will have no effect on small businesses, as they will not have to comply with the rule.

Mr. McNutt 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 the encouragement of open governmental action regarding the expenditure of state funds for community corrections programs. Compliance with this amendment will not impose any economic costs on individuals, as no individuals have a duty to comply.

Comments should be directed to Carl V. Reynolds, General Counsel, Texas Board of Criminal Justice, P.O. Box 13084, Austin, Texas 78711. Written comments from the general public should be received within 30 days of the publication of this proposed amendment

The amendment is proposed under the Government Code, §509.011, and by §492.013, giving the Board general rulemaking authority.

Cross Reference to Statute: Government Code, §509.011

*§163.43. Funding and Financial Management.*

(a) Funding.

(1) Qualifying for TDCJ-CJAD funding. CSCDs qualify for TDCJ-CJAD state aid by:

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

(E) the district judge(s) designating a fiscal officer to account for, disburse, and report on all CSCD funds ; and

(F) in the case of qualifying to receive discretionary funds, the district judges committing to holding all meetings or deliberations regarding the receipt or expenditure of any TDCJ-CJAD state aid in substantial compliance with the Open Meetings Act, Government Code, Chapter 551, as though that act applied to meetings among members of the judiciary.

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

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

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

Issued in Austin, Texas, on January 12, 1996.

TRD-9600488 Carl Reynolds  
General Counsel  
Texas Department of Criminal Justice

Earliest possible date of adoption: February 23, 1996

For further information, please call: (512) 463-9693

◆ ◆ ◆



# ADOPTED RULES

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 16. ECONOMIC REGULATION Part II. Public Utility Commission of Texas

### Chapter 23. Substantive Rules

#### Records and Reports

##### • 16 TAC §23.11

The Public Utility Commission of Texas adopts an amendment to §23.11, with changes to the proposed text as published in the September 22, 1995, issue of the *Texas Register* (20 TexReg 7569).

Section 1.407(b) of the Public Utility Regulatory Act of 1995 (PURA 1995), Texas Civil Statutes, Article 1446c-O (Vernon Supplement 1995), requires the commission to require each utility subject to regulation under the Act to prepare and submit to the commission a comprehensive annual report detailing its use of historically underutilized businesses (HUBs).

The amendment adopted to §23.11 requires the submission of a simplified report on March 31, 1996, and a more detailed report on December 30 of 1996 and each subsequent year. Small utilities will use one form, and other utilities another. The report may be submitted on paper only, or on paper and on computer diskette. An optional form is available to use for reporting indirect purchases, such as from sub-contractors.

Comments were received, and a public hearing was held on November 10, 1995. Comments and the proceedings regarding Project Number 14754, the corresponding form, were also considered in revising this rule. Commenters included Texas Utilities Electric Company (TUEC), Houston Lighting and Power Company (HL&P), Texas Association of Mexican American Chambers of Commerce (TAMACC), Texas Telephone Association (TTA), Association of Texas Electric Cooperatives (TEC), Southwestern Bell (SWB), GTE Southwest and Contel (GTE), Morris Fountain, and the Texas Association of HUBs (TUH). No one commented that a rule need be adopted.

The commission has amended the section to eliminate the explicit definition of HUB classes, because it either unnecessarily duplicates the definitions required by the statute or sets up an undesirable conflict with that definition.

TUEC and HL&P commented that reporting total contracts for each class of HUBs might lead to inter-class conflict or the explicit or implicit imposition of quotas. They also commented that utilities would prefer to draw their outside contractors from their service areas, or at least from Texas; TEC added that cooperatives, because of their nature, strongly preferred to do business with firms in their service areas. The commission believes that these concerns are not properly addressed in this rulemaking.

TEC and TTA commented that the burden of preparing the reports would be far greater, proportionately to their available resources, on small utilities than on large. Since the public hearing, further discussions among several commenters (including TAMACC, TUH, TTA, SWB, and GTE) produced a consensus on reduced reporting requirements for small local exchange companies and electric utility cooperatives. The commission adopts rule provisions and approves forms incorporating that consensus.

TUEC, HL&P, SWB, and GTE commented that to capture the data in the categories called for by the form would require a substantial change in the companies' recordkeeping, which could not be done at a reasonable cost for calendar year 1995 transactions, and could be done only with great difficulty for calendar year 1996. SWB and GTE later concurred in the rule provisions and forms which the commission adopts. The commission rejects the proposal that certain utilities not be required to make a detailed comprehensive report before the year 1997.

TUH suggested that the report to be submitted March 31, 1996, state data for procurement from women-owned and all-minority-owned businesses, and a comparison of that total with total expenditures. The commission amends the section to adopt that suggestion.

It was suggested that form-based reports could be submitted in electronic format, which would significantly ease the commission's burden in assembling and analyzing the data in a timely manner. No commenter disapproved of the suggestion. The commission amends the section to provide that form-based reports filed in hard copy may also be filed on diskette.

TU and HI commented that to require filing of every document regarding usage of HUBs would be very onerous, and might present unmanageable confidentiality problems. They also commented that much of their activity encouraging HUBs would not be adequately captured by the proposed form. In addition, TUEC and GTE commented that much of the business they do with HUBs and small businesses is done through spot purchases, not contracts, so that reporting only contracts would understate its usage of HUBs. The commission amends the section to eliminate the requirement that every document relating to usage of HUBs be filed. The commission amends the section to permit a utility to file whatever additional documents it believes appropriate to convey an adequate picture of their efforts. In addition, utilities may use a supplemental report for indirect procurement data.

All comments submitted, including those not specifically referenced herein, were fully considered by the commission.

The amendment is adopted under Texas Civil Statutes, the Public Utility Regulatory Act of 1995, Senate Bill 319, 74th Legislature, Regular Session 1995, to conform to Texas Civil Statutes, §1.407(b), the Public Utility Regulatory Act of 1995 as amended by House Bill 2128, §6, 74th Legislature, Regular Session 1995, which requires that the commission require jurisdictional utilities to report usage of HUBs.

Cross index to statute, article, or code: Public Utility Regulatory Act of 1995, House Bill 2128, 74th Legislature, Regular Session 1995.

#### §23.11. General Reports.

- (a)-(i) (No change.)
- (j) Equal opportunity reports.

(1) The term "minority group members," when used within this subsection, shall have the following meaning.

- (A) African-Americans;
- (B) American-Indians;

(C) Asian-Americans;

(D) Hispanic-Americans and other Americans of Hispanic origin; and

(E) women.

(2) Each utility that files any forms with local, state or federal governmental agencies relating to equal employment opportunities for minority group members, (e.g., EEOC Form EEO-1, FCC Form 395, RUS Form 268, etc.) shall file copies of those same completed forms with the commission, and submit copies of any other forms required to be filed which contain the same or similar information such as that addressing personnel data identifying numbers and occupations of minority group members employed by the utility, and employment goals relating thereto, if any.

(3) Any additional information relating to the matters described in this subsection may be submitted at the utility's option.

(4) On February 1 of each year, the commission shall submit a report summarizing the filed reports to the Texas legislature.

(k) Annual report on historically underutilized businesses.

(1) In this subsection, "historically underutilized business" has the same meaning as in §481.101, Texas Government Code, as it may be amended.

(2) Every utility shall report its use of historically underutilized businesses (HUBs) to the commission on a form approved by the commission. A utility may submit the report on paper, or on paper and on a diskette (in Lotus 1-2-3 [\*wk\*] or Microsoft Excel [\*xl\*] format).

(A) Each utility shall on or before March 31, 1996, submit to the commission a comprehensive annual report detailing its use of HUBs for October 1, 1994-September 30, 1995, on the Initial HUB Use Report form.

(B) Each Small Local Exchange Company and each electric and telephone cooperative utility shall on or before December 30, 1996, and December 30 of each year thereafter submit to the commission a comprehensive annual report detailing its use of HUBs for the four quarters ending on September 30 of the year the report is filed, on the Small Utilities HUB Report form.

(C) Every utility other than those specified in subparagraph (B) of this paragraph shall on or before December 30, 1996, and December 30 of each year thereafter submit to the commission a comprehensive annual report detailing its use of HUBs for the four quarters ending on September 30 of the year the report is filed, on the Large Utilities HUB Report form.

(D) Each utility wishing to report indirect HUB procurements may use the Supplemental HUB report form.

(E) Each utility shall also file any other documents it believes appropriate to convey an accurate impression of its use of HUBs.

(3) This subsection may not be used to discriminate against any citizen on the basis of sex, race, color, creed, or national origin.

(4) This subsection does not create a new cause of action, either public or private.

(l) Special and additional reports. Each utility, including municipally owned utilities, shall report on forms prescribed by the commission special and additional information as requested which relates to the operation of the business of the utility.

(m) Service quality reports. Service quality reports shall be submitted quarterly on a form prescribed by the commission.

(n) Research and development reports. Research and development reports shall be submitted annually on a form prescribed by the commission.

(o) Report amendments. Corrections of reports resulting from new information or errors shall be filed on a form prescribed by the commission.

(p) Annual earnings report. Each utility shall report its annual earnings on forms prescribed by the commission as set out §23.12 of this title (relating to Financial Records and Reports).

(q) Penalty for refusal to file on time. In addition to penalties prescribed by law, the commission may disallow for rate making purposes the costs related to the activities for which information was requested and not timely filed.

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

Issued in Austin, Texas, on January 16, 1996.

TRD-9600582 Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Effective date: February 6, 1996

Proposal publication date: September 22, 1995

For further information, please call: (512) 458-0100

◆ ◆ ◆  
**TITLE 19. EDUCATION**  
**Part II. Texas Education Agency**  
**Chapter 61. School Districts**

**Subchapter CC. Commissioner's Rules Concerning School Facilities**

• **19 TAC §61.1031**

The Texas Education Agency (TEA) adopts new §61.1031, concerning the school facility assistance program, with changes to the proposed text as published in the October 20, 1995, issue of the *Texas Register* (20 TexReg 8555). The program grants state funds to eligible school districts for school facility improvements. The section establishes requirements of the program, including school district eligibility, the application process, the payment schedule, and required reports. The new section is necessary to provide uniform criteria for administering the assistance program.

The following changes to the new section were introduced after the section was proposed. In §61.1031(b)(2), the amount "\$0.20" was reformatted as "\$ .20" to comply with Texas Register style requirements. In response to public comments, language was added to §61.1031(b)(3) to modify the method applied in determining the total tax rate of \$1.20 and a debt service rate of \$.20.

The following comments were received regarding adoption of the new section.

Comment. Copperas Cove ISD raised a concern that the tax effort measurement established in §61.1031 for program eligibility under the School Facility Assistance Program does not consider other factors that have a bearing on the rate adoption of Copperas Cove ISD. Copperas Cove ISD has pointed out that its total tax rate and the debt service tax rate are both below the required rates of \$1.30 and \$.20, respectively, for a school district to be eligible for school facilities assistance because of the strategy adopted by the school board to

meet the maintenance of effort requirements that would make Copperas Cove ISD eligible for federal impact aid.

Agency Response. The agency agreed to make changes to §61.1031(b)(3).

Comment. Elkhart ISD, which used fund balance to make debt service payments in 1994-1995, asked that fund balance amount be treated as tax collections for purposes of calculating the tax rate necessary to qualify for the program.

Agency Response. It is believed that the use of fund balance, while a legitimate option for school districts in making a debt service payment, does not constitute tax effort in the manner intended by the legislature as a prerequisite for this program. In the specific situation of Elkhart ISD, the amount of debt service payment in 1994-1995 divided by the 1993 property values certified by the comptroller would not equal the necessary \$.20 rate.

Comment. Valley View ISD indicated that consideration should be given to the total amount of debt service payment made by the district in the determination of debt service tax effort. The district has used predominantly guaranteed yield state aid in making its debt service payments but has adopted a minimal debt service tax rate.

Agency Response. It is believed that the legislative intent with regard to qualifying debt service tax effort requires that the debt service rate be sufficient to generate in state aid the remainder of the funds necessary to service the debt of the district and that the combined amount be the equivalent of a \$.20 rate applied to the 1993 taxable value determined by the comptroller. In the specific case of Valley View ISD, the actual debt service collections do not generate sufficient state aid to reach the \$.20 threshold. Section 61.1031 has been modified to clarify this distinction.

Comment. Etoile ISD has a number of types of indebtedness that do not constitute bonded debt. These include short term financing for maintenance and operations, lease/purchase of equipment, and financing for school bus purchases. The district asserts that these costs constitute debt service and should qualify the district for participation in the program.

Agency Response. The wording of the statute seems unambiguous in requiring that a district have "an effective tax rate for the payment of principal and interest on bonds that is at least \$.20" in order to be eligible. Since the cited financial arrangements do not involve bonded debt, the district should not qualify on the basis of these costs.

Comment. Lyford ISD, Jourdan ISD, and San Diego ISD asked that tax effort be calculated based on 1994 property values. The districts have experienced significant declines in value, which would produce an effective tax rate above the tax rate thresholds if used for qualification.

Agency Response. The Foundation School Program does not generally use current year property values to define tax effort. In some instances, districts can receive an adjustment to the local fund assignment if property value declines are large enough. Statutory language for the property values to be used in calculating tax effort does not support the use of more current values.

Comment. Martinsville ISD has been assigned local property values for use in state funding for tax year 1993. The local values are higher than the state study values. In most recent years, the district has been assigned state study values. The result is a calculated total tax effort that falls just below the \$1.30 threshold. The district asks that state study values be used instead.

Agency Response. The statute clearly indicates that the values to be used in determining tax effort are those determined under the Government Code, Chapter 403, Subchapter M. An appeals process exists for districts to protest the findings of the property value study and the value assignment. The final values as certified by the comptroller should be used in tax effort determination.

The new section is adopted under the Texas Education Code, §42.004, which authorizes the commissioner of education, in accordance with the rules of the State Board of Education, to take such action and require such reports as may be necessary to implement and administer the Foundation School Program.

### §61.1031. School Facility Assistance Program.

(a) Application process. A school district must complete an application requesting funds under the School Facility Assistance Program. The application shall contain the following elements:

(1) a project description sufficiently detailed to identify the instructional use of the facility;

(2) an estimated cost; and

(3) a description of the source of funds for the district share of project cost.

(b) District eligibility.

(1) To be eligible for a grant of state funds, a school district must have property wealth per student in average daily attendance no greater than an amount determined annually by the commissioner of education. For this purpose, the property values to be used shall be the values certified by the Comptroller of Public Accounts for the prior tax year. The count of students in average daily attendance shall be the projected attendance for the school year of the grant as reported to the Texas Education Agency (TEA) and used in the legislative payment estimate for the school year.

(2) A district must also have exhibited a total tax rate of \$1.30 or a debt service tax rate of \$.20 in the last school year of the preceding biennium to be considered eligible. These tax rates are defined as taxes collected from September 1 through August 31 of the last year of the preceding biennium, divided by the values certified by the Comptroller of Public Accounts for the tax year that precedes the year of the collections.

(3) In the case of a district that has used state funds provided by the guaranteed yield as a part of the debt service requirement, credit will be given for debt service tax rate computation as if the district had a tax rate sufficient to service the debt without the use of guaranteed yield funds, but only to the extent of the guaranteed yield funds generated by the debt service tax collections of the district. Districts must be prepared to document this practice in order to receive proper credit. A district that has adopted a strategy of using maintenance funds to service debt to fulfill a maintenance of effort requirement for federal impact aid may have its debt service tax rate computed on the basis of the debt service payment requirement.

(c) Payment schedule. Payments shall be made quarterly, beginning in January after the grant award. The payment amount shall be based on a proportionate share of the work completed.

(d) Deadlines. The submission deadline for applications seeking funds shall be a date chosen by the commissioner of education and stated in the request for proposal.

(e) Reports required. The commissioner may require such information and reports as are necessary to assure compliance with applicable laws.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600612  
Criss Cloutd  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: October 20, 1995

For further information, please call: (512) 463-9701



## Chapter 65. Technology

### Subchapter A. Center for Educational Technology

#### • 19 TAC §§65.1-65.4

The Texas Education Agency (TEA) adopts the repeal of §§65.1-65.4, concerning the Center for Educational Technology, without changes to the proposed text as published in the November 21, 1995, issue of the *Texas Register* (20 TexReg 9630). The sections designate membership category names and requirements for participating in the center. The repeals are necessary to comply with the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified TEA rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600613  
Crisis Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



## Chapter 68. Transportation

### Subchapter A. Transportation Operations

The Texas Education Agency (TEA) adopts the repeal of §§68.11-68.14, 68.21-68.26, 68.32-68.34, and 68.111-68.113, concerning student transportation services, without changes to the proposed text as published in the November 21, 1995, issue of the *Texas Register* (20 TexReg 9630). The sections establish requirements for student transportation, including definitions and procedures related to: school district responsibility for transportation services; student eligibility for services; types of transportation; and transportation administration. The sections also adopt by reference several TEA forms and publications related to student transportation services. The repeals are necessary to comply with the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995.

No comments were received regarding adoption of the repeals.

#### Commitment to Providing Student Transportation Services

#### • 19 TAC §68.11

The repeal is adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified TEA rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600614  
Crisis Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



## Student Eligibility for Transportation Services

#### • 19 TAC §§68.12-68.14

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600615  
Crisis Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



## Types of Transportation

#### • 19 TAC §§68.21-68.26

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600616  
Crisis Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



## Transportation Administration

#### • 19 TAC §§68.32-68.34

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600617  
Crisis Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



## Subchapter B. Adoptions by Reference

#### • 19 TAC §§68.111-68.113

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600618      Criss Cloutd  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701

## Chapter 78. Vocational and Applied Technology Education

The Texas Education Agency (TEA) adopts the repeal of §§78.1-78.3, 78.10, and 78.11, concerning vocational and applied technology education, without changes to the proposed text as published in the November 21, 1995, issue of the *Texas Register* (20 TexReg 9632). The sections establish definitions, requirements, and procedures related to: establishing a career and technology program; establishing a district-wide local advisory council; contracted instruction; and the quality work force planning system. The repeals are necessary to comply with the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995.

Comments regarding adoption of the repeals were received from 15 career and technology education administrators from school districts in various parts of the state. The administrators made the following comments.

**Comment.** The administrators have relied on labor market information from quality workforce planning committees to ensure that district course offerings prepare students for careers that will be in demand when the students graduate. Without quality workforce planning committees, the administrators are concerned that they may not have access to current labor market information on which to base their course offerings.

**Agency Response.** Labor market information may be supplied by local workforce development boards, which are currently being formed.

**Comment.** Several administrators were worried about the repeal of authority for local advisory councils for vocational education under Chapter 78. The advisory councils are composed of representatives from the public, business, industry and labor, parents, career and technology educators, and others. The administrators believe that these committees may not continue without supporting statute, and that career and technology education would subsequently lose valuable input from the community.

**Agency Response.** School districts that rely on input from a local advisory council for vocational education may maintain the local council without statutory authority. Local workforce development boards may fulfill some functions of the old local advisory councils.

### Subchapter A. General Provisions

#### • 19 TAC §§78.1-78.3

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified TEA rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600619      Criss Cloutd  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701

## Subchapter B. Quality Work Force Planning

### • 19 TAC §§78.10, §78.11

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600620      Criss Cloutd  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701

## Chapter 97. Planning and Accreditation

### • 19 TAC §§97.1-97.9

The Texas Education Agency (TEA) adopts the repeal of §§97.1-97.9, concerning planning and accreditation, without changes to the proposed text as published in the November 21, 1995, issue of the *Texas Register* (20 TexReg 9632). The sections establish definitions, requirements, and procedures related to: the purpose of accreditation; accreditation status; campus performance ratings; the accreditation process; special investigations; the appeal process; and accreditation of non-public schools. The repeals are necessary to comply with the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995. A new Chapter 97 is adopted in a separate submission.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified TEA rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600621      Criss Cloutd  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: September 1, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701

### • 19 TAC §§97.1-97.7

The Texas Education Agency (TEA) adopts new §§97.1-97.7, concerning planning and accreditation, without changes to the proposed text as published in the November 21, 1995, issue of the *Texas Register* (20 TexReg 9633). The sections establish definitions, requirements, and procedures related to: the purpose of accreditation; accreditation status; campus performance ratings; and placing on probation or revoking a home-rule school district charter or an open-enrollment charter school.

The new sections are necessary to establish an accountability system that is driven by excellence and equity in student performance and that provides assistance and intervention, as appropriate, as close as possible to the actual point of delivery of educational services. The

sections are adopted as part of the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995. The repeal of current Chapter 97 is adopted in a separate submission.

The Texas Private School Accreditation Commission (TPSAC) expressed concern about recognition of its accreditation function. A letter of agreement between the commissioner of education and TPSAC regarding the process for accrediting non-public schools has been formalized.

The new sections are adopted under the Texas Education Code, §§7.102(b)(9), 12.027, and 12.028, which authorizes the State Board of Education to adopt rules relating to placing on probation or revoking a home-rule school district charter; the Texas Education Code, §§7.102(b)(10), 12.115, and 12.116, which authorizes the State Board of Education to adopt rules relating to granting, modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school; the Texas Education Code, §39.051(a), which authorizes the State Board of Education to adopt a set of indicators of the quality of learning on a campus; and the Texas Education Code, §39.072(a), which authorizes the State Board of Education to adopt rules to evaluate the performance of school districts and to assign to each district a performance rating.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600622      Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: September 1, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



## Chapter 105. Foundation School Program

### Subchapter A. Definitions

#### • 19 TAC §105.1

The Texas Education Agency (TEA) adopts new §105.1, concerning the Foundation School Program, without changes to the proposed text as published in the November 21, 1995, issue of the *Texas Register* (20 TexReg 9635). The section defines the terms "tax levy" and "tax collection" for the purposes of calculating certain state aid entitlements under the Texas Education Code, Chapter 42, and implementing the wealth-equalizing provisions of the Texas Education Code, Chapter 41.

The new section is necessary to help achieve a fair and reasonable distribution of state funds for public education. The new section is adopted as part of the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995. The repeal of current Chapter 105 is adopted in a separate submission.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Education Code, §42.004, which authorizes the commissioner of education, in accordance with the rules of the State Board of Education, to take such action and require such reports consistent with the Texas Education Code, Chapter 42, as may be necessary to implement and administer the Foundation School 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 January 17, 1996.

TRD-9600625      Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: September 1, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



The Texas Education Agency (TEA) adopts the repeal of §105.11 and §105.31, concerning the Foundation School Program, without changes to the proposed text as published in the November 21, 1995, issue of the *Texas Register* (20 TexReg 9636). The sections define the terms "tax levy" and "tax collection" for the purpose of calculating certain state aid entitlements under the Texas Education Code. The sections also establish the authority and procedures under which a school may operate on an abbreviated day. The repeals are necessary to comply with the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995. A new Chapter 105 is adopted in a separate submission.

No comments were received regarding adoption of the repeals.

### Subchapter A. Definitions

#### • 19 TAC §105.11

The repeal is adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified TEA rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600623      Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: September 1, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



### Subchapter B. School Year

#### • 19 TAC §105.31

The repeal is adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600624      Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



## Chapter 113. Federal Funds To Support Public Education in Texas

The Texas Education Agency (TEA) adopts the repeal of §§113.1, 113.21, 113.22, 113.31, and 113.32, concerning federal funds to support public education, without changes to the proposed text as published in the November 21, 1995, issue of the *Texas Register* (20 TexReg 9636). The sections establish the system of receiving complaints and appealing TEA action concerning federally funded programs. The repeals are necessary to comply with the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995.

No comments were received regarding adoption of the repeals.

### Subchapter A. Federal Funds for Local Education Agencies

#### • 19 TAC §113.1

The repeal is adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified TEA rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600626      Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



### Subchapter B. Complaint Procedures for Federal Programs

#### • 19 TAC §113.21, §113.22

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600627      Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



### Subchapter C. Hearing Procedures for Federal Programs

#### • 19 TAC §113.31, §113.32

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600628      Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



## Chapter 121. Public School Finance—Personnel

The Texas Education Agency (TEA) adopts the repeal of §§121.1, 121.11-121.14, 121.31-121.35, 121.41, and 121.42, concerning public school finance with regard to personnel, without changes to the proposed text as published in the November 21, 1995, issue of the *Texas Register* (20 TexReg 9637). The sections establish definitions, requirements, and procedures related to: personnel records; years of service for salary increment purposes; and the salary schedule. The repeals are necessary to comply with the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995.

The Association of Texas Professional Educators (ATPE), the Texas Classroom Teachers Association (TCTA), and the Texas Federation of Teachers (TFT) expressed concern about repealing the sections related to recognizing creditable years of service. The TEA does not believe statute authorizes the State Board of Education to adopt new rules in this area. However, the lack of rules does not eliminate the requirement that teachers be appropriately placed on the minimum salary schedule according to experience. The TEA has affirmed that prior interpretations of statute regarding placement will be given great weight in any appeal brought before the commissioner of education.

### Subchapter A. General Provisions

#### • 19 TAC §121.1

The repeal is adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified TEA rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600629      Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



### Subchapter B. Personnel Records

#### • 19 TAC §§121.11-121.14

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600630      Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701



### Subchapter C. Years of Service for Salary Increment Purposes

#### • 19 TAC §§121.31-121.35

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600631 Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701

## Subchapter D. Salary Schedule

### • 19 TAC §121.41, §121.42

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600632 Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 7, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701

## Chapter 129. Student Attendance

The Texas Education Agency (TEA) adopts the repeal of §§129.1, 129.21, and 129.22, concerning student attendance, without changes to the proposed text as published in the October 6, 1995, issue of the *Texas Register* (20 TexReg 8146). The sections establish requirements for attendance, including definitions and procedures related to: free attendance in general, student attendance accounting for state funding purposes, and attendance of court-related students. The repeals are necessary to comply with the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995. New Subchapters A and B of Chapter 129 implementing provisions of Senate Bill 1 related to attendance are adopted in a separate submission.

No comments were received regarding adoption of the repeals.

### Subchapter A. Student Attendance Allowed

#### • 19 TAC §129.1

The repeal is adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600633 Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: September 1, 1996

Proposal publication date: October 6, 1995

For further information, please call: (512) 463-9701

## Subchapter B. Student Attendance Accounting

### • 19 TAC §129.21, §129.22

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified Texas Education Agency rules.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600634 Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: September 1, 1996

Proposal publication date: October 6, 1995

For further information, please call: (512) 463-9701

The Texas Education Agency (TEA) adopts new §§129.1, 129.21, and 129.22, concerning student attendance, with changes to the proposed text as published in the October 6, 1995, issue of the *Texas Register* (20 TexReg 8147). The sections establish requirements for attendance, including definitions and procedures related to: free attendance in general, student attendance accounting for state funding purposes, and attendance of court-related students.

The new sections are necessary to establish a well-defined and structured methodology of accounting for students for attendance and state funding purposes. The sections are adopted as part of the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995. The repeals of current Subchapter A and Subchapter B of Chapter 129 are adopted in separate submissions.

The adopted new sections introduce two changes to the sections currently in Chapter 129, Subchapter A and Subchapter B, to comply with Senate Bill 1. First, current §129.21(n), pertaining to guidelines for accounting for late afternoon and evening schools, is deleted. Second, the name "Texas Education Agency" is substituted for "Central Education Agency" throughout the sections.

The following changes to the new sections were introduced after the sections were proposed. Throughout the sections, cross-references to statute have been updated to refer to provisions of Senate Bill 1, 74th Texas Legislature, 1995, as codified in the Texas Education Code.

The addition of new §129.21(k)(4) and changes to §129.21(l) clarify that a student not actually on campus at the time attendance is taken may be considered in attendance for Foundation School Program purposes if the student has a documented appointment with a health care professional.

The Texas Association of School Boards (TASB) recommended the changes concerning a student who has a documented appointment with a health care professional.

### Subchapter A. Student Attendance Allowed

#### • 19 TAC §129.1

The new section is adopted under the Texas Education Code, §42.004, which authorizes the State Board of Education to promulgate rules concerning the Foundation School Program.

#### §129.1. Free Attendance in General.

(a) Definitions. Identification is required within 30 days of a child's enrollment in a Texas school, in accordance with the Texas Education Code, §25.002. For the purposes of identification, the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.



(1) Documents that are suitable for identification—Shall be defined by the commissioner of education.

(2) The child's records—Include a minimum set of data and documentation established by the commissioner of education. The minimum set of data will include the child's social security number or a state-approved alternative identification number as assigned by the Public Education Information Management System (PEIMS).

(b) Children shall not be denied enrollment or be removed solely because they fail to meet the requirements of subsection (a) of this section.

(c) Students in this country under a bona fide exchange program are eligible to attend school in the designated district of residence.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600635  
Crisis Clout  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: September 1, 1996

Proposal publication date: October 6, 1995

For further information, please call: (512) 463-9701

## Subchapter B. Student Attendance Accounting

### • 19 TAC §129.21, §129.22

The new sections are adopted under the Texas Education Code, §42.004, which authorizes the State Board of Education to promulgate rules concerning the Foundation School Program.

*§129.21. Requirements for Student Attendance Accounting for State Funding Purposes.*

(a) All public schools in Texas shall maintain records to reflect the average daily attendance (ADA) for the allocation of Foundation School Program funds and other funds allocated by the Texas Education Agency. Superintendents, principals, and teachers shall be responsible to their school boards and to the state to maintain accurate, current attendance records.

(b) The commissioner of education shall be responsible for providing guidelines for attendance accounting in accordance with state law.

(c) The commissioner of education shall be responsible for providing all the necessary records and procedures required of school districts in preparation of a daily attendance register.

(d) Districts shall maintain records and make reports concerning student attendance and participation in special programs as required by the commissioner of education.

(e) If a school district chooses to use a locally developed record or automated system, it must contain the minimum information required by the commissioner of education.

(f) The commissioner of education shall provide for special circumstances regarding attendance accounting in accord with the provisions of law.

(g) When classroom instruction is organized on a departmentalized basis, a central attendance accounting system must be used.

(h) A student must be enrolled for at least two hours to be considered in membership for half-day, and for at least four hours to be considered in membership for one full day.

(i) Attendance for all grades shall be determined by the absences recorded in the second or fifth period of the day, unless permission has been obtained from the Texas Education Agency for an alternate period to record absences.

(1) Students enrolled on a half-day basis may earn only half-day of attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half-day that they are scheduled to be present.

(2) The established period in which absences are recorded may not be changed during the school year.

(3) Students absent at the time the attendance roll is taken, during the daily period selected, are counted absent for the entire day. Students present at the time the attendance roll is taken, during the daily period selected, are counted present for the entire day.

(j) A student who is not actually in school at the time attendance is taken shall not be counted in attendance for Foundation School Program funding purposes unless the student is participating in an activity which meets the conditions set out in subsection (k) of this section.

(k) A student not actually on campus at the time attendance is taken may be considered in attendance for Foundation School Program purposes under the following conditions.

(1) The student is participating in an activity which is approved by the local board of school trustees and is under the direction of a member of the professional staff of the school district, or an adjunct staff member who:

(A) has a minimum of a bachelor's degree; and

(B) is eligible for participation in the Teacher Retirement System of Texas.

(2) The student is a Medicaid-eligible child participating in the Early and Periodic Screening, Diagnosis, and Treatment Program (EPSDT) implemented by the Texas Department of Human Services with contractual cooperation of the Texas Department of Health. Such students may be excused for up to one day at any time without loss of ADA.

(3) Excused days for travel under the Texas Education Code, §25.087, shall be limited to not more than one day for travel to and one day for travel from the site where the student will observe the holy days.

(4) The student has a documented appointment with a health care professional during regular school hours. The appointment should be supported by a document such as a note from the health care professional.

(l) In accordance with the Texas Education Code, §25.087, students may be excused for medical, dental, and psychological appointments; for special education assessment procedures; and for special education related services.

(m) The superintendent of schools is responsible for the safekeeping of all attendance records and reports. The superintendent of schools may determine whether the properly certified attendance records or reports for the school year are to be filed in the central office or properly stored on the respective school campuses of the district. Regardless of where such records are filed or stored, they must be readily available for audit by the Division of Audits of the Texas Education Agency.

§129.22. Court-Related Students.

(a) Any student referred to a juvenile court for delinquent conduct or conduct indicating a need for supervision shall receive excused absences for any missed class when:

(1) the juvenile judge or probation officer assigned has detained the student or required the student to participate in activities related to the student's referral;

(2) detention or participation in such activities resulted in an absence from class;

(3) the cause of such absence is communicated in writing by the probation officer to school district personnel; and

(4) the student successfully completes all missed assignments as required by the school district.

(b) Any student referred to the Texas Department of Human Services or a county or local welfare unit on the basis that he or she is abused or neglected shall receive excused absences for any missed class when:

(1) the caseworker assigned has required the student to participate in activities related to the student's referral;

(2) participation in such activities resulted in an absence from class;

(3) the cause of such absence is communicated in writing by the caseworker to school district personnel; and

(4) the student successfully completes all missed assignments as required by the school district.

(c) It is the responsibility of the liaison officer appointed in accordance with the Texas Education Code, §37.014, to assist students and teachers to ensure that students are provided the opportunity to complete all missed assignments.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600636 Criss Cloutd  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: September 1, 1996

Proposal publication date: October 6, 1995

For further information, please call: (512) 463-9701



## Chapter 176. Minimum Standards for Operation of Licensed Texas Driver Training Programs

The Texas Education Agency (TEA) adopts new §§176.1-176.21 and §§176. 101-176.122, concerning driver training programs. Sections 176.2, 176.110, and 176.121 are adopted with changes to the proposed text as published in the November 21, 1995, issue of the *Texas Register* (20 TexReg 9638). Sections 176.1, 176.3-176.21, 176.101-176.109, 176.111-176.120, and 176.122 are adopted without changes and will not be republished.

The sections establish minimum standards of operation for driver training schools and for driving safety schools and course providers, including definitions, requirements, and procedures related to: school and instructor licensure; exempt schools; school personnel; courses of instruction; school facilities and equipment; student complaints; records; and application fees and other charges.

The new sections are necessary to increase awareness of traffic safety and move toward reducing the toll in human suffering and property loss

inflicted by vehicle crashes. The sections are adopted as part of the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995. The repeal of current Chapter 176 is adopted in a separate submission.

Under Senate Bill 1, a rule adopted by the State Board of Education (SBOE) normally does not take effect until the beginning of the school year that begins at least 90 days after the date the rule is adopted. However, the Bill provides that an SBOE rule may take effect earlier under certain circumstances. The SBOE, by an affirmative vote of at least two-thirds of the board members, adopts an earlier effective date of February 15, 1996. The earlier date is necessary to implement Senate Bill 964, 74th Texas Legislature, 1995, which has an effective date of September 1, 1995.

The adopted new sections contain several changes to current Chapter 176, including the following. Separate licensure structures are established for driver education and driving safety schools, as well as for the respective school instructors. A private driver education school may conduct a driver training course at an accredited public or nonpublic secondary school for the students of that school.

Course providers of driving safety programs must pay for the evaluation and approval of a driving safety program and may not operate the programs in Texas without meeting licensing requirements that include education and experience, bonding, and financial stability. Extension sites of driving safety schools are no longer allowed. Driving safety course providers must be licensed and bonded. License fees of \$150 for each driving safety school and \$2,000 for each course provider are required.

A driving safety instructor or a private, licensed school driver education instructor is required to present evidence of completion of continuing education at each renewal of the instructor's license. Instructor development programs may be approved to be offered in the private, licensed driving schools.

Driving safety course providers may be held accountable for violating provisions of adopted Chapter 176. Driving safety instructors no longer have access to certificates of course completion used to dismiss traffic tickets or obtain insurance discounts. Driver education certificates will be supplied by TEA to the private, licensed driver education schools. The schools must account for these certificates and ensure that only qualified graduates receive them. A school may be declared closed when the facilities are vacated, students are dismissed for more than ten class days, or when students are transferred to another location without prior notice to TEA.

The following changes to the new sections were introduced after the sections were proposed.

In §176.2, language that cross-references §176.1001 was added to clarify the definitions of the terms "break" and "DE-964." In addition, the definition of the term "uniform certificate of course completion," which contains a cross-reference to §176.1001, was added to §176.2. At the time §176.2 was proposed, §176.1001 was not in effect.

Section 176.110(a)(1)(C)(xi) was deleted. The SBOE determined that statute does not require the regulation of meals, incentives or promotions.

Language was added to §176.121(d) to clarify that a driving safety school must include the course provider name or number when advertising.

The following comments were received regarding adoption of the new sections.

Comment. Ticket Blasters expressed concern that provisions of the rules pertaining to promotions and incentives offered with driving safety courses are too subjective and open to many interpretations.

Comment. The Johnny Hernandez Insurance Agency does not believe TEA should dictate course cost with or without incentives.

Comment. Twin Cities Driving Schools, Inc., is opposed to statute requiring the price of a driving safety course be set at \$25. In addition, Twin Cities Driving Schools, Inc., believes that, if the price is set for all driving safety courses, the student should be required to pay for any incentives.

Comment. Sears Driving School, requested that provisions of the rules pertaining to the cost of a driving safety course be strengthened by

clarifying the intent concerning items included and excluded from the minimum cost of a course.

Sears Driving School and Houston Community College recommended disallowing any incentives, meals, or promotions.

Comment. Ticket Defensive Driving School and Life Defensive Driving recommend charging \$25 for a driving safety course and not allowing any incentives.

Comment. Lubbock Driving School recommends not allowing meals and other incentives.

Comment. Allstar Defensive Driving School, Affiliated Driving School, Bradley Enterprises, and the Safety Council of Greater Houston expressed opposition to regulation of incentives, meals, or promotions offered with driving safety courses.

Comment. Dallas Funny Bones Defensive Driving School and Comedy Connection Traffic Dismissal commented in favor of requiring students to pay separately for any incentives, meals, or promotions.

Agency Response. The SBOE determined that current statute does not require the regulation of meals, incentives, or promotions. Section 176.110(a)(1)(C) (xi) was deleted.

Comment. USA Training Company, Inc., requested that driving safety schools be required to advertise with the name of the licensed course provider or the course provider number in lieu of the name or number of the driving safety school. This change was suggested so the general public and TEA will be able to identify who to contact in the event of a problem or violation at a driving safety school.

Agency Response. The SBOE determined that the recommended change furthers the intent of statute by requiring more accountability of driving safety course providers. Students and TEA staff will be able to more quickly identify the responsible course providers. Language was added to §176.121(d).

Comment. ProAdvisor-Waco Driving School, requested that the rules be changed to allow teaching assistants to provide classroom driver education instruction.

Agency Response. Current statute prohibits consideration of this request. An individual who provides classroom driver education instruction is required to have a Texas teaching certificate. A teaching assistant is not a certified Texas teacher. The proposed change was not made.

Comment. The Driving School Association of Texas (DSAT), requested that a proposed rule be developed that would allow course providers to receive approval of a policy for pro rata refunds for driving safety courses.

Agency Response. A rule is not necessary to satisfy this request. Current statute provides for full refund of a student who cancels the course and has not successfully completed the course within 72 hours of signing the enrollment contract. The new rules adopted in this submission provide for makeup of a driving safety course within 90 days of the first scheduled date of the class. Course providers are allowed to submit refund policies for approval. A policy that does not interfere with the current statute and administrative rules can be approved by TEA. No changes were made to the rules.

Comment. The DSAT expressed opposition to, and requested justification for, assessing a \$200 renewal fee for a driver education school license.

Agency Response. Current statute allows TEA to waive this renewal fee if the revenue generated by the issuance of driver education certificates is sufficient to fund the cost of administering the Texas Driver and Traffic Safety Education Act and the Uniform Act Regulating Traffic on Highways, §143A. The TEA estimates that the revenue for issuing certificates will total \$140,000, while expenses will total \$1,109,846.

## Subchapter A. Minimum Standards for Operation of Texas Driver Education Schools

### • 19 TAC §§176.1-176.21

The new sections are adopted under Texas Civil Statutes, Article 4413(29c), §4(a), which authorize the State Board of Education to

adopt rules necessary to carry out the Texas Driver and Traffic Safety Education Act in consultation with the Driver Training School Advisory Commission.

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

Advertising—Any affirmative act, whether written or oral, designed to call public attention to a school and/or course in order to arouse a desire to patronize that school and/or course.

Branch school—A licensed driver education school that has the same ownership and name as a licensed primary driver education school.

Break—An interruption in a course of instruction as defined by §176.1001.

Change of ownership of a school—A change in the control of the school. Any agreement to transfer the control of a school is considered to be a change of ownership. The control of a school is considered to have changed:

(A) in the case of ownership by an individual, when more than 50% of the school has been sold or transferred;

(B) in the case of ownership by a partnership or a corporation, when more than 50% of the school or of the owning partnership or corporation has been sold or transferred; or

(C) when the board of directors, officers, shareholders, or similar governing body has been changed to such an extent as to significantly alter the management and control of the school.

Chief school official—The owner, director, or assigned liaison of a licensed driver education school.

DE-964—The driver education certificate of completion as defined by §176.1001.

Division—The division of the Texas Education Agency (TEA) responsible for executing the provisions of the law, rules, regulations, and standards as contained in this chapter and licensing Texas driver training programs.

Division director—The person designated by the commissioner of education of education to carry out the functions and regulations governing the driver education schools and designated as director of the division responsible for licensing driver training programs.

Good reputation—A person is considered to be of good reputation if:

(A) there are no felony convictions related to the operation of a school, and the person has been rehabilitated from any other felony convictions;

(B) there are no convictions involving crimes of moral turpitude;

(C) within the last ten years, the person has never been successfully sued for fraud or deceptive trade practice;

(D) the person does not own or operate a school currently in violation of the legal requirements involving fraud, deceptive trade practices, student safety, quality of education, or refunds; has never owned or operated a school with habitual violations; and has never owned or operated a school or course provider which closed with violations including, but not limited to, unpaid refunds or selling, trading, or transferring a DE-964 or uniform certificate of course completion to any person or school not authorized to possess it;

(E) the person has not withheld material information from representatives of TEA or falsified instructional records or any documents required for approval or continued approval; and

(F) in the case of an instructor, there are no misdemeanor or felony convictions involving driving while intoxicated over the past seven years.

Moral turpitude—Conduct that is inherently immoral or dishonest.

New course—A driver education course is considered new when it has not been offered previously or has been offered and then discontinued.

Primary or main school—A licensed driver education school that may have branch schools.

Public or private school—An accredited public or non-public secondary school.

Uniform certificate of course completion—A certificate of course completion as defined by §176.1101.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600638      Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 15, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701

◆            ◆            ◆  
**Subchapter B. Minimum Standards for Operation of Texas Driving Safety Schools and Course Providers**

• **19 TAC §§176.101-176.122**

The new sections are adopted under Texas Civil Statutes, Article 4413(29c), §4(a), which authorizes the State Board of Education to adopt rules necessary to carry out the Texas Driver and Traffic Safety Education Act in consultation with the Driver Training School Advisory Commission.

*§176.110. Courses of Instruction.*

(a) This section contains requirements for driving safety and instructor development courses. For each course, the following curriculum documents and materials are required to be submitted as part of the application for approval. If the course meets the minimum requirements set forth in these rules, an approval may be granted by the division director on behalf of the State Board of Education (SBOE). Other types of courses may be considered by the division director and submitted to SBOE for consideration for approval.

(1) Driving safety courses.

(A) Educational objectives. The educational objectives of driving safety courses shall include, but not be limited to: promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of drivers and citizens; reducing traffic violations; reducing traffic-related injuries, deaths, and economic losses; and motivating continuing development of traffic-related competencies.

(B) Minimum course content. A driving safety course shall include, as a minimum, materials adequate to address the following topics and to comply with the minimum time requirements for each topic and the course as a whole.

(i) Course introduction—minimum of ten minutes (instructional objective—to orient students to the class). Instruction shall address the following topics:

- (I) purpose and benefits of the course;
  - (II) course and facilities orientation;
  - (III) requirements for receiving course credit;
- and
- (IV) student course evaluation procedures.

(ii) The traffic safety problem—minimum of 15 minutes (instructional objectives—to develop an understanding of the nature of the traffic safety problem and to instill in each student a sense of responsibility for its solution). Instruction shall address the following topics:

(I) identification of the overall traffic problem in the United States, Texas, and the locale where the course is being taught;

(II) death, injuries, and economic losses resulting from motor vehicle crashes in Texas; and

(III) five leading causes of motor vehicle crashes in Texas as identified by the Department of Public Safety.

(iii) Factors influencing driver performance—minimum of 20 minutes (instructional objective—to identify the characteristics and behaviors of drivers and how they affect driving performance). Instruction shall address the following topics:

(I) attitudes, habits, feelings, and emotions;

(II) alcohol and other drugs;

(III) physical condition;

(IV) knowledge of driving laws and procedures; and

(V) understanding the driving task.

(iv) Traffic laws and procedures—minimum of 30 minutes (instructional objectives—to identify the requirements of, and the rationale for, applicable driving laws and procedures and to influence drivers to comply with the laws on a voluntary basis). Instruction shall address the following topics:

(I) passing;

(II) right-of-way;

(III) turns;

(IV) stops;

- (V) speed limits;
- (VI) railroad crossings;
- (VII) categories of traffic signs, signals, and highway markings;
- (VIII) pedestrians;
- (IX) improved shoulders;
- (X) intersections;
- (XI) occupant restraints;
- (XII) law enforcement and emergency vehicles (this category will be temporary until the need is substantiated by documentation from the Department of Public Safety on the number of deaths or injuries involved because of improper procedures used by a citizen when stopped by a law enforcement officer); and

(XIII) other laws as applicable (i.e., financial responsibility/compulsory insurance).

(v) Special skills for difficult driving environments—minimum of 20 minutes (instructional objectives—to identify how special conditions affect driver and vehicle performance and identify techniques for management of these conditions). Instruction shall address the following topics:

- (I) inclement weather;
- (II) traffic congestion;
- (III) city, urban, rural, and expressway environments;
- (IV) reduced visibility conditions—hills, fog, curves, light conditions (darkness, glare, etc.), etc.; and
- (V) roadway conditions.

(vi) Physical forces that influence driver control—minimum of 15 minutes (instructional objective—to identify the physical forces that affect driver control and vehicle performance). Instruction shall address the following topics:

- (I) speed control (acceleration, deceleration, etc.);
- (II) traction (friction, hydroplaning, stopping distances, centrifugal force, etc.); and
- (III) force of impact (momentum, kinetic energy, inertia, etc.).

(vii) Perceptual skills needed for driving—minimum of 20 minutes (instructional objective—to identify the factors of perception and how the factors affect driver performance). Instruction shall address the following topics:

- (I) visual interpretations;
  - (II) hearing;
  - (III) touch;
  - (IV) smell;
  - (V) reaction abilities (simple and complex);
- and
- (VI) judging speed and distance.

(viii) Defensive driving strategies—minimum of 40 minutes (instructional objective—to identify the concepts of defensive driving and demonstrate how they can be employed by drivers to reduce the likelihood of crashes, deaths, injuries, and economic losses). Instruction shall address the following topics:

- (I) trip planning;
- (II) evaluating the traffic environment;
- (III) anticipating the actions of others;
- (IV) decision making;
- (V) implementing necessary maneuvers;
- (VI) compensating for the mistakes of other drivers;
- (VII) avoiding common driving errors; and
- (VIII) interaction with other road users (motorcycles, bicycles, trucks, pedestrians, etc.).

(ix) Driving emergencies—minimum of 40 minutes (instructional objective—to identify common driving emergencies and their countermeasures). Instruction shall address the following topics:

- (I) collision traps (front, rear, and sides);
  - (II) off-road recovery, paths of least resistance;
- and
- (III) mechanical malfunctions (tires, brakes, steering, power, lights, etc.).

(x) Occupant restraints and protective equipment—minimum of 15 minutes (instructional objective—to identify the rationale for having and using occupant restraints and protective equipment). Instruction shall address the following topics:

- (I) legal aspects;
- (II) vehicle control;
- (III) crash protection;

(IV) operational principles (active and passive); and

(V) helmets and other protective equipment.

(xi) Alcohol and traffic safety—minimum of 40 minutes (instructional objective—to identify the effects of alcohol on roadway users) . Instruction shall address the following topics related to the effects of alcohol on roadway users:

(I) physiological effects;

(II) psychological effects;

(III) legal aspects;

(IV) synergistic effects; and

(V) countermeasures.

(xii) Comprehensive examination and summation—minimum of 15 minutes (this shall be the last unit of instruction).

(xiii) The remaining required 20 minutes of instruction shall be allocated to the topics included in the minimum course content, excluding clause (i) and clause (xii) of this subparagraph, or to additional driving safety topics that satisfy the educational objectives of the course.

(C) Course management. Approved driving safety courses shall be presented in compliance with the following guidelines.

(i) No more than 50 students per class are permitted in driving safety courses.

(ii) The total length of the course shall consist of a minimum of 360 minutes.

(iii) A minimum of 300 minutes of instruction is required.

(iv) Sixty minutes of time, exclusive of the 300 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum course content, excluding the course introduction and comprehensive examination and summation. All break periods shall be provided after instruction has begun and before the comprehensive exam and course summary.

(v) Administrative procedures, such as enrollment, shall not be included in the 300 minutes of the course.

(vi) Courses conducted in a single day shall allow a minimum of 30 minutes for lunch, which is exclusive of the total course length of 360 minutes.

(vii) Courses taught over a period longer than one day shall provide breaks on a schedule equitable to those prescribed for one-day courses. However, all breaks shall be provided prior to the last unit of the instructional day or the comprehensive exam, whichever is appropriate.

(viii) The order of topics shall be approved by the Texas Education Agency (TEA) as part of the course approval, and for each student, the course shall be taught in the order identified in the approved application.

(ix) Students shall not receive a uniform certificate of course completion unless that student receives a grade of at least 70% on the final examination.

(x) The TEA shall produce and supply to course providers, at no cost to the course providers, copies of a short introductory video that will provide information about the requirements for completing a six-hour driving safety course and the penalties involved for accepting a uniform certificate of course completion for a course that was not six hours in length. The course provider shall ensure that the video is shown to all students of each class during the introduction. Alternative methods for providing the required information to the students may be submitted by the course provider and approved at the discretion of the division director.

(D) Driving safety course guides. A course guide is a description of the content of the course and the techniques of instruction that will be used to present the course. The guide shall be bound into one unit or contained in a hole-punched notebook with a cover and a table of contents. To be approved for licensing, each course provider shall submit as part of the application a course guide that includes the following:

(i) a statement of the course's traffic safety goal and philosophy;

(ii) a statement of policies and administrative provisions related to instructor conduct, standards, and performance;

(iii) a statement of policies and administrative provisions related to student conduct and attendance;

(iv) a statement of policy addressing entrance requirements and special conditions of students, such as the inability to read, language barriers, and other disabilities;

(v) a list of: relevant instructional resources, such as textbooks, audio and visual media and other instructional materials, and equipment that will be used in the course; and the furniture deemed necessary to accommodate the students in the course, such as tables, chairs, and other furnishings. A variety of relevant motion picture films, slides, videos, or tape recordings shall be used for at least 60 minutes but cannot be used in excess of 150 minutes of the 300 minutes of instruction. The resources may be included in a single list or may appear at the end of each instructional unit;

(vi) a clear identification of the order in which the units of instruction will be presented, and for each student, the course shall be taught in the order identified in the approved application;

(vii) written or printed materials that shall be provided for use by each student as a guide to the course. Exceptions to this requirement may be made by the division director on an individual basis;

(viii) a description of the plans under which the course will be presented;

(ix) units of instruction sufficient to present the topics identified in subparagraph (B) of this paragraph and any additional topics unique to the course. Each instructional unit shall include the following:

(I) the subject of the unit;

(II) the instructional objectives of the unit;

(III) time to be dedicated to the unit;

(IV) an outline of major concepts to be presented;

(V) instructional activities to be used to present the material (lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions, etc.). When small-group discussions are planned, the course guide shall identify the questions that will be assigned to the groups;

(VI) instructional resources for each unit; and

(VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the course guide. The evaluative technique may be used throughout the unit or at the end; and

(x) a completed form cross-referencing the instructional units to the topics identified in subparagraph (B) of this paragraph. A form to cross-reference the instructional units to the required topics and topics unique to the course will be provided by the division.

(E) Instructor training guides. An instructor training guide contains a description of the plan, training techniques, and curriculum to be used to train instructors to present the concepts of the approved driving safety course described in the applicant's driving safety course guide. Each course provider shall submit as part of the application an instructor training guide that is bound or hole-punched and placed in a binder and that has a cover and a table of contents. The guide shall include the following:

(i) a statement of the philosophy and instructional goals of the training course;

(ii) a description of the plan to be followed in training instructors. The plan shall include, as a minimum, provisions for the following:

(I) instruction of the trainee in the course curriculum;

(II) training the trainee in the techniques of instruction that will be used in the course;

(III) training the trainee about administrative procedures and course provider policies;

(IV) demonstration of desirable techniques of instruction by the instructor trainer;

(V) a minimum of 15 minutes of instruction of the course curriculum by the trainee under the observation of the instructor trainer as part of the basic training course;

(VI) time to be dedicated to each training lesson; and

(VII) a minimum of 600 minutes of instruction of the course in a regular approved course under the observation of a licensed instructor trainer. The instructor trainee shall provide instruction for two full courses. It is not mandatory that the two courses be taught as two complete courses; however, every instructional unit shall be taught twice; and

(iii) instructional units sufficient to address the provisions identified in clause (ii)(I)-(V) of this subparagraph. The total time of the units shall contain a minimum of 24 instructional hours. Each instructional unit shall include the following:

(I) the subject of the unit;

(II) the instructional objectives of the unit;

(III) time to be dedicated to the unit;

(IV) an outline of major concepts to be presented;

(V) instructional activities to be used to present the material (i.e., lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions). When small-group discussions are planned, the course guide shall identify the questions that will be assigned to the groups;

(VI) instructional resources for each unit; and

(VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the instructor training guide. The evaluative technique may be used throughout the unit or at the end.

(F) Examinations. Each course provider shall submit for approval, as part of the application, tests designed to measure the comprehension level of students at the completion of the driving safety course and the instructor training course. Instructors may not be certified or students given credit for the driving safety course unless they score 70% or more on the final test. The course guide shall identify alternative testing techniques to be used for students with reading, hearing, or learning disabilities and policies for retesting students who score less than 70% on the final exam. The applicant may choose not to provide alternative testing techniques; however, students shall be advised of courses providing alternative testing prior to enrollment in the course. Test questions may be short answer, multiple choice, essay, or a combination of these forms.

(G) Student course evaluation. Each student instructed in a driving safety course shall be given an opportunity to evaluate the course and the instructor on an official evaluation form. A master copy of the evaluation form will be provided to TEA. The evaluation forms must be collected at the conclusion of each class and kept on file at the location of the school for a period of one year.

(H) Instructor performance. Driving safety course providers with more than one instructor shall submit a written plan describing how monitoring of instructor performance will be accomplished. The plan shall identify the criteria upon which the instructors will be evaluated, the procedure for evaluation, the frequency of evaluation, and the corrective action to be taken when instructors do not meet criteria established by the course provider.

(I) Instructor training. Course providers shall ensure that instructors are provided with the most recent course materials and relevant data and information pertaining to driving safety.

(J) State-level evaluation of driving safety courses. Each course provider shall collect adequate student data to enable TEA to evaluate the overall effectiveness of a course in reducing the number of violations and accidents of persons who successfully complete the course. The commissioner of education shall determine

a level of effectiveness that serves the purposes of Texas Civil Statutes, Article 4413(29c). For each student, each course provider shall collect and, upon request, provide to TEA the following data:

- (i) complete legal name;
- (ii) driver's license number;
- (iii) date of birth; and
- (iv) date of course completion. Information derived from the study of the data will be used by TEA to evaluate the state's overall driving safety course and as a part of the total evaluation of individual courses. The data, as prescribed by TEA, shall be provided to the course provider within a 30-day period 24 months subsequent to approval of the driving safety course by TEA. The TEA shall, within 12 months of receiving the data, conduct an evaluation of the driving safety courses in general and of each approved course. The evaluation shall be conducted relative to the pre-course and post-course driving records of the graduates.

(K) Innovative driving safety courses. Upon the written request of an applicant, the commissioner of education may approve the course structure of an innovative driving safety course which would not otherwise be in compliance with this chapter. The approval of an innovative driving safety course shall expire at the end of one year unless timely renewed. To renew the approval, an applicant must submit a renewal request and complete report at least 30 days prior to expiration. The renewal request and report must provide evidence acceptable to the commissioner of education of the accomplishment of the implementation plan and goals submitted for the previous year and include an acceptable updated plan of implementation and statement of goals for the following year. A written request must include a report that provides the following:

- (i) documentation of the developmental process;
- (ii) the actual presentation that would be used;
- (iii) justification demonstrating how the offered course would more completely satisfy the educational objectives of driving safety than a driving safety course that could be otherwise approved pursuant to this chapter;
- (iv) a specific plan of implementation and statement of goals for the immediate year following approval;
- (v) in the case of a renewal request, an evaluation of the effectiveness of the course for the previous approved period; and
- (vi) any other information requested by the commissioner of education to adequately review the presentation.

(L) Driving safety courses delivered by technology. The commissioner of education may approve a driving safety course delivered by technology and waive any rules to accomplish this approval if:

- (i) the educational objectives, minimum course content, applicable areas of course management, examination, and student course evaluation requirements are met;
- (ii) the course materials are written by a TEA-licensed driving safety instructor or other individuals or organizations with recognized experience in writing instructional materials with input from a TEA-licensed driving safety instructor;
- (iii) with the exception of circumstances beyond the control of the course owner, the student has adequate access to a licensed instructor (on the average, within two minutes) throughout the course such that the flow of instructional information is not delayed;
- (iv) the equipment and course materials are available only through and at the approved driving safety school or classroom; and

(v) there is sufficient evidence to demonstrate the security of the course and that it cannot be circumvented by the general public.

(M) Requirements for authorship. The course materials shall be written by a TEA-licensed driving safety instructor or other individuals or organizations with recognized experience in writing instructional materials with input from a TEA-licensed driving safety instructor.

(2) Instructor development courses.

(A) Driving safety instructors shall successfully complete 36 clock hours (50 minutes of instruction in a 60-minute period) in the approved instructor development course for the driving safety course to be taught, under the supervision of a driving safety instructor trainer. Supervision is considered to have occurred when the instructor trainer is present and personally provides the 36 clock hours of training for driving safety instructors, excluding those clock hours approved by TEA staff that may be presented by a guest speaker or using films and other media that pertain directly to the concepts being taught.

(B) Instruction records shall be maintained by the course provider and instructor trainer for each instructor trainee and shall be available for inspection by authorized division representatives at any time during the training period and/or for license investigation purposes. The instruction record shall include: the trainee's name, address, driver's license number, and other pertinent data; the name and instructor license number of the person conducting the training; and the dates of instruction, lesson time, and subject taught during each instruction period. Each record shall also include grades or other means of indicating the trainee's aptitude and development. Upon satisfactory completion of the training course, the instructor trainer conducting the training will certify one copy of the instruction record for attachment to the trainee's application for licensing, and one copy will be maintained in a permanent file at the course provider location.

(C) All student instruction records submitted for the TEA-approved instructor development course shall be signed by the course provider. Original documents shall be submitted.

(D) Driving safety instructor development courses may be offered at approved classroom facilities of a licensed school which is approved to offer the driving safety course being taught. The course shall be presented by a properly licensed instructor trainer.

(E) Applicants shall complete 36 hours of training in the driving safety curriculum that shall be taught. Of the 36 hours, 24 shall cover techniques of instruction and in-depth familiarization with materials contained in the driving safety curriculum. The additional 12 hours shall consist of practical teaching with students and shall occur after the first 24 hours have been completed.

(F) The driving safety course provider shall submit dates of instructor development course offerings for the 24-hour training that covers techniques of instruction and in-depth familiarization with the material contained in the driving safety curriculum, locations, class schedules, and scheduled instructor trainers' names and license numbers before the courses are offered. The 12-hour practical-teaching portion of the instructor development course shall be provided at properly licensed schools or classrooms approved to offer the course being provided.



(b) Schools applying for approval of additional courses after the original approval has been granted shall submit the documents designated by the division director with the appropriate fee. Courses shall be approved before soliciting students, advertising, or conducting classes. An approval for an additional course shall not be granted if the school's compliance is in question at the time of application.

(c) If an approved course is discontinued, the division director shall be notified within 72 hours of discontinuance and furnished with the names and addresses of any students who could not complete the course because it was discontinued. If the school does not make arrangements satisfactory to the students and the division director for the completion of the courses, the full amount of all tuition and fees paid by the students are due and refundable. If arrangements are not made satisfactory to the students and the division director, the refunds must be made no later than 30 days after the course was discontinued. Any course discontinued shall be removed from the list of approved courses.

(d) If, upon review and consideration of an original, renewal, or amended application for course approval, the commissioner of education determines that the applicant does not meet the legal requirements, the commissioner shall notify the applicant, setting forth the reasons for denial in writing.

(e) The commissioner of education may revoke approval of any course under any of the following circumstances.

(1) A statement contained in the application for the course approval is found to be untrue.

(2) The school has failed to maintain the faculty, facilities, equipment, or courses of study on the basis of which approval was issued.

(3) The school and/or course provider has been found to be in violation of Texas Civil Statutes, Article 4413(29c), and/or this chapter.

(4) The course has been found to be ineffective in carrying out the purpose of the Texas Driver and Traffic Safety Education Act.

#### *§176.121. Names and Advertising.*

(a) No driving safety school or course provider shall adopt, use, or conduct any business under a name that is like, or deceptively similar to, a name used by another licensed driving safety or driver education school without written consent of that school. Schools or extensions holding a name approved by the Texas Education Agency (TEA) as of August 31, 1995, may continue to use the name approved by TEA. No new license will be issued to a driving safety school or course provider after August 31, 1995, with a name like, or deceptively similar to, a name used by another licensed driving safety or driver education school.

(b) A school license shall not contain more than one school name. Schools that hold approvals for more than one name as of August 31, 1995, shall provide written notice to TEA of the name that will be selected for the school at the renewal period subsequent to adoption of this rule. Use of names other than the approved school name may constitute a violation of this section.

(c) A school shall not, by advertisement or otherwise, state or imply that a uniform certificate of course completion is guaranteed or assured to any student or individual who will take or complete any instruction or enroll or otherwise receive instruction in any driving safety school.

(d) A driving safety school shall not advertise without including the school name exactly as it appears on the driving safety school license and school number and the course provider name exactly as it appears on the course provider license or course provider number. A driving safety school shall not advertise a

multiple classroom location without including the school name exactly as it appears on the driving safety school license and school number and the course provider name exactly as it appears on the course provider license or course provider number.

(e) The division director may require that a school furnish proof to TEA that substantiates any advertising claims made by the school. Failure to provide acceptable proof may require that a retraction of such advertising claims be published by the school in the same manner as the disputed advertisement. Continuation of such advertising shall constitute cause for suspension or revocation of the school license.

(f) A school or course provider shall not design, manufacture, or supply to any court of the state any written materials that may be false, misleading, or deceptive.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600639      Criss Cloudt  
Associate Commissioner, Policy Planning and  
Research  
Texas Education Agency

Effective date: February 15, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701

## Chapter 176. Driver Training Schools

### Subchapter B. Minimum Standards for Operation of Texas Driver Training Schools

#### • 19 TAC §§176.10-176.20, 176.22, 176.23, 176.25-176.34

The Texas Education Agency (TEA) adopts the repeal of §§176.10-176.20, 176.22, 176.23, and 176.25-176.34, concerning driver training schools, without changes to the proposed text as published in the November 21, 1995, issue of the *Texas Register* (20 TexReg 9663). The sections establish minimum standards of operation for driver training schools, including definitions, requirements, and procedures related to: school and instructor licensure; exempt schools; school personnel; courses of instruction; school facilities and equipment; student complaints; records; application fees and other charges; and the uniform certificate of course completion. The repeals are necessary to comply with the sunset review process mandated by Senate Bill 1, 74th Texas Legislature, 1995. A new Chapter 176 is adopted in a separate submission.

Under Senate Bill 1, a rule adopted by the State Board of Education (SBOE) normally does not take effect until the beginning of the school year that begins at least 90 days after the date the rule is adopted. However, the Bill provides that an SBOE rule may take effect earlier under certain circumstances. The SBOE, by an affirmative vote of at least two-thirds of the board members, adopts an earlier effective date of February 15, 1996. Because SBOE is adopting an earlier effective date of February 15, 1996, for new Chapter 176, Subchapter A and Subchapter B, the earlier effective date adopted for the repeal of current Chapter 176, Subchapter B, must be the same to avoid regulatory overlap.

The repeals are adopted under the Texas Education Code, §7.102, which authorizes the State Board of Education to review specified TEA rules.

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

Issued in Austin, Texas, on January 17, 1996.

Effective date: February 15, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-9701

◆ ◆ ◆  
**TITLE 22. EXAMINING BOARDS**  
**Part XI. Board of Nurse Examiners**  
**Chapter 217. Licensure and Practice**

• 22 TAC §217.20

The Board of Nurse Examiners adopts an amendment to §217.20, concerning Minimal Procedural Standards During Peer Review without changes to the proposed text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10358).

During the 74th Legislative Session, House Bill 883 was passed which added vocational nurses to the Nursing Practice Act under Article 4525b, Peer Review. The language indicates that whenever peer review involves RNs and LVNs, the peer review committee shall include LVNs as members.

Peer review was enacted as a part of the Nursing Practice Act in 1987 and institutions implemented peer review for both RNs and LVNs, although LVNs were not specified in the statute. This resulted in a lack of immunity from suit when peer review committees handled LVNs.

The adopted amendment will cure the immunity problem so that committees who handle both RNs and LVNs can be free from suit/liability.

There were no comments received regarding adoption of the amendment.

The amendment is adopted under the Nursing Practice Act, (Texas Civil Statutes, Article 4514), §1, which provides the Board of Nurse Examiners with the authority and power to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it.

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

Issued in Austin, Texas, on January 16, 1996.

TRD-9600565 Katherine A. Thomas, MN, RN  
Executive Director  
Board of Nurse Examiners

Effective date: February 6, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 305-6811

◆ ◆ ◆  
**Part XVIII. Texas State Board of  
Podiatric Medical Examiners**  
**Chapter 371. Examinations**

• 22 TAC §§371.1-371.6

The Texas State Board of Podiatric Medical Examiners adopts amendments to §§371.1-371.6, concerning Examinations, without changes to the proposed text as published in the December 12, 1995, issue of the *Texas Register* (20 TexReg 10470).

The rules are being amended to bring terms in line with those used throughout the country and to include changes which were necessary to allow for the validation process.

The amendments will update terms that are used throughout the country and make changes necessary to allow for the validation process.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Articles §4568(j) and §4590(e), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine.

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 authority.

Issued in Austin, Texas, on January 12, 1996.

TRD-9600461 Janie Alonzo  
Staff Services Officer I  
Texas State Board of Podiatric Medical Examiners

Effective date: February 2, 1996

Proposal publication date: December 12, 1995

For further information, please call: (512) 305-7000

◆ ◆ ◆  
• 22 TAC §§371.7-371.15

The Texas State Board of Podiatric Medical Examiners adopts the repeal of §§371.7-371.15, concerning Examinations, without changes to the proposed text as published in the December 12, 1995, issue of the *Texas Register* (20 TexReg 10473).

The rules are being repealed because the rules are very vague and are being updated by the Board to bring terms in line with those used throughout the country and to include changes which were necessary to allow for the validation process.

The repeals will allow us to update terms that are used throughout the country and make changes necessary to allow for the validation process.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Articles §4568(j) and §4590(e), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine.

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 authority.

Issued in Austin, Texas, on January 12, 1996.

TRD-9600462 Janie Alonzo  
Staff Services Officer I  
Texas State Board of Podiatric Medical Examiners

Effective date: February 2, 1996

Proposal publication date: December 12, 1995

For further information, please call: (512) 305-7000

◆ ◆ ◆  
The Texas State Board of Podiatric Medical Examiners adopts new §§371.7-371.15, concerning Examinations, without changes to the proposed text as published in the December 12, 1995, issue of the *Texas Register* (20 TexReg 10473).

The new rules are being written to bring terms in line with those used throughout the country and to include changes which were necessary to allow for the validation process.

The rules define the process for administering the examination.

No comments were received regarding adoption of the new rules.

The new rules are adopted under Texas Civil Statutes, Articles §4568(j) and §4590(e), which provide the Texas State Board of Podiatric Medical Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not inconsistent with the law regulating the practice of podiatric medicine, the laws of this state, or of the United States; to govern its proceedings and activities, the regulation of the practice of podiatric medicine, and the enforcement of the law regulating the practice of podiatric medicine.

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 authority.

Issued in Austin, Texas, on January 12, 1996.

TRD-9600463 Janie Alonzo  
Staff Services Officer I  
Texas State Board of Podiatric Medical Examiners

Effective date: February 2, 1996

Proposal publication date: December 12, 1995

For further information, please call: (512) 305-7000

◆ ◆ ◆  
**Title 34. PUBLIC FINANCE**  
**Part I. Comptroller of Public Accounts**  
**Chapter 3. Tax Administration**

**Subchapter L. Motor Fuels Tax**

• **34 TAC §3.193**

The Comptroller of Public Accounts adopts an amendment to §3.193, concerning bad debt deductions, without changes to the proposed text as published in the November 3, 1995, issue of the *Texas Register* (20 TexReg 9148).

House Bill 576, 74th Legislature, 1995, amended the Tax Code, Chapter 153, to allow the comptroller to collect a penalty equal to the amount of unpaid tax from persons who issue an insufficient check to a permitted distributor or permitted supplier for the payment of a debt that includes the motor fuel tax. The amendment prescribes procedures and records required of a permitted distributor or permitted supplier when notifying the comptroller of receiving an insufficient payment for tax-paid gasoline or diesel fuel.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements the Tax Code, §153.409.

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600608 Martin Cherry  
Chief, General Law  
Comptroller of Public Accounts

Effective date: February 7, 1996

Proposal publication date: November 3, 1995

For further information, please call: (512) 463-4062

◆ ◆ ◆  
**Subchapter O. State Sales and Use Tax**

• **34 TAC §3.287**

The Comptroller of Public Accounts adopts an amendment to §3.287, concerning exemption certificates, with changes to the proposed text as published in the October 31, 1995, issue of the *Texas Register* (20 TexReg 8988).

The Tax Code, §151.155, was amended effective October 1, 1995, to state the value of taxable items if a purchaser who gave a valid exemption certificate makes a divergent use. The amendment states the value of tangible personal property and the value of a taxable service if there is a divergent use by a purchaser.

Comments were received concerning the proposed rule from an Austin attorney. One comment concerned changing the wording in subsection (e) that defines the value of tangible personal property and the value of a taxable service if there is a divergent use by a purchaser. The suggested wording changes to subsection (e) would not implement the amended language in Tax Code, §151.155, effective October 1, 1995.

Another comment regarding subsection (h) expressed a concern over the name of the exemption certificate (Texas Sales and Use Tax Exemption Certification) that is adopted by reference. The rule is simply referencing the actual title of the exemption certificate to be adopted. The change to the title of the exemption certificate was done when it was printed with a front and back format with the Texas Resale Certificate in order to save the state printing and mailing costs. The current title of an exemption certificate helps to distinguish it from a resale certificate and is more descriptive because a purchaser is actually signing a certification statement that a sale is exempt.

Additional comments on the proposed rule included changing previously existing wording in subsection (d)(1) so that all gross receipts of a retailer are only presumed to be taxable and a change to subsection (d)(5) to eliminate the requirement that a retailer be familiar with the exemptions available for the items the retailer sells. These changes are not adopted because the Tax Code has not been amended to require such changes.

Another comment concerned the reference to 34 TAC §3.296 concerning Agriculture, Animal Life, Feed, Seed, Plants, and Fertilizer, in subsection (d) (5) of the proposed rule regarding the acceptance of a blanket exemption certificate received for agricultural exemptions. The comment pointed out that there are other situations in which a blanket exemption certificate may be accepted by a retailer. A statement regarding the acceptance of a blanket exemption certificate by a retailer has now been added to subsection (d)(5) of the adopted rule.

This amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements Senate Bill 640, 74th Legislature, 1995, amending the Tax Code, §151.155, effective October 1, 1995.

*§3.287. Exemption Certificates.*

(a) Definition. Exemption certificate—A document that, when properly executed, allows the tax-free purchase of an item that would otherwise be subject to tax. A purchaser claiming an exemption because the item purchased is for resale must issue a resale certificate to the seller. See §3.285 of this title (relating to Resale Certificate; Sales for Resale). There is no provision in the sales and use tax act for an exemption number or a tax exempt number to be issued or used in connection with an exemption certificate.

(b) Who may issue an exemption certificate. An exemption certificate of the type described in this section may only be issued by one of the following:

(1) an organization that has qualified for exemption under the Tax Code, §151.309 or §151.310. See §3.322 of this title (relating to Exempt Organizations);

(2) a person purchasing an item that is exempt under the Tax Code, Chapter 151, Subchapter H.

(c) Maquiladora exemption and direct payment permits.

(1) People who make purchases using direct pay permits should refer to §3.288 of this title (relating to Direct Payment Procedures and Qualifications).

(2) People who make purchases using maquiladora exemption permits should refer to §3.358 of this title (relating to Maquiladoras).

(d) Acceptance of exemption certificate.

(1) All gross receipts of a retailer are subject to sales or use tax unless a valid and properly completed exemption certificate is accepted by the seller.

(2) A sale is exempt if the exemption certificate is accepted in good faith at the time of the transaction and the seller lacks actual knowledge that the claimed exemption is invalid.

(3) A person who intentionally or knowingly makes, presents, uses, or alters an exemption certificate for the purpose of evading the Texas sales or use tax is guilty of a criminal offense.

(A) If the tax evaded by the invalid certificate is less than \$20, the offense is a Class C misdemeanor.

(B) If the tax evaded by the invalid certificate is \$20 or more but less than \$200, the offense is a Class B misdemeanor.

(C) If the tax evaded by the invalid certificate is \$200 or more but less than \$750, the offense is a Class A misdemeanor.

(D) If the tax evaded by the invalid certificate is \$750 or more but less than \$20,000, the offense is a felony of the third degree.

(E) If the tax evaded by the invalid certificate is \$20,000 or more, the offense is a felony of the second degree.

(4) The seller should obtain the properly executed exemption certificate at the time the transaction occurs. All certificates obtained on or after the date the comptroller's auditor actually begins work on the audit at the seller's place of business or on the seller's records after the entrance conference are subject to verification. All incomplete certificates will be disallowed regardless of when they were obtained. The seller has 60 days from the date written notice is received by the seller from the comptroller in which to deliver the certificates to the comptroller. Written notice shall be given by the comptroller upon the filing of a petition for redetermination or claim for refund. For the purposes of this section, written notice given by mail is presumed to have been received by the seller within three business days from the date of deposit in the custody of the United States Postal Service. The seller may overcome the presumption by submitting proof from the United States Postal Service or by other competent evidence showing a later delivery date. Any certificates delivered to the comptroller during the 60-day period will be subject to independent verification by the comptroller before any deductions will be allowed. Certificates delivered after the 60-day period will not be accepted and the deduction will not be granted.

(5) The exemption certificate will be valid if the seller received it in good faith from a purchaser and if the certificate states valid qualifications for an exemption. A retailer must be familiar with the exemptions that are available for the items the retailer sells. A retailer may accept a blanket exemption certificate given by a purchaser who purchases only items that are exempt. For information on blanket exemption certificates received for agricultural exemptions, see §3.296 of this title (relating to Agriculture, Animal Life, Feed, Seed, Plants, and Fertilizer).

(6) An exemption certificate is not acceptable when an exemption is claimed because tangible personal property is exported outside the United States. For proper documentation required for proof of export, see §3.323 of this title (relating to Imports and Exports) and §3.360 of this title (relating to Customs Brokers).

(e) Improper use of items purchased under an exemption certificate.

(1) When an item purchased under a valid exemption certificate is used in a taxable manner, whether the use is in Texas or outside the state, the purchaser is liable for payment of sales tax based on the value of the tangible personal property or taxable service for the period of time used. If the exemption certificate was invalid at the time of its issuance, the purchaser owes tax on the original purchase price.

(2) The value of tangible personal property is the fair market rental value of the tangible personal property. The fair market rental value is the amount that a purchaser would pay on the open market to rent or lease the tangible personal property for use. If tangible personal property has no fair market rental value, sales tax is due based upon the original purchase price.

(3) The value of a taxable service is the fair market value of the taxable service. The fair market value is the amount that a purchaser would pay on the open market to obtain that taxable service. If a taxable service has no fair market value, sales tax is due based upon the original purchase price.

(4) At any time the person using tangible personal property or a taxable service purchased under a valid exemption certificate may stop paying tax on the value of tangible personal property or the value of a taxable service and instead pay sales tax on the original purchase price. When the person elects to pay sales tax on the purchase price, credit will not be allowed for taxes previously paid based on value.

(5) Sales tax is not due when an item purchased under a valid exemption certificate is donated to an organization exempt from tax under the Tax Code, §151.309 or §151.310(a)(1) or (2), provided the purchaser does not use the donated tangible personal property or the donated taxable service.

(6) Contractors using equipment purchased under a valid exemption certificate on both taxable and exempt projects must account for tax based upon the provisions in §3.291 of this title (relating to Contractors).

(f) Content of an exemption certificate. An exemption certificate must show:

- (1) the name and address of the purchaser;
- (2) a description of the item to be purchased;
- (3) the reason the purchase is exempt from tax;
- (4) the signature of the purchaser and the date; and
- (5) the name and address of the seller.

(g) Purchases of taxable items by agents of the Federal Deposit Insurance Corporation (FDIC) or the Resolution Trust Corporation (RTC). The FDIC or RTC may purchase items tax free for use in operating a property or business to which it has title. An exemption certificate may be issued by the FDIC or RTC or by persons acting as agents for the FDIC or RTC when purchasing items that are incorporated into or used on the property or business being managed. The certificate must state that the purchases are being made by or for the FDIC or RTC. The FDIC or RTC or persons managing property or a business for these corporations may issue an exemption certificate when:

(1) the FDIC or RTC provides documentation to the person managing the property or business showing that title to the property or business being managed was transferred to the FDIC or RTC; and

(2) the FDIC or RTC has entered into a written agreement with the person managing the property or business that designates that person as its agent and authorizes that person to make purchases on its behalf. The agreement must be in the person's files for review by the comptroller. It is not necessary to provide a copy of the agreement to suppliers.

(h) Form of an exemption certificate. An exemption certificate must be in substantially the form of a Texas Sales and Use Tax Exemption Certification that the comptroller adopts by reference. Copies are available for inspection at the office of the *Texas Register* or may be obtained from the Comptroller of Public Accounts, Tax Policy Division, 111 West 6th Street, Austin, Texas 78701-2913. Copies may also be requested by calling our toll-free number 1-800-252-5555. In Austin, call 463-4600. (From a Telecommunication Device for the Deaf (TDD) only, call 1-800-248-4099 toll free. In Austin, the local TDD number is 463-4621).  
Figure: 34 TAC §3.287(h)

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600610      Martin Cherry  
                         Chief, General Law  
                         Comptroller of Public Accounts

Effective date: February 7, 1996

Proposal publication date: October 31, 1995

For further information, please call: (512) 463-4028

◆                    ◆                    ◆  
• 34 TAC §3.354

The Comptroller of Public Accounts adopts an amendment to §3.354, concerning debt collection services, without changes to the proposed text as published in the October 31, 1995, issue of the *Texas Register* (20 TexReg 8991).

The amendment reflects changes made by Senate Bill 640, 74th Legislature, 1995, to impose tax on the processing fee charged by a person collecting a dishonored check. The tax may be collected from the payor or payee of the check. Senate Bill 793, 74th Legislature, 1995, excludes fees paid to recover court-ordered child support or medical child support from taxable debt collection services.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements the Tax Code, §151.0036(c).

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

Issued in Austin, Texas, on January 17, 1996.

TRD-9600609      Martin Cherry  
                         Chief, General Law  
                         Comptroller of Public Accounts

Effective date: February 7, 1996

Proposal publication date: October 31, 1995

For further information, please call: (512) 463-4062

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part VI. Texas Department of Criminal Justice

#### Chapter 152. Institutional Division

##### Subchapter C. Maximum System Capacity of the Institutional Division

###### • 37 TAC §152.12

The Texas Department of Criminal Justice adopts an amendment to §152.12, concerning the maximum capacity of certain units of the Institutional Division with two changes to the proposed text as published in the November 24, 1995, issue of the *Texas Register* (20 TexReg 9835).

The new subsection is adopted to comply with the orderly process under state law, Government Code, §§499.101 et seq., for increasing capacity of prison units or of the system as a whole. This process requires multiple levels of review and recommendation to ensure that an increase will still allow the staff to provide inmates with an enumerated list of services, functions, and staffing. The adopted version of the subsection is changed, first, simply by adding the Estelle Unit, which was inadvertently left out of the initial proposal language, to the list of affected facilities. The second change is in the definition of "close custody facility," changing "meal distribution" to "meal preparation." This reflects a revision in the scope of the proposal that was triggered by the institutional division's analysis of its ability to provide for all the enumerated list of services and functions; i.e., the staff concluded that additional kitchen space will be needed to serve the added inmate population.

The staff of the institutional division finds and recommends that the additions to capacity by addition of a close custody facility at the following units may be made without limiting the ability of the division to operate the affected units with the additional capacity and provide for the matters listed in the Government Code, §499.102(a): Allred Unit, Wichita Falls; Clements Unit, Amarillo; Estelle Unit, Walker County; Connally Unit, Karnes County; Stiles Unit, Beaumont; Hughes Unit, Gatesville; Smith Unit, LaMesa; Lewis Unit, Woodville; and Wallace Unit, Mitchell County. Pursuant to Government Code, §499.104, these staff findings have been independently reviewed and concurred in by the following officials: Wayne Scott, Executive Director, Texas Department of Criminal Justice; Gary Johnson, Director, Institutional Division/Acting Director for Operations, Institutional Division, TDCJ; William C. McCray, Deputy Director for Administration, Texas Department of Criminal Justice; Carl Jeffries, Deputy Director for Program Services, Texas Department of Criminal Justice; Michael Warren, M.D., Deputy Director for Health Services, TDCJ; and Charles Smith, Assistant Director for Classification and Treatment, Institutional Division, TDCJ.

Pursuant to Texas Government Code, §499.102(b), these staff findings have also been forwarded to the Legislative Budget Board for an estimate of the initial cost of implementing the increase and the increase in operating costs for the units for the five years immediately following the increase in capacity. The LBB's response is as follows: Figure 1: 37 TAC §152.12 (preamble)

Pursuant to Government Code, §§499.105-499.107, these staff findings have also been reviewed and concurred in by the Texas Board of Criminal Justice at its January 12, 1996, meeting, and will be forwarded to Governor George W. Bush and then Attorney General Dan Morales for their review and recommendation. The effect of the amendment is to allow the Institutional Division to increase unit capacities at nine prison units by constructing permanent additions to the units as set out in Section XIII.D.5 of the Final Judgment. Section XIII.D.5 is referenced in the existing rule, §152.12(b), but that reference would only allow increases in the population at the units listed in the subsection. The amendment will allow increases primarily at newer, "prototype" facilities, in compliance with Chapter 499, Subchapter E, Government Code, and to the extent permitted by the Final Judgment, by adding a new subsection (i) to §152.12.

Pursuant to Government Code, §499.013, inmate comments were solicited and received after publication of the proposal, and are summarized as follows. First, 90 inmates of the Connally Unit signed a statement titled "Objections to Increase in Population," which raised five categories of problems that will be increased by increasing the population: Infirmary—there are already significant delays in accessing health care, inadequate seating in the waiting area, and scheduling manipulations that occur to limit access; Law Library—there is already inadequate table space, electrical outlets for typewriters, and law books; Chow Hall—meals are already hurried, with 10 minutes or less to eat; Sanitation, Hygiene, and Communication Supplies—many supplies are unavailable or take weeks to receive, such as disinfectants, soap, toothpowder, toothbrushes, truckmail envelopes, sick-call requests, 1-60 forms, and grievance forms; Due Process Deficiency—counsel substitute caseloads are already so high that they take abbreviated statements, refuse to obtain documentary evidence, refuse to call witnesses, and refuse to play disciplinary hearing tapes for the inmates to listen. Second, four inmates from the Stiles Unit submitted versions of the same form letter, identifying the following nine problem areas that will be aggravated by adding population to the unit: inadequate time to eat meals, usually 10 to 12 minutes; food provided is less than the amount called for in the meal plan; chapel is not large enough to provide seating for all those wishing to attend services; inadequate number of law books; inadequate clothing and necessities to meet the nightly issue; commissaries constantly run out of items and have inadequate storage to keep up their inventory; long waits for scheduled sick-call and nurse appointments; long delays in response to maintenance requests such as light replacement and peeling paint; and an inadequate number of legal storage boxes. Finally, one other Stiles Unit inmate wrote to point out that the unit has already had one expansion in capacity and the following problem areas would be affected: educational facilities are already strained to capacity; the dining hall, kitchen, and laundry were designed for fewer inmates; and correctional staff will not be able to be familiar with additional inmates.

The following inmates made comments: Chairman of the Community of Concerned Convicts at the Connally Unit, where 89 other inmates signed his statement; Thaddus L. Seter; Joe N. Mitchell; Johnny White; David Adams; and Jack S. Groves, Jr.

The Board of Criminal Justice disagrees with the comments of inmates due to the detail provided by the agency staff regarding additional staff and equipment that will be provided to accommodate the population increases. In addition, dining time issues should not be affected by the increases because the proposed close custody facilities, under the newest proposal, will have their own capacity for preparation and distribution of meals to inmates in their cells, and no inmates from the new facility will be dining in the host unit's hall.

The amendment is adopted under Chapter 499, Subchapter E, Government Code, and is further authorized by the Final Judgment in Ruiz v. Collins CN. H-78-987 (Southern District of Texas, Houston Division), which appeared in volume 17, *Texas Register*, page 8269 (November 27, 1992). The authority of the Board of Criminal Justice to adopt rules generally is found in Government Code, §492.013, and the statutory requirement for this procedure is in Government Code, §§499.101 et seq.

§152.12. *Methodology for Changing the Maximum System Population.*

(a)-(h) (No change.)

(i) In this subsection, "close custody facility" refers to a 668-cell, two-bed-per-cell facility with its own areas for administration, recreation, meal preparation, and visitation. The institutional division shall undertake the review described by the Government Code, §499.102, to determine whether the division can increase the maximum capacity of the following units by the addition of a close custody facility: Allred Unit, Wichita Falls; Clements Unit, Amarillo; Connally Unit, Karnes County; Estelle Unit, Stiles Unit, Beaumont; Hughes Unit, Gatesville; Smith Unit, LaMesa; Lewis Unit, Woodville; and Wallace Unit, Mitchell County.

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

Issued in Austin, Texas, on January 12, 1996.

TRD-9600491 Carl Reynolds  
General Counsel  
Texas Department of Criminal Justice

Effective date: February 2, 1996

Proposal publication date: November 24, 1995

For further information, please call: (512) 463-9693

## Subchapter D. Other Rules

### • 37 TAC §152.51

The Texas Department of Criminal Justice adopts new §152.51, concerning authorized witnesses to the execution of an inmate sentenced to death, without changes to the proposed text as published in the November 24, 1995, issue of the *Texas Register* (20 TexReg 9836).

The new section is permitted by the Code of Criminal Procedure, Article 43.20, and Attorney General's Letter Opinion Number 95-059 (September 26, 1995).

The new section will specify those persons authorized to witness the execution of an inmate sentenced to death.

No comments were received regarding adoption of the new section.

The new section is adopted under the Government Code, §492.013, which grants general rulemaking authority to the Board. The new section is permitted by the Code of Criminal Procedure, Article 43.20, and Attorney General's Letter Opinion Number 95-059 (September 26, 1995).

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

Issued in Austin, Texas, on January 12, 1996.

TRD-9600490 Carl Reynolds  
General Counsel  
Texas Department of Criminal Justice

Effective date: February 2, 1996

Proposal publication date: November 24, 1995

For further information, please call: (512) 463-9693

# TABLES AND GRAPHICS

---

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

Figure: 34 TAC 3.287(h)

[TEXAS SALES AND USE TAX EXEMPTION CERTIFICATE

[Name of purchaser, firm, or agency

[Address (Street & number, P.O. Box or Route number) Phone (Area Code and number)

[City, State, ZIP code

[I, the purchaser named above, claim an exemption from payment of sales and use taxes for the purchase of taxable items described below or on the attached order or invoice form:

[Seller:

[Street address: City, State, ZIP code:

[Description of items to be purchased or on the attached order or invoice:

[

[Purchaser claims this exemption for the following reason:

[

[I understand that I will be liable for payment of sales or use taxes which may become due for failure to comply with the provisions of the Tax Code: Limited Sales, Excise, and Use Tax Act; Municipal Sales and Use Tax Act; Sales and Use Taxes for Special Purpose Taxing Authorities; County Sales and Use Tax Act; County Health Services Sales and Use Tax; The Texas Health and Safety Code; Special Provisions Relating to Hospital Districts, Emergency Services Districts, and Emergency Services Districts in counties with a population of 125,000 or less.

[I understand that it is a criminal offense to give an exemption certificate to the seller for taxable items that I know, at the time of purchase, will be used in a manner other than that expressed in this certificate and, depending on the amount of tax evaded, the offense may range from a Class C misdemeanor to a felony of the second degree.

[ Purchaser Title Date

[SIGN HERE

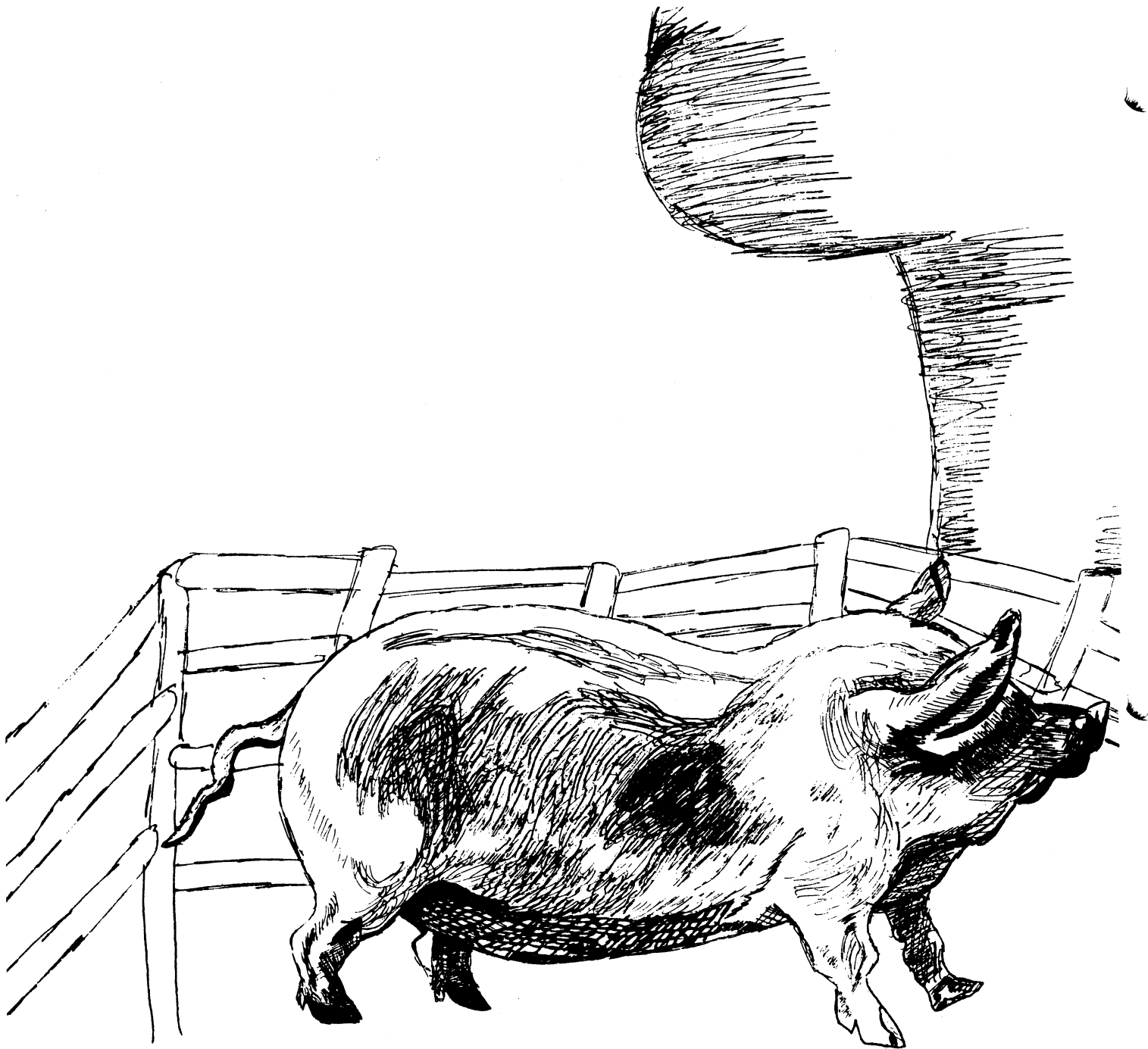
[Note: This certificate cannot be issued for the purchase, lease, or rental of a motor vehicle. THIS CERTIFICATE DOES NOT REQUIRE A NUMBER TO BE VALID. Sales and Use Tax "Exemption Numbers" or "Tax Exempt" Numbers do not exist.

[This certificate should be furnished to the supplier. Do NOT send the completed certificate to the [Comptroller of Public Accounts.]



Fig 1: 37 TAC §152.12 (Preamble)

Fiscal Year	Construction and Start-up Capital Costs Out of Bond Proceeds	Operating and Startup Costs Out of the General Revenue Fund	Debt Service Costs Out of the General Revenue Fund
1996	\$21,713,000	N/A	\$1,086,000
1997	\$195,773,000	\$9,270,000	\$21,749,000
1998	\$7,722,000	\$91,417,000	\$22,521,000
1999	N/A	\$126,886,000	\$22,521,000
2000	N/A	\$126,886,000	\$22,521,000



Name: Felisia Flores  
Grade: 10  
School: Harlandale High School, Harlandale 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 before 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 listed 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. All emergency meeting notices filed by governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a 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 Commission on Alcohol and Drug Abuse (TCADA)

Thursday, January 25, 1996, 9:00 a.m.

105 Woodbine Place, Sabine Valley Center Administrative Conference Room

Longview

Regional Advisory Consortium (RAC), Region Four

### AGENDA:

Call to order; introductions; public comments; orientation and training; planning of next meeting; and adjournment.

Contact: Perry Bridges, 3303 West Gentry Parkway, Tyler, Texas 75702, (903) 533-4529.

Filed: January 16, 1996, 3:52 p.m.

TRD-9600576

Thursday, February 8, 1996, 10:00 a.m.

Woodville Inn, 201 North Magnolia (Highway 69)

Woodville

Regional Advisory Consortium (RAC), Region Five

### AGENDA:

Call to order; introductions; public comments; orientation and training; planning of next meeting; and adjournment.

Contact: Perry Bridges, 3303 West Gentry Parkway, Tyler, Texas 75702, (903) 533-4259.

Filed: January 16, 1996, 3:52 p.m.

TRD-9600577

## Texas Court Reporters Certification Board

Friday, January 26, 1996, 12:15 p.m.

Dining Room, Joe C. Thompson, Conference Center, 26th and Red River

Austin

Testing Committee

### AGENDA:

According to the complete agenda, the Testing committee will call the meeting to order; take attendance; review minutes from previous meetings; discuss and possibly act on the length of time a statement of proficiency is valid; 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 Peg Liedtke at (512) 463-1624 two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Peg Liedtke, 205 West 14th Street, Suite 101, Austin, Texas 78701, (512) 463-1624.

Filed: January 17, 1996, 12:01 p.m.

TRD-9600660

Saturday, January 27, 1996, 9:00 a.m.

Texas Law Center, 1414 Colorado, Suite 204

Austin

### AGENDA:

According to the complete agenda, the board will call the meeting to order; take attendance; review minutes from previous meeting; conduct formal hearing in Cause Number 95477922; hear special report from board member Jerry Callaway regarding Cause Number 95326623; conduct preliminary reviews in Cause Numbers 95326623, 96194802, 9644603 and 96308704; consider applicants convicted of a criminal offense; hear report from Testing committee

and possibly act on the length of time a statement of proficiency is valid; discuss and possibly act on Cause Number 95483207; review general correspondence; consider expenditures for fiscal year 1996; 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 Peg Liedtke at (512) 463-1624 two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Peg Liedtke, 205 West 14th Street, Suite 101, Austin, Texas 78701, (512) 463-1624.

Filed: January 17, 1996, 12:01 p.m.

TRD-9600661

**Saturday, January 27, 1996, 2:00 p.m. or immediately after full board meeting**

Texas Law Center, 1414 Colorado, Suite 204

Austin

Testing Committee

AGENDA:

According to the complete agenda, the Testing committee will call the meeting to order; take attendance; meet in executive session to review 1996 oral exam material pursuant to Texas Government Code, §552.122(b); return to open session for vote on adoption of 1996 test material; schedule next meeting date; 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 Peg Liedtke at (512) 463-1624 two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Peg Liedtke, 205 West 14th Street, Suite 101, Austin, Texas 78701, (512) 463-1624.

Filed: January 17, 1996, 12:01 p.m.

TRD-9600662

## Texas Education Agency

**Thursday-Friday, January 25-26, 1996, 10:00 a.m.**

Room 1-111, William B. Travis Building, 1701 North Congress Avenue

Austin

Texas Task Force on Education Technologies

AGENDA:

January 25--Task force convenes; discussion of draft vision statement for the Long-Range Plan for Technology; small group reports on the draft vision statement; report on the December 11, 1995 meeting of the Telecommunications Infrastructure Fund; clarification of tasks of work session groups in the following areas: Teaching and learning, professional development, and administrative/support services; staff responses to work groups' questions; work sessions continue.

January 26--Task force convenes; work session groups to continue in the following areas: Teaching and learning, professional development, and administrative/support services; work session groups report to full task force; adjournment of task force meeting.

Contact: Cynthia Levinson, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9087.

Filed: January 17, 1996, 8:13 a.m.

TRD-9600603

## Advisory Commission on State Emergency Communications

**Wednesday-Thursday, January 24-25, 1996, 10:00 a.m. and 8:00 a.m., respectively.**

Lakeway Inn, 101 Lakeway Drive

Austin

Commission Workshop

AGENDA:

The commission will call the meeting to order and recognize guests; hear public comment; hear reports, discuss and take commission action, as necessary on: Policy history and review; commission committee restructuring; addressing/maintenance; mapped ALI; the commission may meet in executive session as authorized by and in compliance with the Texas Open Meetings Act, and pursuant to Government Code, §551.071 and §551.074, regarding personnel matters and/or consultation with Assistant Attorney General on pending litigation, as necessary. Adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

Contact: Jim Goerke, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6911.

Filed: January 16, 1996, 1:45 p.m.

TRD-9600564

## Texas Energy Coordination Council

**Friday, January 26, 1996, 1:00 p.m.**

J. J. Pickle Research Campus, 10100 Burnet Road, CEM/CES Building

Austin

AGENDA:

1:00 p.m.--Mike Roberts, Chairman

I. Welcome

A. Introduction of members and guests

B. Status of appointments

C. Executive director's position

II. Consideration of September 23 minutes

III. Status of TECC contract

IV. Status of TECC budget

A. Budget requests from TBEI and ESTI

B. Travel authorization

C. Releasing \$50,000 to West Texas A&M as matching funds to NREL grant (See January 1995 minutes)

V. Institute reports

A. Texas Building Energy Institute

B. Energy Storage Technology Institute

VI. New business

VII. Executive session

VIII. Report from executive session

IX. Select site and date for next TECC meeting

X. Adjourn

Contact: Susan Peterson, 10100 Burnet Road, Austin, Texas 78758, (512) 475-6774.

Filed: January 18, 1996, 9:33 a.m.

TRD-9600719

◆ ◆ ◆  
**Texas Department of Health**

Thursday, January 25, 1996, 8:00 a.m.

San Agustin Grand Ballroom, 1000 Zaragoza

Laredo

Texas Board of Health, Regulatory Committee

**AGENDA:**

The committee will discuss and possibly act on: approval of the minutes of the November 30, 1995 meeting; proposed rules concerning regulation and standards for processing and distributing crab meat; proposed rules concerning Texas molluscan shellfish; proposed rules concerning assessment of administrative or civil penalties under (the Texas Food, Drug, and Cosmetic Act; the Texas Food, Drug, Device and Cosmetic Salvage act; the Tanning Facility Regulation Act; Chapter 437, Health and Safety Code (relating to food service establishments, retail food stores, mobile food units, and roadside food vendors); Chapter 466, Health and Safety Code (relating to narcotic drug treatment programs); and Chapter 146, Health and Safety Code (relating to tattoo studios)); proposed rules concerning licensure of tanning facilities; proposed rule amending the general provisions for radiation control, including exemption criteria and inspection intervals; proposed new rule concerning licenses and radiation safety for irradiators; final adoption of rule repealing department requirements concerning radio-frequency electromagnetic radiation; final adoption of rules concerning charity care and community benefits reporting for nonprofit hospitals; and final adoption of rules concerning certification and accreditation program for lead-based paint activities. The committee will discuss proposed rules concerning minimum standards for approved narcotic treatment programs, proposed rules concerning placement of an occupation on the health related registry; and will hear announcements and comments (no committee action required).

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: January 17, 1996, 4:26 p.m.

TRD-9600702

Thursday, January 25, 1996, 9:00 a.m.

San Agustin Grand Ballroom, 1000 Zaragoza

Laredo

Texas Board of Health, Human Resources Committee

**AGENDA:**

The committee will discuss and possibly act on: approval of the minutes of the November 30, 1995 meeting; final adoption of rules concerning the Prostate Cancer Advisory Committee; final adoption of rules concerning Device Distributors and Manufacturers Advisory

Committee; appointments to the Device Distributors and Manufacturers Advisory Committee; and appointments in the Wholesale Drug Distributors Advisory Committee.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: January 17, 1996, 4:26 p.m.

TRD-9600703

Thursday, January 25, 1996, 10:00 a.m.

San Agustin Grand Ballroom, 1000 Zaragoza

Laredo

Texas Board of Health, Strategic Management Committee

**AGENDA:**

The committee will discuss and possibly act on: approval of the minutes of the December 1, 1995 meeting; approval of strategic planning session report; border health update (Office of Border Health, Project CATCH); local health services; monthly financial report (historically underutilized businesses, chronically ill and disabled children's program, full time equivalents, new laboratory, and monthly financial update); contract management; internal audit activities; and congressional update.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: January 17, 1996, 4:26 p.m.

TRD-9600704

Thursday, January 25, 1996, 4:00 p.m.

San Agustin Ballroom, 1000 Zaragoza

Laredo

Texas Board of Health, Health Financing Committee

**AGENDA:**

The committee will discuss and possibly act on: approval of the minutes of the November 30, 1995 meeting; recommendation to the State Medicaid Director concerning (proposed hearing aid services rules, proposed rules relating to the coverage and reimbursement of mammography, and final adoption of rules relating to Medicaid vendor drug reimbursement methodology); comments concerning participation as a historically underutilized business in the Medicaid managed request for application—Dr. John Perez, Dr. Philip Aitschaomo, and Walter Anderson.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: January 18, 1996, 11:16 a.m.

TRD-9600732

◆ ◆ ◆  
**Texas Historical Commission**

Thursday, January 25, 1996, 10:00 a.m.

State Capitol Building, Agricultural Museum's Conference Room

Austin

Commissioners' Goal Setting/Work Session

AGENDA:

- I. Introductions and interests
- II. Review of mission statement
- III. Review of previous goals and progress
- IV. Goals for 1996-2000
  1. Funding
  2. Legislative initiatives
  3. Current programs
  4. New programs
  5. Cooperation with other preservation groups
  6. Public relations
  7. Heritage tourism
  8. Heritage education
  9. Other

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-5768.

Filed: January 16, 1996, 4:27 p.m.

TRD-9600589

Thursday, January 25, 1996, 2:30 p.m.

Reagan Building, Room 101, 105 West 15th Street

Austin

Antiquities Advisory Committee

AGENDA:

The committee will approve minutes of previous meeting held on October 10, 1995; designation of five state archeological landmarks in El Paso and Brewster counties; nomination of ten state archeological landmarks in Brewster and Montague Counties; review of draft rule amendments for Chapter 26; hear the State Marine Archeologist's report; listen to public comments; and hear staff reports.

Contact: Lillie Thompson, P.O. Box 12276, Austin, Texas 78711, (512) 463-1858.

Filed: January 17, 1996, 10:08 a.m.

TRD-9600643

Thursday, January 25, 1996, 2:30 p.m.

Elrose Building, Second Floor, 108 West 16th Street

Austin

Preservation Trust Fund Committee

AGENDA:

- I. Welcome
- II. Update on Trust Fund activities
  - Fund balance
  - Dodge Jones Challenge Grant
  - Pre-application for TPTF grants
- III. TPTF rules
- IV. Non-profit organization
- V. Fund raising plan draft

VI. Promotion and future activities

Draft of video script

Contact: Julie Johnson or Stan Graves, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: January 16, 1996, 4:27 p.m.

TRD-9600590

Thursday, January 25, 1996, 2:30 p.m.

108 West 16th Street, El Rose Building, First Floor Conference Room

Austin

History Programs Committee

AGENDA:

1. Call to order
2. Personnel changes
3. Update on marker statistics
4. County sesquicentennial activities
5. Update on other significant projects

Contact: Frances Rickard, P.O. Box 12276, Austin, Texas 78711, (512) 463-5851.

Filed: January 16, 1996, 4:27 p.m.

TRD-9600591

Thursday, January 25, 1996, 4:00 p.m.

1511 Colorado Street

Austin

Historic Sites and Military Sites

AGENDA:

1. Update on historic sites initiative with Parks and Wildlife Management
2. Civil War Trust/Official Guidebook to the Civil War Discovery Trail, 1996
3. Upcoming activities:
  - a. Budget preparations
  - b. Sesquicentennial of Battle of Palo Alto-May 8, 1846
  - c. Civil war monuments

Contact: Stan Graves, P.O. Box 12276, Austin, Texas 78711-2276, (512) 463-6094.

Filed: January 16, 1996, 4:28 p.m.

TRD-9600592

Friday, January 26, 1996, 8:00 a.m.

Doubletree Guest Suites, 303 West 15th, 15th Street Cafe

Austin

Communications and Public Relations Committee

AGENDA:

- I. Introduction of THC's Director of Communications
- II. Overview of agency image campaign

Contact: Roni Morales, P.O. Box 12276, Austin, Texas 78711, (512) 463-8886.

Filed: January 16, 1996, 4:28 p.m.

TRD-9600593

Friday, January 26, 1996, 8:00 a.m.

Doubletree Guest Suites, 303 West 15th Street, 15th Street Cafe  
Austin

Economic Development and Heritage Tourism

**AGENDA:**

- 1) First lady's Main Street tour
- 2) Texas Capital Fund--Main Street improvements grant
- 3) Update on Main Street cities
- 4) Progress on heritage tourism

Contact: Anice Read, P.O. Box 12276, Austin, Texas 78711, (512) 463-6092.

Filed: January 16, 1996, 4:28 p.m.

TRD-9600594

Friday, January 26, 1996, 9:15 a.m.

Texas Historical Commission, 108 West 16th Street, El Rose Building, First Floor

Austin

Revised Agenda

Archeology Committee

**AGENDA:**

- 1) Archeological site recording workshop--Laredo
- 2) Texas Archeological Stewardship Network appointments
- 3) Texas State Historical Association annual meeting--"Partners in Preservation" session
- 4) Texas Archeology Awareness Month 1996
- 5) State Archeological Landmark nominations and designations
- 6) Draft Chapter 26 rules
- 7) Update on LaBelle shipwreck

Contact: Pat Mercado-Allinger, P.O. Box 12276, Austin, Texas 78711, (512) 463-6090.

Filed: January 16, 1996, 4:28 p.m.

TRD-9600595

Friday, January 26, 1996, 9:15 a.m.

Elrose Building, 108 West 16th Street, Second Floor

Austin

Architecture Programs

**AGENDA:**

1. Rules for State Architectural Programs
2. Allen Parkway Village update
3. Texas Governor's mansion roof study
4. Preservation Trust Fund grant announcement
5. Quarterly report of activities

Contact: Stan Graves or Lisa Harvell, P.O. Box 12276, Austin, Texas 78711-2276, (512) 463-6094.

Filed: January 16, 1996, 4:28 p.m.

TRD-9600596

Friday, January 26, 1996, 9:15 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 119

Austin

Executive Committee

**AGENDA:**

I. Agency rules: Discussion of proposed changes to Chapter 15, §15.3 (State Board of Review/National Register)

II. Discussion of creation of "Friends of the THC"/Preservation Texas

III. Discussion of Attorney General's opinion on reimbursement expenses

IV. Fundraising for LaSalle Project

V. Update on historic sites study

VI. Discussion of governor's mansion roof

VII. Discussion of State Cemetery

VIII. Update on significant projects

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-5768.

Filed: January 16, 1996, 4:28 p.m.

TRD-9600597

Friday, January 26, 1996, 10:30 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 118

Austin

Quarterly Board Meeting

**AGENDA:**

I. Chairman's report

II. Action items

III. Departmental information reports

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-5768.

Filed: January 16, 1996, 4:28 p.m.

TRD-9600598

◆ ◆ ◆  
**Texas State Board of Medical Examiners**

Wednesday, January 17, 1996, 9:00 a.m.

333 Guadalupe, Tower 3, Suite 610

Austin

Emergency Revised Agenda

Hearings Division

**AGENDA:**

In addition to the agenda, these probation appearance need to be deleted:

Probation appearance, 10:00 a.m.--Ben Carpio Malabanan

Probation appearance, 1:00 p.m.--Richard Joseph Kondejewski

Executive session under authority of the Open Meetings Act, §551.071 of the Government Code, and Article 4495b, §2.07(b) and §2.09(o), Texas Revised Civil Statutes, regarding pending or contemplated litigation.

Reason for Emergency: Information has come to the attention of the agency and requires prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016 or Fax: (512) 305-7008.

Filed: January 16, 1996, 1:54 p.m.

TRD-9600562

Thursday-Saturday, January 25-27, 1996, 8:30 a.m. (Thursday, Saturday) and 2:00 p.m. (Friday), respectively.

333 Guadalupe, Tower Two, Suite 225

Austin

AGENDA:

The agenda includes executive session to consult with counsel regarding pending or contemplated litigation; approval of appointments to committees, minutes, and orders; requests for termination of suspension of licenses; requests for reinstatement of licenses; discussion, recommendation, and possible action regarding supervision of advanced practice nurses; discussion, recommendation, and possible action regarding proposed rule changes; and executive director's report.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016, Fax (512) 305-7008.

Filed: January 17, 1996, 3:45 p.m.

TRD-9600687

Thursday, January 25, 1996, 9:00 a.m.

333 Guadalupe, Tower Three, Suite 610

Austin

Standing Orders Committee

AGENDA:

1. Call to order
2. Roll call
3. Review and consideration for approval of acupuncture licensure applications as recommended by Board of Acupuncture Examiners.
4. Update, discussion, recommendation, and possible action on proposed acupuncture rules.
5. Discussion and possible action on proposed changes to §§193.2, 193.4, and 193.8, Standing Delegation Orders Rules.
6. Adjourn

Executive session under the authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b, and Article 4495b-1, §4(h), Texas Civil Statutes and Article 22 of the Texas Administrative Code, Chapter 185(h).

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016, Fax (512) 305-7008.

Filed: January 17, 1996, 3:45 p.m.

TRD-9600688

Thursday, January 25, 1996, 10:30 a.m.

333 Guadalupe, Tower Three, Suite 610

Austin

Disciplinary Process Review Committee

AGENDA:

1. Call to order
2. December 1995 enforcement

3. Discussion, recommendations, and possible action on proposed rules related to rehabilitation orders

4. Executive session to review selected files and cases recommended for dismissal by informal settlement conferences

Executive session under authority of the Open Meetings Act, §551.071 of the Government Code, as related to Article 4495b, §§2.07(b), 4.05(d), 5.06(s)(1), and Opinion of the Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016, Fax (512) 305-7008.

Filed: January 17, 1996, 3:46 p.m.

TRD-9600689

Thursday, January 25, 1996, 10:30 a.m.

333 Guadalupe, Tower Three, Suite 610

Austin

Joint Meeting: Endorsement Committee and Examination Committee

AGENDA:

1. Roll call
2. Executive session under the authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b, §2.07(b) and §2.09(o), Texas Civil Statutes to consult with counsel regarding pending or contemplated litigation.
3. Rehabilitation orders
4. Fifth Pathway (formerly §5.04 of the Medical Practice Act)
5. Letters of eligibility to practice in the country of graduation relating to §3.04(g)(3) of the Medical Practice Act (formerly §5.035(a)(4))
6. Federation of State Medical Boards Credentials Verification Service

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016, Fax (512) 305-7008.

Filed: January 17, 1996, 3:46 p.m.

TRD-9600690

Thursday, January 25, 1996, 1:00 p.m.

333 Guadalupe, Tower Three, Suite 610

Austin

Examination Committee

AGENDA:

Call to order

Roll call

1. Executive session under the authority of the Open Meetings Act, §551.071 of the Government Code, and Article 4495b, §2.07(b) and §2.09(o), Texas Civil Statutes, to review applicant files for licensure.

2. Review of licensure applicants:

Carlos Venegas, M.D.

Danilo K. Asase, M.D.

Carol Ann Herbert, M.D.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016, Fax (512) 305-7008.

Filed: January 17, 1996, 3:47 p.m.



TRD-9600691

Thursday, January 25, 1996, 1:00 p.m.

333 Guadalupe, Tower Three, Suite 610

Austin

Reciprocal Endorsement Committee

AGENDA:

1. Roll call
2. Executive session under the authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b, §2.07(b) and §2.09(o), Texas Civil Statutes to consult with counsel regarding pending or contemplated litigation.
3. Review of licensure applicants referred to the Endorsement Committee by the executive director for determinations of eligibility for licensure:
  - a. Applicant #1 (consideration under §3.081 of the Medical Practice Act)
  - b. Virginia Marilyn Moore, Ph.D.
  - c. Richard Leff, M.D.
  - d. Philip W. Caterbone, M.D.
  - e. Byton Elias Iconomopolus, M.D.
  - f. Gino Jude Sedillo, M.D.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016, Fax (512) 305-7008.

Filed: January 17, 1996, 3:50 p.m.

TRD-9600692

Friday, January 26, 1996, 8:30 a.m.

333 Guadalupe, Tower Three, Suite 610

Austin

Finance Committee

AGENDA:

1. Call to order
2. Roll call
3. Review financial statements
4. Board member travel reimbursements
5. In-coming mail changes
6. Adjourn

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016, Fax (512) 305-7008.

Filed: January 17, 1996, 3:50 p.m.

TRD-9600693

Friday, January 26, 1996, 9:00 a.m.

333 Guadalupe, Tower Three, Suite 610

Austin

Ad Hoc Committee on Ethical Issues

AGENDA:

- Call to order
- Roll call

Discussion, recommendation, and possible action on the use of mail order lists of accident victims by physician subscribers

Report from executive director regarding plans for meeting with jurisprudence professors and CME course for board members

Adjourn

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016, Fax (512) 305-7008.

Filed: January 17, 1996, 3:50 p.m.

TRD-9600694

Friday, January 26, 1996, 1:00 p.m.

333 Guadalupe, Tower Three, Suite 610

Austin

Medical School Committee

AGENDA:

1. Call to order
2. Roll call
3. Discussion of medical school schedule.
4. Discussion, recommendation and possible action on medical school slides.
5. Adjourn

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016, Fax (512) 305-7008.

Filed: January 17, 1996, 3:50 p.m.

TRD-9600695

◆ ◆ ◆  
**Texas Mental Health and Mental Retardation**

Monday, January 22, 1996, 9:00 a.m.

Holiday Inn, 20 North IH-35 (Marigold Room)

Austin

Ad Hoc Committee on Mental Retardation and Managed Care

AGENDA:

1. Review of minutes of previous meeting
2. Review agenda, committee tasks and objectives for this meeting
3. Summarize previous meeting and answer questions
4. Presentation on the HHS Integrated Model Pilot
5. Questions and answers on the pilot
6. Review of the draft preliminary report
7. Presentation by staff on pilot variables
8. Discussion on gathering public input, number of focus groups and public hearings, etc.
9. Next meeting, time, place, and agenda
10. Meeting evaluation

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 206-4506 (voice or RELAY TEXAS), Ellen Hurst, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: January 16, 1996, 4:29 p.m.

TRD-9600599  
◆ ◆ ◆

## Texas Council on Offenders with Mental Impairments

Tuesday, February 2, 1996, 9:30 a.m.

8100 Cameron Road

Austin

Full Council

AGENDA:

I. Call to order

II. Introductions/roll call

III. Public comments

IV. Approval of minutes (Attachment A)

V. Presentation on the Dallas County report on offenders with mental impairments (Attachment B)

VI. Presentation on parole-trends for offenders with mental impairments (Attachment C)

VII. Committee reports

Executive committee (Attachment D)

Retreat discussion

Policy revisions

Ethics training

Planning/Legislative committee (Attachment E)

Program/Research committee

Finance committee

VIII. Nominations committee (Attachment F)

IX. Executive director's report (Attachment G)

FY 1995/1996 program report

FY 1995/1996 budget report

General administration

Each item above includes discussion and action as necessary

Contact: Dee Kifowit, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 406-5406.

Filed: January 18, 8:09 a.m.

TRD-9600712

## Texas National Guard Armory Board

Saturday, February 3, 1996, 3:00 p.m.

2200 West 35th, Building 64

Austin

AGENDA:

Administrative matters

Executive director's update

Construction/renovation/maintenance update

Property leases

Establish date of next meeting

Contact: Julie Wright, P.O. Box 5426, Austin, Texas 78763, (512) 406-6971.

Filed: January 18, 1996, 9:29 a.m.

TRD-9600715

## Texas Natural Resource Conservation Commission

Wednesday, January 24, 1996, 9:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

Revised Agenda

AGENDA:

The commission will consider approving the following matters on the addendum to agenda: emergency order issuance to El Paso County Water Authority.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: January 16, 1996, 4:17 p.m.

TRD-9600586

## Board of Nurse Examiners

Friday, January 19, 1996, 9:30 a.m.

333 Guadalupe Street, Suite 3-460

Austin

AGENDA:

Call to Order

Approval of Minutes

Discussion and Report of Issues

Faculty Qualifications and Development

Preceptors/Monitoring Guideline Draft

Update Mandatory Reporting of Students

Developing policy guidelines for reporting nursing students

NLN/TLN "Vision Project" Update

New Business

Adjournment

Contact: Cheryl K. Rosipal, Box 140466, Austin, Texas 78714, (512) 305-6816.

Filed: January 17, 1996, 1:58 p.m.

TRD-9600668

## Texas Parks and Wildlife Department

Wednesday, January 24, 1996, 9:00 a.m.

Parks and Wildlife Headquarters, 4200 Smith School Road

Austin

Parks and Wildlife Commission, Finance Committee

AGENDA:

Approval of committee minutes of the previous meetings; Briefing-status of committee charges; Briefing-water safety initiatives; Action-proposed rules for the selling price of department information; Action-proposed rules for license deputy issuance fees; other

business.

**Contact:** Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

**Filed:** January 16, 1996, 3:05 p.m.

TRD-9600566

**Wednesday, January 24, 1996, 9:00 a.m.**

Parks and Wildlife Headquarters, 4200 Smith School Road  
Austin

Parks and Wildlife Commission, Public Lands Committee

**AGENDA:**

Approval of committee minutes of the previous meetings; Briefing-ecosystem survey\*; Briefing-historic sites study\*; Briefing-access\*; Briefing-terrestrial wildlife database\*; Briefing-special allocation Texas recreation and parks account; Action-nomination for oil and gas lease-Smith County; Briefing-state parks forum; other business.

\* Committee charges

**Contact:** Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

**Filed:** January 16, 1996, 3:06 p.m.

TRD-9600567

**Wednesday, January 24, 1996, 9:00 a.m.**

Parks and Wildlife Headquarters, 4200 Smith School Road  
Austin

Parks and Wildlife Commission, Public Lands Committee-Executive Session

**AGENDA:**

Approval of committee minutes of the previous meetings; Action-land donation-Presidio County; Action-land donation-Montgomery County; Action-land acquisition-Brewster County; Action-land acquisition-Refugio County

**Contact:** Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

**Filed:** January 16, 1996, 3:07 p.m.

TRD-9600568

**Wednesday, January 24, 1996, 9:00 a.m.**

Parks and Wildlife Headquarters, 4200 Smith School Road  
Austin

Parks and Wildlife Commission, Regulations Committee

**AGENDA:**

Approval of committee minutes of the previous meetings; Briefing-status of committee charges; Action-regulations sunset; Action-1996-1997 statewide hunting and fishing proclamation; Action-1996-1997 public hunting lands hunting and fishing proclamation; Action-1996-1997 migratory game bird proclamation; Action-coastal management program thresholds for department rules; Action-CSB Asphalt Company sand and gravel permit; other business

**Contact:** Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

**Filed:** January 16, 1996, 3:07 p.m.

TRD-9600569

**Wednesday, January 24, 1996, 7:00 p.m.**

Ruth's Chris Steakhouse, 3010 Guadalupe

Austin

Parks and Wildlife Commission

**AGENDA:**

Members of the Texas Parks and Wildlife Commission plan to have dinner at 7:00 p.m., January 24, 1996. Although this function is primarily a social event and no formal action is planned, the commission may discuss items on the public hearing scheduled for 9:00 a.m., Thursday, January 25, 1996.

**Contact:** Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

**Filed:** January 16, 1996, 3:07 p.m.

TRD-9600570

**Wednesday, January 24, 1996, 7:00 p.m.**

Shoreline Grill, 98 San Jacinto

Austin

Revised Agenda

Parks and Wildlife Commission

**AGENDA:**

Members of the Texas Parks and Wildlife Commission plan to have dinner at 7:00 p.m., January 24, 1996. Although this function is primarily a social event and no formal action is planned, the commission may discuss items on the public hearing scheduled for 9:00 a.m., Thursday, January 25, 1996.

**Contact:** Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

**Filed:** January 16, 1996, 5:19 p.m.

TRD-9600602

**Thursday, January 25, 1996, 9:00 a.m.**

Parks and Wildlife Headquarters, 4200 Smith School Road

Austin

Parks and Wildlife Commission

**AGENDA:**

Approval of the commission minutes from the previous meeting; presentation of retirement certificates and service awards; Action-local park funding/outreach program; Action-boat ramp funding; Briefing-consensus water plan; Action-coastal management program thresholds for department rules; Action-disposition of contraband; Action-regulations sunset; Action-nomination for oil and gas lease-Smith County; Briefing-internet-TPWD web site; Action-CSB Asphalt Company sand and gravel permit; Action-land donation-Montgomery County; Action-land donation-Presidio County; Action-land acquisition-Refugio County; Action-land acquisition-Brewster County

**Contact:** Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

**Filed:** January 16, 1996, 3:07 p.m.

TRD-9600571

**Thursday, January 25, 1996, 9:00 a.m.**

Parks and Wildlife Headquarters, 4200 Smith School Road

Austin

Parks and Wildlife Commission-Executive Session

**AGENDA:**

NOTICE OF CLOSED MEETING

Approval of the minutes from the previous meeting; Action-land donation-Montgomery County; Action-land donation-Presidio County; Action-land acquisition-Refugio County; Action-land acquisition-Brewster County

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: January 16, 1996, 3:08 p.m.

TRD-9600572

## Polygraph Examiners Board

Thursday-Friday, January 25-26, 1996, 9:00 a.m.

5805 North Lamar Boulevard, DPS Training Academy, First Floor Conference Room

Austin

### AGENDA:

Thursday, January 25, 1996, 9:00 a.m.—Election of officers; approval of applications for licensure; close open meeting to administer the licensing examination.

Friday, January 26, 1996, 9:00 a.m.—Discussion and possible action on state auditor's management control audit; executive session to review and discuss applications for the position of executive director; discussion and possible action on amendment to Rule 391.3(13) regarding approval of Western Oregon State College School of Polygraph; establish April 1996 board meeting location and date; discussion and possible action regarding the extension of intern licenses; discussion and possible action regarding Licensing Examination Committee report; discussion and possible action regarding Investigative Procedures Committee report; discussion and approval of October board meeting minutes; discussion and possible action regarding Alabama reciprocal agreement; fiscal update; executive session to interview applicants for the executive officer position.

Contact: Bryan M. Perot, P.O. Box 4087, Austin, Texas 78773, (512) 424-2058.

Filed: January 16, 1996, 3:52 p.m.

TRD-9600578

## Texas Board of Professional Land Surveying

Thursday-Friday, February 1-2, 1996, 1:00 p.m. and 9:00 a.m., respectively.

7701 North Lamar Boulevard, Suite 400

Austin

Board Meeting

### AGENDA:

The board will meet to make preparations for the April, 1996 examinations. The board will meet to approve the minutes of the previous meeting. The board will consider and act upon the executive director's report which will include discussion of NCEES Penalty Guide, Emeritus Members and an LAR request for an investigator; to consider and act upon active complaints and show cause actions, recommendations from committee reports, to discuss proposed Board Rule 661.41(d) and 661.50 allowing part-time experience, 661.48 requiring education after three failed exams, 663.20 regarding criminal convictions and to consider for proposal Board Rules 663.13 specifically exempting, from the standards, surveys that do not delineate, segregate, separate or partition real property, 663.21 concerning descriptions for political subdivisions and 661.45

concerning examination security; to consider and act upon correspondence to and from the Board—correspondence from NCEES regarding professional ethics course and L. D. Hancock, Jr. regarding a certification; to consider items to be added to future agendas and to receive comments from the public. 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 meeting so that appropriate arrangements can be made.

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

Filed: January 17, 1996, 10:07 a.m.

TRD-9600642

## Texas Department of Protective and Regulatory Services

Thursday-Friday, January 25-26, 1996, 10:30 a.m. and 9:00 a.m., respectively.

701 West 51st, First Floor, Public Hearing Room

Austin

Texas Board of Protective and Regulatory Services

### AGENDA:

Work session on Thursday: 1. Call to order. 2. Update on agency efforts to integrate alternative dispute resolution procedures with respect to foster parent/program disputes. 3. Update on proposed rules for community MHMR centers. 4. Status report on cost benefit study on minimum standards for licensed child care. 5. Ombudsman report. 6. Program management update. 7. Update on implementation of the CAPS automation project. 8. Presentation on proposed reimbursement methodology for 24-hour child care facilities. Board meeting on Friday: 1. Call to order. 2. Reading, correction, and approval of minutes of November 17, 1995 and December 22, 1995, meeting. 3. Excused absences. 4. Public testimony. 5. Report by the chairman. 6. Report by the executive director. 7. Reports. A. Committee reports. 1. Budgets. 2. Advisory Committees. 3. Ad Hoc Committee on proposed rule changes due to CAPS, legislative changes, and policy clarifications. B. Staff reports. 1. Recognition of PAL Youth Program. 8. Old business. 9. New business. 10. Announcements. 11. Adjournment.

Contact: Marty Chung, P.O. Box 149030, Mail Code E-554, Austin, Texas 78714-9030, (512) 438-4435.

Filed: January 17, 1996, 3:12 p.m.

TRD-9600684

## Texas State Board of Examiners of Psychologists

Wednesday-Friday, January 24-26, 1996, 8:30 a.m.

333 Guadalupe, Tower 2, Suite 2-400A

Austin

Revised Agenda

### AGENDA:

This is a revision to the Open Meeting notice published in the January 16, 1996, issue of the *Texas Register* (21 TexReg 439), Docket Number 9600292. Due to a clerical error, the agenda inadvertently stated that the board would be receiving comments from

the Texas Association of School Psychologists. In actuality, it is the Texas Association of Psychological Associates who will be speaking to the board. This is the only revision to this meeting.

Contact: Rebecca E. Forkner, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

Filed: January 17, 1996, 2:41 p.m.

TRD-9600677

## Public Utility Commission of Texas

Wednesday, January 24, 1996, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

### AGENDA:

There will be an open meeting for discussion, consideration, and possible action on: secretary's report; Docket Number 14633 (SOAH Number 473-95-1201); Docket Number 14634 (SOAH Number 473-95-1197); Docket Numbers 14665 and 14666; Docket Number 15050 (SOAH Number 473-95-1573); Docket Number 14447 (SOAH Number 473-95-1003); Project Numbers 14466 and 14467; Docket Numbers 13543, 13706, 13958, 14742, 14838, 14843, 15051, and 15129; Docket Number 14965 (SOAH Number 473-95-1563); Docket Numbers 14980, 15015, 14484, 14985, and Docket Number 14497 (SOAH Number 473-95-1185); Project Number 14941; Project 14045 including consideration for publication of new §23.70; 15000, 15001, and 15002; Project Number 14400; FERC proposed order on the real-time information networks and standards of conduct; project assignments and agency administrative procedures; budget and fiscal matters; adjournment for closed session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in closed.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: January 16, 1996, 2:09 p.m.

TRD-9600563

Friday, February 9, 1996, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

### AGENDA

The commission will have a workshop at the above date and time for discussion and possible action in Project Number 14440, rulemaking to determine interconnection arrangements and related issues pursuant to House Bill 2128.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: January 17, 1996, 4:02 p.m.

TRD-9600699

## Research and Oversight Council on Workers' Compensation

Monday, January 29, 1996, 10:00 a.m.

Capitol Extension, Room E1.012, 1400 Congress Avenue

Austin

### AGENDA:

1. Call to order
2. Roll call
3. Approval of minutes from December 6, 1995
4. Executive session
5. Hiring of executive director
6. Introduction of ROC staff
7. Discussion and approval of 1996 operating budget
8. Discussion and approval of board policies
9. Discussion and approval of research agenda
10. Other business
11. Public participation
12. Set next meeting
13. Adjourn

Contact: Nancy Biting, 105 West Riverside Drive, Suite 100, Austin, Texas 78704, (512) 469-7811.

Filed: January 16, 1996, 3:52 p.m.

TRD-9600579

## Texas Residential Property Insurance Market Assistance Program

Wednesday, January 31, 1996, 9:15 a.m.

333 Guadalupe, Tower 1, Rooms 216, 370A, and 1264

Austin

Executive Committee

### AGENDA:

1. Working Group 1 issues (Room 216, 9:15 a.m.-Noon)
  - Anti-Trust statement
  - Eligibility
  - Criteria for mandatory participation
  - Monitoring MAP activity
  - Suggestions for designating underserved areas
  - Other House Bill 1367 provisions that relate to MAP
- Working Group 2 issues (Room 370A, 9:15 a.m.-Noon)
  - Anti-Trust statement
  - Participating insurers
  - Participating agents
  - Operations
  - Other House Bill 1367 provisions that relate to MAP
2. General meeting (Room 1264, 1:00 p.m.-3:45 p.m.)
  - Anti-Trust statement
  - Public input forum
  - General administrative matters
  - Working group reports and discussion
  - Continued discussion and review of initial draft of plan of operation
  - Continued discussion of draft letter on factors for designation of underserved areas (if necessary)

-Other House Bill 1367 provisions that relate to MAP

-Any other general business

Contact: Lyndon Anderson, 333 Guadalupe Street, Austin, Texas 78701, (512) 322-2235.

Filed: January 17, 1996, 1:58 p.m.

TRD-9600667

◆ ◆ ◆  
**Structural Pest Control Board**

Wednesday, January 31, 1996, 9:00 a.m.

Joe C. Thompson Conference Center, 2405 East Campus Drive, Room 2.120

Austin

Public Hearing and Regular Board Meeting

AGENDA:

I. Approval of board minutes of November 29, 1995.

II. Public hearing on §593.23, Continuing Education Requirements for Certified Applicators; §595.2, Employee Registration; §595.11, Schools; §597.1, Unlawful Acts and Grounds for Revocation; §599.4, Termite Treatment Disclosure Documents; and §599.1, Structural Fumigation Requirements.

Contact: Benny Mathis, 9101 FM 1325, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: January 17, 1996, 8:59 a.m.

TRD-9600605

◆ ◆ ◆  
**Texas Guaranteed Student Loan Corporation**

Thursday, January 25, 1996, 1:30 p.m.

13809 North Highway 183 (Suite 1000)

Austin

Planning Committee

AGENDA:

1. Call to order
2. Approval of November 16, 1995 committee meeting minutes
3. Review of the status of planning process for fiscal years 1997, 1998, and 1999
4. Discussion of board planning seminar
5. Adjourn

Contact: Pat Boulton, 13809 North Highway 183, Austin, Texas 78750, (512) 219-4550.

Filed: January 17, 1996, 2:57 p.m.

TRD-9600680

Thursday, January 25, 1996, 3:30 p.m.

13809 North Highway 183 (Suite 1000)

Austin

Personnel Committee

AGENDA:

1. Call to order
2. Discussion of management incentive plan proposal

3. Adjourn

Contact: Pat Boulton, 13809 North Highway 183, Austin, Texas 78750, (512) 219-4550.

Filed: January 17, 1996, 2:57 p.m.

TRD-9600679

Thursday, January 25, 1996, 4:30 p.m.

13809 North Highway 183 (Suite 1000)

Austin

Executive Committee

AGENDA:

1. Call to order
2. Approval of October 26, 1995 committee meeting minutes
3. Presentation and discussion of draft corporate performance measures
4. Review of proposed lender and school advisory committee members
5. Review and recommendation on proposed revised secondary market eligibility policy
6. Adjourn to executive session

Consultation with attorney on litigation issues

Review and comparison of president's salary with recent salary survey

7. Resume open session
8. Action on items arising from executive session
9. Adjourn

Contact: Pat Boulton, 13809 North Highway 183, Austin, Texas 78750, (512) 219-4550.

Filed: January 17, 1996, 2:57 p.m.

TRD-9600678

◆ ◆ ◆  
**Texans' War on Drugs**

Thursday, January 25, 1996, 10:00 a.m.

7800 North IH-35, Brazos Room

Austin

Board of Directors

AGENDA:

1. Call to order
2. Establish quorum
3. Approval of the minutes
4. Staff recommendations-Texans' War on Drugs future
5. Board action on staff recommendations
6. Corporate resolutions
7. Executives session
8. Action on matters discussed in executive session
9. President's report
  - a. Financial report
  - b. Service delivery report

c. Executive report

10. Set next meeting dates

11. Other business

12. Adjourn

Contact: William Halsell, 313 East Anderson Lane, #101, Austin, Texas 78752, (512) 452-0141.

Filed: January 18, 1996, 9:39 a.m.

TRD-9600720

◆ ◆ ◆  
**The Texas A&M University System, Board of Regents**

Monday, January 22, 1996, 10:00 a.m.

200 Crescent Court, Suite 1065

Dallas

Board of Regents

AGENDA:

The purpose of this special meeting is to discuss operating procedures of the board and the development of the board's agenda.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: January 16, 1996, 11:49 a.m.

TRD-9600557

◆ ◆ ◆  
**Texas Department of Transportation**

Thursday, January 25, 1996, 9:00 a.m.

630 Ocean Drive, Warren Theater, Texas A&M University at Corpus Christi

Corpus Christi

Texas Transportation Commission

AGENDA:

Delegations: Nueces and Jim Wells counties. Presentations/comments by area elected officials, including Aransas, San Patricio, and Kleberg counties. Approve minutes. Maximum prima facie speed zones. Rulemaking: 43 TAC Chapters 9, 11, 27, and 30. District/division/special office reports. Programs. State infrastructure bank pilot program. Multimodal transportation. Transportation programs. Contract awards/rejections/defaults. Routine minute orders. Executive session for legal counsel consultation, land acquisition matters, and management personnel evaluations, designation, assignments, and duties. Open comment period.

Contact: Diane Northam, 125 East 11th Street, Austin, Texas 78701, (512) 463-8630.

Filed: January 17, 1996, 2:39 p.m.

TRD-9600676

◆ ◆ ◆  
**University of Houston**

Monday, January 22, 1996, 2:00 p.m.

SRII Building, Room 201, University of Houston, 4800 Calhoun Boulevard

Houston

Animal Care Committee

AGENDA:

To discuss and/or act upon the following:

Approval of December minutes

Renewal protocols

Scan IACUC survey

Contact: Rosemary Grimmet, 4800 Calhoun Boulevard, Houston, Texas 77204, (713) 743-9222.

Filed: January 17, 1996, 2:10 p.m.

TRD-9600669

◆ ◆ ◆  
**University of Texas Health Science Center at San Antonio**

Wednesday, January 24, 1996, 3:00 p.m.

7703 Floyd Curl Drive, Room 422A

San Antonio

Institutional Animal Care and Use Committee

AGENDA:

1. Approval of minutes

2. Protocols for review

3. Subcommittee reports

4. Other business

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7822, (210) 567-3717.

Filed: January 16, 1996, 4:49 p.m.

TRD-9600601

◆ ◆ ◆  
**Regional Meetings**

**Meetings Filed January 16, 1996**

The Austin-Travis County MHMR Center Planning and Operations Committee met at 1430 Collier Street, Board Room, Austin, January 19, 1996, at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9600558.

The Cass County Appraisal District Appraisal Review Board met at 502 North Main Street, Linden, January 19, 1996, at 10:00 a.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (903) 756-7545. TRD-9600584.

The Central Texas MHMR Center Board of Trustees met at 408 Mulberry Drive, Brownwood, January 22, 1996, at 5:00 p.m. Information may be obtained from Saul Pullman, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, Ext. 102. TRD-9600585.

The Deep East Texas Council of Governments Solid Waste Technical Review Committee will meet at the Jasper Public Library, 175 East Water Street, Jasper, January 24, 1996, at 3:00 p.m. Information may be obtained from Andy Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9600573.

The Deep East Texas Council of Governments Solid Waste Task Force and Technical Review Committee will meet at the San Augustine Civic and Tourism Center, 611 West Columbia Street, San Augustine, January 25, 1996, at 10:30 a.m. Information may be

obtained from Andy Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9600574.

The Education Service Center, Region VII Board of Directors will meet at 440 Highway 79 South, Henderson, January 25, 1996, at Noon. Information may be obtained from Eddie J. Little, 818 East Main Street, Kilgore, Texas 75662, (903) 984-3071. TRD-9600575.

The El Oso Water Supply Corporation Membership met at Highway 181, Karnes City, January 20, 1996, at 1:30 p.m. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (210) 780-3539. TRD-9600556.

The Gray County Appraisal District Appraisal Review Board met at 815 North Sumner, Pampa, January 22, 1996, at 3:00 p.m. Information may be obtained from Sherri Schaible, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791. TRD-9600600.

The Lower Rio Grande Valley Development Council Hidalgo County Metropolitan Planning Organization will meet at TXDOT District Office, 600 West Expressway US 83, Pharr, January 25, 1996, at 7:00 p.m. Information may be obtained from Edward L. Molitor, 311 North 15th Street, McAllen, Texas, (210) 682-3481. TRD-9600561.

The Northeast Texas Rural Rail Transportation District Board met at 2821 Washington Street, Administrative Conference Room, Greenville, January 19, 1996, at 2:00 p.m. Information may be obtained from Sue Ann Harting, P.O. Box 306, Commerce, Texas 75428-0306, (903) 450-0140. TRD-9600560.

The Southwest Milam Water Supply Corporation Board met at 114 East Cameron, Rockdale, January 22, 1996, at 7:00 p.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9600555.

The Upshur County Appraisal District Appraisal Review Board met at Warren and Trinity Streets, Gilmer, January 22, 1996, at 9:00 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9600588.

The Upshur County Appraisal District Board of Directors met at Warren and Trinity Streets, Gilmer, January 22, 1996, at 1:00 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9600587.

The West Central Texas Council of Governments Executive Committee will meet at 1025 East North Tenth Street, Abilene, January 24, 1996, at 10:00 a.m. Information may be obtained from Brad Helbert, 1025 EN 10th Street, Abilene, Texas 79601, (915) 672-8544. TRD-9600583.

#### Meetings Filed January 17, 1996

The Austin Transportation Study Governance Review Committee met at 301 West Second Street, Austin Municipal Annex, Second Floor Conference Room-#240, Austin, January 22, 1996, at 2:00 p.m. Information may be obtained from Michael R. Aulick, P.O. Box 1088-Annex, Austin, Texas 78767, (512) 499-2275. TRD-9600659.

The Central Counties Center for MHMR Services Board of Trustees will meet at 304 South 22nd Street, Temple, January 25, 1996, at 7:00 p.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, Ext. 301. TRD-9600666.

The Coastal Bend Council of Governments Membership/Board will meet at 2910 Leopard Street, Corpus Christi, January 26, 1996, at 2:00 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9600696.

The Education Service Center, Region IX Board of Directors will meet at 301 Loop 11, Wichita Falls, January 24, 1996, at 1:30 p.m. Information may be obtained from Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928. TRD-9600641.

The Education Service Center Region XIII Board of Directors met at 5701 Springdale Road, Room H, Austin, January 22, 1996, at 12:30 p.m. Information may be obtained from Dr. Roy C. Benavides, 5701 Springdale Road, Austin, Texas 78723, (512) 919-5300. TRD-9600606.

The Golden Crescent Private Industry Council will meet at 2401 Houston Highway, Victoria, January 24, 1996, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9600604.

The Gregg Appraisal District Board of Directors will meet at 2010 Gilmer Road, Longview, January 23, 1996, at 5:00 p.m. Information may be obtained from William T. Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9600674.

The Hays County Appraisal District Appraisal Review Board will meet at 21001 North IH-35, Kyle, January 23, 1996, at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 21001 North IH-35, Kyle, Texas 78640, (512) 268-2522. TRD-9600698.

The High Plains Underground Water Conservation District Number 1 Special Board will meet at 200 East Jones, City Hall, Alderman's Room, Dimmitt, January 23, 1996, at 1:00 p.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9600697.

The LRGV Development Council (LRGVDC) Board of Directors and Membership Management will meet at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, January 25, 1996, at 1:30 p.m. Information may be obtained from Kenneth N. Jones, Jr. or Anna M. Hernandez, 4900 North 23rd Street, McAllen, Texas 78504, (210) 682-3481. TRD-9600673.

The Leon County Central Appraisal District Board of Directors met at 103 North Commerce-Corner Highway 7 and 75 Gresham Building, Centerville, January 22, 1996, at 7:00 p.m. Information may be obtained from Jeff Beshears, P.O. Box 536, Centerville, Texas 75833-0536, (903) 536-2252. TRD-9600646.

The North Central Texas Council of Governments Executive Board will meet at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, January 25, 1996, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9600709.

The Permian Basin Regional Planning Commission Policy Advisory Committee will meet at 2910 La Force Boulevard, Midland, January 26, 1996, at 9:00 a.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9600701.

The San Antonio-Bexar County Metropolitan Planning Organization Transportation Steering Committee met at the International Conference Center of the Convention Center Complex, San Antonio, January 22, 1996, at 1:30 p.m. Information may be obtained from Charlotte A. Roszelle, 603 Navarro, #904, San Antonio, Texas 78205, (210) 227-8651. TRD-9600607.

The Sharon Water Supply Corporation Board of Directors met at the Office of Sharon Water Supply Corporation, Route 5, Box 50361, Winnsboro, January 22, 1996, at 7:00 p.m. Information may be obtained from Gerald Brower, Route 5, Box 50361, Winnsboro, Texas 75494, (903) 342-3525. TRD-9600700.

#### Meetings Filed January 18, 1996

The Bastrop Central Appraisal District Appraisal Review Board will meet at 1200 Cedar Street, Bastrop, January 23, 1996, at 1:30 p.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 303-3536. TRD-9600718.

The Central Texas Council of Governments Work Force Development Board of Central Texas will meet at 321 North Penelope, Belton, January 25, 1996, at 10:00 a.m. Information may be ob-



tained from Susan Kamas, P.O. Box 729, Belton, Texas 76513, (817) 939-3771. TRD-9600716.

The El Oso Water Supply Corporation Board of Directors will meet at FM 99, Karnes City, January 23, 1996, at 7:00 p.m. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (210) 780-3539. TRD-9600713.

The Ellis County Appraisal District Board of Directors will meet at 400 Ferris Avenue, Waxahachie, January 25, 1996, at 7:00 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9600714.

The Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, January 24, 1996, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9600721.

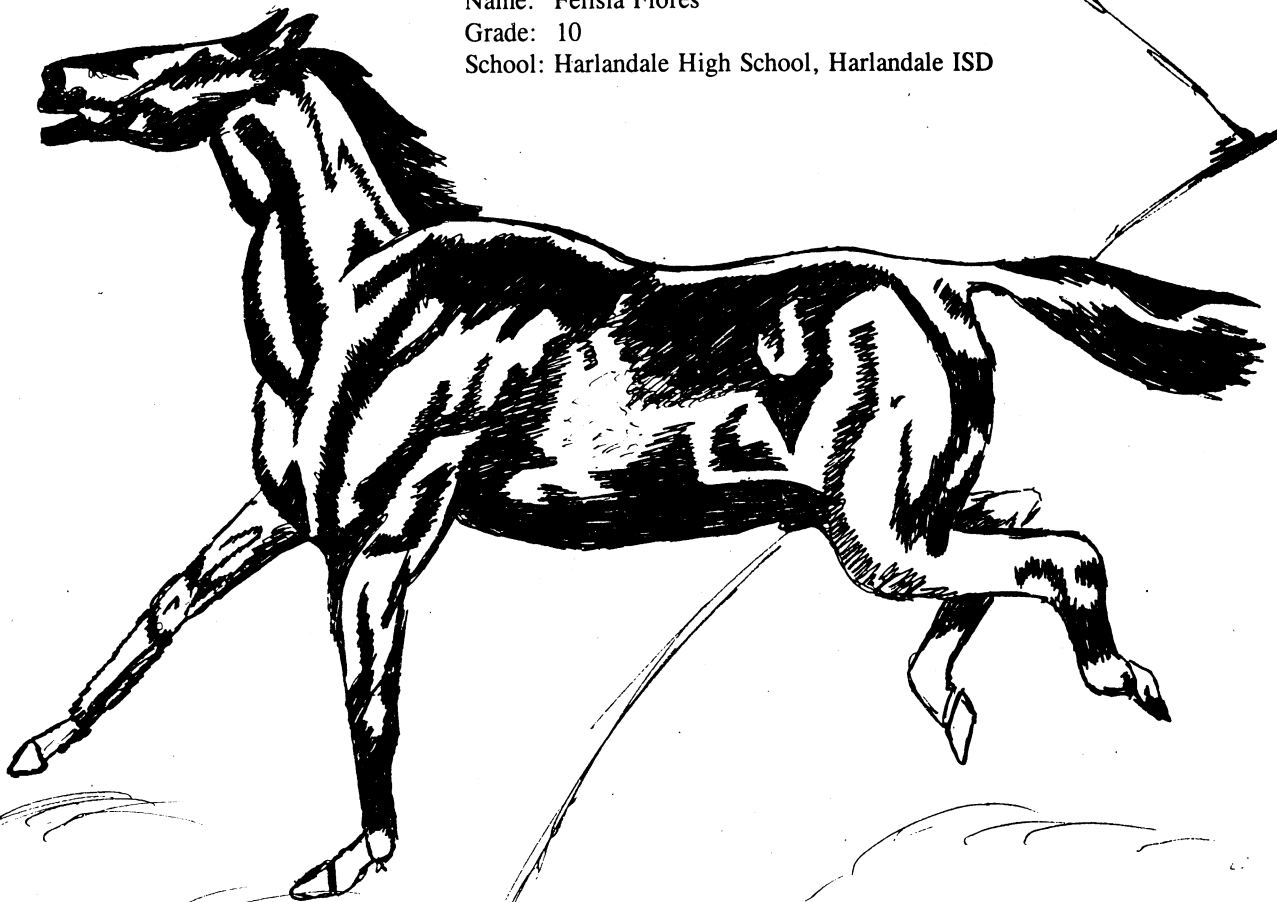
The Lower Rio Grande Valley Development Council Hidalgo County Metropolitan Planning Organization will meet at TXDOT District Office, 600 West Expressway US 83, Pharr, January 25, 1996, at 7:00 p.m. Information may be obtained from Edward L. Molitor, 311 North 15th Street, McAllen, Texas, (210) 682-3481. TRD-9600717.



Name: Felisia Flores

Grade: 10

School: Harlandale High School, Harlandale ISD



# 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 Education Agency

### Correction of Error

The Texas Education Agency filed a miscellaneous document titled "Request for Applications Concerning Projects for Educational Technology-Demonstration Programs, 1995-1996". The request appeared in the January 12, 1996, issue of the *Texas Register* (21 TexReg 395).

The date the request was issued is incorrectly listed as January 8, 1995. The correct date is January 8, 1996.

◆ ◆ ◆  
The Texas Education Agency submitted an Open Meeting Notice for the Industrial Technology Education Essential Knowledge and Skills Clarification Team. The notice appeared in the December 26, 1995, issue of the *Texas Register* (20 TexReg 11228).

In the first sentence of the second paragraph of the agenda, the word "programs" in the phrase "...review programs from the last meeting..." should be "progress" and the word "description" in the phrase "...finishing the performance description..." should be plural.

In the following sentence of the agenda, the word "description" in the phrase "...develop performance description..." should be plural.

The Texas Education Agency filed a miscellaneous document titled "Request for Applications Concerning the Public Charter Schools Program, 1995-1996". The request appeared in the December 22, 1995, issue of the *Texas Register* (20 TexReg 11049).

In the section of the document titled "Dates of Project," the date in the phrase "...an ending date of no later than February 1, 1997" should read "January 31, 1997." In the section titled "Project Amount," the second date in the phrase "...for the grant period from February 1996 through February 1997" is incorrect. The phrase should read "...for the grant period from February 1996 through January 1997."

In the same issue, an error as published appears on page 10925 in the table of contents of the publication. Under the In Addition Section, in the listing of documents for the Texas Education Agency, the title "Request for Applications Concerning the Public Charter School Program" should read "Request for Applications Concerning the Public Charter Schools Program."

## Texas Department of Health

### Correction of Errors

The Texas Department of Health proposed new §289.202. The rule appeared in the December 26, 1995, issue of the *Texas Register* (20 TexReg 11083).

On page 20 TexReg 11085, subsection (g)(2)(C), all superscripts should be subscripts.

2. On page 20 TexReg 11086, subsection (k)(1), this paragraph should reference subsection (f) instead of subparagraph (F).

3. On page 20 TexReg 11087, subsection (k)(1)(H)(i), this subparagraph does not have a clause; the (i) should be subparagraph (I).

4. On page 20 TexReg 11090, subsection (u)(2)(I), this subparagraph was incorrectly listed as, "(i) The entry control devices required..." It should be "(I) The entry control devices required.."

5. On page 20 TexReg 11093, subsection (ee)(3), the paragraphs in this subsection were incorrectly numbered as (1), (2), (3), (2), (4)... The second paragraph (2) should be a continuation of the text in paragraph (3).

6. On page 20 TexReg 11093, subsection (ee)(4)(B)(ii), the subclauses under this clause were incorrectly shown as clauses. They should be (ee)(4)(B)(ii)(I), (II), (III), (IV) instead of (ee)(4)(B)(ii)(i), (ii), (iii), (iv).

7. On page 20 TexReg 11094, subsection (kk), in this subsection, the subsections "(ff), (gg), (hh), (ll), or (jj)..." were incorrectly referenced twice. The references should be, "(ff), (gg), (hh), (ii), or (jj)..."

8. On page 20 TexReg 11095, subsection (nn), this subsection should be indented.

9. On page 20 TexReg 11097, subsection (aaa)(2), the last sentence should read, "...provisions of 22.13(a) of TRCR Part 22..." instead of "...provisions of 22.13(A) of TRCR Part 22..."

10. On page 20 TexReg 11097, subsection (ddd)(1)(B), this subparagraph should read, "...units changed from microcuries per milliliter to microcuries per gram, for radionuclides..." instead of, "...units changed from Ci/ml to Ci/gm, for radionuclides..."

11. On page 20 TexReg 11098, subsection (ggg)(1) and (2), paragraph (2) was incorrectly combined with paragraph (1). Paragraph (1) should read, "(1) Protection factors for respirators. The following table contains protection factors for respirators: Figure 4: 25 TAC §289.202(ggg)(1)." Paragraph (2) begins with, "(2) Annual limits on intake (ALI) and..."

12. On page 20 TexReg 11098, subsection (ggg)(2)(A)(i), this clause should read, "...an aerosol with an activity median aerodynamic diameter (AMAD) of 1 micron, and for three classes..."

13. On page 20 TexReg 11102, subsection (ggg)(5)(B)(ii)(II), this subclause should read, "(II) Notwithstanding the provisions in clause (i)(III) and (IV)...." instead of, "(II) Notwithstanding the provisions in clause (i)(III) and (iv)..."

14. A page (page 2) was inadvertently left out of the photoslicks concerning subsection (ggg)(2)(F); therefore, the 25 TAC §289.202(ggg)(2)(F) photoslicks, pages 1 of 50, etc., become 1 of 51, etc. and should include the following omitted page 2 of 51.

Atomic Radionuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (µCi/ml)	
		Oral Ingestion ALI (µCi)	Inhalation ALI (µCi) DAC (µCi/ml)		Air (µCi/ml)	Water (µCi/ml)		
15	Phosphorus-32	D, all compounds except phosphates given for W	6E+2	9E+2	4E-7	1E-9	9E-6	9E-5
		W, phosphates of Zn <sup>2+</sup> , S <sup>2+</sup> , Mg <sup>2+</sup> , Fe <sup>3+</sup> , Bi <sup>3+</sup> , and lanthanides	-	4E+2	2E-7	5E-10	-	-
15	Phosphorus-33	D, see <sup>32</sup> P	6E+3	8E+3	4E-6	1E-8	8E-5	8E-4
		W, see <sup>32</sup> P	-	3E+3	1E-6	4E-9	-	-
16	Sulfur-35	Vapor	-	1E+4	6E-6	2E-8	-	-
		D, sulfides and sulfates except those given for W	1E+4	2E+4	7E-6	2E-8	-	-
		W, elemental sulfur, sulfides of Sr, Ba, Ge, Sn, Pb, As, Sb, Bi, Cu, Ag, Au, Zn, Cd, Hg, W, and Mo. Sulfates of Ca, Sr, Ba, Ra, As, Sb, and Bi	LLI wall (8E+3) 6E+3	-	-	-	1E-4	1E-3
17	Chlorine-36	D, chlorides of H, Li, Na, K, Rb, Cs, and Fr	2E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, chlorides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Tl, Zr, Hf, V, Nb, Ta, Cr, Mo, W, Mn, Tc, and Re	-	2E+2	1E-7	3E-10	-	-
17	Chlorine-38 <sup>2</sup>	D, see <sup>36</sup> Cl	2E+4	4E+4	2E-5	6E-8	-	-
		W, see <sup>36</sup> Cl	St wall (3E+4)	-	-	-	3E-4	3E-3
17	Chlorine-39 <sup>2</sup>	D, see <sup>36</sup> Cl	2E+4	5E+4	2E-5	7E-8	-	-
		W, see <sup>36</sup> Cl	St wall (4E+4)	6E+4	2E-5	8E-8	5E-4	5E-3
18	Argon-37	Submersion <sup>1</sup>	-	-	1E+0	6E-3	-	-
18	Argon-39	Submersion <sup>1</sup>	-	-	2E-4	8E-7	-	-
18	Argon-41	Submersion <sup>1</sup>	-	-	3E-6	1E-8	-	-
19	Potassium-40	D, all compounds	3E+2	4E+2	2E-7	6E-10	4E-6	4E-5
19	Potassium-42	D, all compounds	5E+3	5E+3	2E-6	7E-9	6E-5	6E-4
19	Potassium-43	D, all compounds	6E+3	9E+3	4E-6	1E-8	9E-5	9E-4
19	Potassium-44 <sup>2</sup>	D, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
		W, see <sup>36</sup> Cl	St wall (4E+4)	-	-	-	5E-4	5E-3
19	Potassium-45 <sup>2</sup>	D, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
		W, see <sup>36</sup> Cl	St wall (5E+4)	-	-	-	7E-4	7E-3

Atomic Radionuclide No.	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
		Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration (µCi/ml)
		Oral Ingestion ALI (µCi)	Inhalation		Air (µCi/ml)	Water (µCi/ml)	
		ALI (µCi)	DAC (µCi/ml)				
15 Phosphorus-32	D, all compounds except phosphates given for W, phosphates of Zn <sup>2+</sup> , S <sup>3+</sup> , Mg <sup>2+</sup> , Fe <sup>3+</sup> , Bi <sup>3+</sup> , and lanthanides	6E+2	9E+2	4E-7	1E-9	9E-6	9E-5
		-	4E+2	2E-7	5E-10	-	-
15 Phosphorus-33	D, see <sup>32</sup> p W, see <sup>32</sup> p	6E+3	8E+3	4E-6	1E-8	8E-5	8E-4
		-	3E+3	1E-6	4E-9	-	-
16 Sulfur-35	Vapor	-	1E+4	6E-6	2E-8	-	-
	D, sulfides and sulfates except those given for W	1E+4	2E+4	7E-6	2E-8	-	-
	W, elemental sulfur, sulfides of Sr, Ba, Ge, Sn, Pb, As, Sb, Bi, Cu, Ag, Au, Zn, Cd, Hg, W, and Mo. Sulfates of Ca, Sr, Ba, Ra, As, Sb, and Bi	LLI wall (8E+3) 6E+3	-	-	-	1E-4	1E-3
17 Chlorine-36	D, chlorides of H, Li, Na, K, Rb, Cs, and Fr W, chlorides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Cr, Mo, W, Mn, Tc, and Re	2E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		-	2E+2	1E-7	3E-10	-	-
17 Chlorine-38 <sup>2</sup>	D, see <sup>36</sup> Cl W, see <sup>36</sup> Cl	2E+4 St wall (3E+4)	4E+4	2E-5	6E-8	-	-
		-	5E+4	2E-5	6E-8	3E-4	3E-3
17 Chlorine-39 <sup>2</sup>	D, see <sup>36</sup> Cl W, see <sup>36</sup> Cl	2E+4 St wall (4E+4)	5E+4	2E-5	7E-8	-	-
		-	6E+4	2E-5	8E-8	5E-4	5E-3
18 Argon-37	Submersion <sup>1</sup>	-	-	1E+0	6E-3	-	-
18 Argon-39	Submersion <sup>1</sup>	-	-	2E-4	8E-7	-	-
18 Argon-41	Submersion <sup>1</sup>	-	-	3E-6	1E-8	-	-
19 Potassium-40	D, all compounds	3E+2	4E+2	2E-7	6E-10	4E-6	4E-5
19 Potassium-42	D, all compounds	5E+3	5E+3	2E-6	7E-9	6E-5	6E-4
19 Potassium-43	D, all compounds	6E+3	9E+3	4E-6	1E-8	9E-5	9E-4
19 Potassium-44 <sup>2</sup>	D, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
		St wall (4E+4)	-	-	-	5E-4	5E-3
19 Potassium-45 <sup>2</sup>	D, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
		St wall (5E+4)	-	-	-	7E-4	7E-3

## Health and Human Services Commission

### Public Notice

The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 95-07, Amendment Number 472.

The amendment revises the plans to withdraw the section of the plan regarding voucher payments which are reimbursed to Intermediate Care Facilities for the mentally retarded (ICFs/MR) for certain costs of Hepatitis B inoculations for facility personnel. Effective January 1, 1995, the costs of Hepatitis B inoculations are covered in the ICF/MR per diem; therefore, the separate voucher payment is no longer necessary.

If additional information is needed, please contact Debbie Hankey, Texas Department of Mental Health-Mental Retardation, at (512) 323-3153.

Issued in Austin, Texas on January 10, 1996.

TRD-9600317 Michael D. McKinney, M.D.  
Commissioner  
Health and Human Services Commission

Filed: January 10, 1996

## Texas Lottery Commission Notice of Public Hearing

The Texas Lottery Commission will conduct a public hearing to receive comments on the following proposed bingo rules: 16 TAC §402.541, relating to definitions; 16 TAC §402.545, relating to licenses, fees, and bonds; 16 TAC §402.546, relating to temporary authorization; 16 TAC §402.547, relating to prohibited bingo occasion; 16 TAC §402.548, relating to general restrictions; 16 TAC §402.549 relating to exemption from licensing requirements; 16 TAC §402.554, relating to instant bingo; 16 TAC §402.555, relating to cardminding devices; and, 16 TAC §402.556, relating to pull-tab dispensers. The public hearing will be held on February 6, 1996, at 10:00 a.m. in the auditorium on the first floor of the Texas Lottery Commission headquarters building, 6937 North IH-35, Austin, Texas 78752.

Persons with disabilities planning to attend this hearing who may need auxiliary aids or services are asked to contact Michelle Guerrero, (512) 323-3791 by February 2, 1996, so appropriate arrangements can be made.

Issued in Austin, Texas, on January 16, 1996.

TRD-9600561 Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission

Filed: January 16, 1996

## Request for Proposals-Advertising Services

The purpose of this Request for Proposals ("RFP") is to obtain Proposals for Lottery Advertising Services for the

Texas Lottery Commission ("Texas Lottery") as provided in this RFP.

It is the intent of the Texas Lottery to obtain the services of a qualified advertising agency to perform advertising services on behalf of the Texas Lottery Commission. The Successful Proposer must also make recommendations to improve the marketing effectiveness of the Texas Lottery to enhance the Texas Lottery's earnings capacity.

Proposers responding to this RFP are expected to provide the Texas Lottery with information, evidence and demonstrations that will permit awarding a contract in a manner that best serves the interests of the Texas Lottery.

### Schedule of Events

The time schedule for awarding a contract under this RFP is listed. The Texas Lottery reserves the right to amend the schedule. If significant changes are made, all potential Proposers will be notified.

RFP Issued-January 18, 1996.

Letter of Intent to Propose Due-January 25, 1996 (4:00 p.m., CT)

(Late letters of Intent will not be considered).

Written Questions Due-January 29, 1996 (4:00 p.m., CT)

Answers To Questions Issued-February 2, 1996

Proposal Due Date-February 16, 1996 (4:00 p.m., CT)

(Late Proposals will not be considered).

Finalists announced-February 23, 1996

Oral presentations by finalists-Week of February 26, 1996

Site visits (if conducted)-Week of March 4, 1996

Announcement of Apparent Successful Proposer-Week of March 11, 1996

Successful Proposer commences work on account-April 1, 1996.

To obtain a copy of the RFP, please contact: Ridgely C. Bennett, Commission Attorney, Texas Lottery Commission, Post Office Box 16630, Austin, Texas 78761-6630. (512) 371-4935 or by Fax (512) 371-4989.

Issued in Austin, Texas, on January 12, 1996

TRD-9600447 Ridgely C. Bennett  
Commission Attorney  
Texas Lottery Commission

Filed: January 12, 1996

## Texas Natural Resource Conservation Commission

### Enforcement Orders

An agreed enforcement order was entered regarding LUB-BOCK ELECTROCOATING INC, VON KIMBALL, AND ROBERT PAULGER, Docket Number 95-0806-IHW-E (SWR Number 52129) on January 4, 1996, assessing \$10,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ann Foster, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0586.

An agreed enforcement order was entered regarding BURGESS MARKETING, Docket Number 95-1458-PST-E (Enforcement I.D. Number E10591) on January 4, 1996, assessing \$200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mark Norman, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding SCHLEICHER COUNTY, Docket Number 95-1508-PST-E (TNRCC Facility I.D. Number 66551; Enforcement I.D. Number E10983) on January 4, 1996, assessing \$3,100 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mark Norman, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding GARY FARRIS, Docket Number 95-1509-PST-E (TNRCC Facility ID Number 56161; Enforcement ID Number E11049) on January 4, 1996, assessing \$3,740 in administrative penalties with \$3,200 deferred.

Information concerning any aspect of this order may be obtained by contacting Mark Norman, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding BEATRICE GRESSETT, Docket Number 95-1643-PST-E (TNRCC Facility ID Number 39646; Enforcement ID Number 1200007) on January 4, 1996, assessing \$850 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Craig Carson, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2175.

An agreed enforcement order was entered regarding STAR ENTERPRISE, Docket Number 95-1644-PST-E (TNRCC Facility ID Number 23089; Enforcement ID Number 1200008) on January 4, 1996, assessing \$700 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Craig Carson, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2175.

An agreed enforcement order was entered regarding KHANH Q LE, Docket Number 95-1645-PST-E (TNRCC Facility ID Number 30579; Enforcement ID Number 1200010) on January 4, 1996, assessing \$400 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Craig Carson, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2175.

An agreed enforcement order was entered regarding PHILLIPS PETROLEUM COMPANY, Docket Number

95-1646-PST-E (TNRCC Facility ID Number 10905; Enforcement ID Number 1200011) on January 4, 1996, assessing \$1,050 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Craig Carson, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding ROBERT KAISER, Docket Number 95-1647-PST-E (TNRCC Facility ID Number 30586; Enforcement ID Number 1200013) on January 4, 1996, assessing \$1,450 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Craig Carson, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2175.

An agreed enforcement order was entered regarding BABA BOYS GROCERY, Docket Number 95-1648-PST-E (TNRCC Facility ID Number 31710; Enforcement ID Number 1200015) on January 4, 1996, assessing \$1,350 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Craig Carson, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2175.

An agreed enforcement order was entered regarding VADSARIA ENTERPRISES, Docket Number 95-1649-PST-E (TNRCC Facility ID Number 14796; Enforcement ID Number 1200016) on January 4, 1996, assessing \$900 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Craig Carson, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2175.

An agreed enforcement order was entered regarding LAGRANGE PETROLEUM INC, Docket Number 95-1650-PST-E (TNRCC Facility ID Number 46761; Enforcement ID Number E10996) on January 4, 1996, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sushil Modak, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding MIKE W CORNETT, Docket Number 95-1651-PST-E (TNRCC Facility ID Number 55421; Enforcement ID Number E11130) on January 4, 1996, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sushil Modak, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding REUBEN CRUZ, Docket Number 95-1652-PST-E (TNRCC Facility ID Number 54519; Enforcement ID Number E11294) on January 4, 1996, assessing \$1,800 in administrative penalties.



Information concerning any aspect of this order may be obtained by contacting Sushil Modak, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding CIRCLE K CORPORATION, Docket Number 95-1653-PST-E (TNRCC Facility ID Number 11065; Enforcement ID Number E10963) on January 4, 1996, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sushil Modak, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding JOSE GALARZA, Docket Number 95-1654-PST-E (TNRCC Facility ID Number 22062; Enforcement I.D. Number E11248) on January 4, 1996, assessing \$8,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sushil Modak, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding WACO GRAIN STORAGE INC, Docket Number 95-1655-PST-E (TNRCC Facility I.D. Number 27388; Enforcement I.D. Number E11214) on January 4, 1996, assessing \$1,020 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sushil Modak, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding HOFFER DRIVE IN, Docket Number 95-1656-PST-E (TNRCC Facility ID Number 36866; Enforcement ID Number E11021) on January 4, 1996, assessing \$960 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jaime Lopez, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding RANPARR INC, Docket Number 95-1657-PST-E (TNRCC Facility ID Number 32538; Enforcement ID Number E10537) on January 4, 1996, assessing \$3,200 in administrative penalties with \$2,600 deferred.

Information concerning any aspect of this order may be obtained by contacting Jaime Lopez, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding GENARO HERNANDEZ, Docket Number 95-1658-PST-E (TNRCC Facility ID Number 26872; Enforcement ID Number E11094) on January 4, 1996, assessing \$1,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jaime Lopez, Enforcement Coordinator, Texas Natural Resource Conservation Commission,

P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding GUADALUPE VALLEY ELECTRIC COOPERATIVE, Docket Number 95-1659-PST-E (TNRCC Facility ID Number 16919; Enforcement ID Number E10975) on January 4, 1996, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jamie Lopez, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding IRBY OIL COMPANY, Docket Number 95-1669-PST-E (TNRCC Facility ID Number 34715; Enforcement ID Number E10945) on January 4, 1996, assessing \$1,800 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mick Wilson, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding IRBY OIL COMPANY, Docket Number 95-1670-PST-E (TNRCC Facility ID Number 34715; Enforcement ID Number E10946) on January 4, 1996, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mick Wilson, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding IRBY OIL COMPANY, Docket Number 95-1671-PST-E (TNRCC Facility ID Number 34716; Enforcement ID Number E10947) on January 4, 1996, assessing \$1,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mick Wilson, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding BILL MILLER DOING BUSINESS AS MILLER CONSTRUCTION COMPANY, Docket Number 95-1690-MSW-E (MSW Unauthorized Site Number 35323) on January 4, 1996, assessing \$960 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Carol Piza, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6660.

An agreed enforcement order was entered regarding HICKS OIL & BUTANE COMPANY, Docket Number 95-1695-PST-E (TNRCC Facility ID Number 48674; Enforcement ID Number E10901) on January 4, 1996, assessing \$600 in administrative penalties with \$100 deferred.

Information concerning any aspect of this order may be obtained by contacting Mick Wilson, Enforcement Coordinator, Texas Natural Resource Conservation Commission,

P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

An agreed enforcement order was entered regarding the CITY OF EDCOUCH, Docket Number 95-0940-PWS-E (PWS Number 1080003) on January 4, 1996, assessing \$5,000 in administrative penalties with \$4,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Dorothy Young, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6064

Issued in Austin, Texas, on January 12, 1996.

TRD-9600503  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: January 12, 1996

◆ ◆ ◆  
**Notice of an Application for Conversion  
of a Water Supply Corporation to a  
Special Utility District**

EAST MEDINA COUNTY WATER SUPPLY CORPORATION; requests authorization to convert from a Water Supply Corporation to a Special Utility District as well as amend and transfer Certificate of Convenience and Necessity Number 10217. Petition filed under authority of Chapter 65 of the Texas Water Code, Chapter 395 of the Local Government Code, 30 Texas Administrative Code, Chapter 293, and under the rules of procedure of the TNRCC.

Medina County Water Supply Corporation has five small areas on its periphery which are dually certificated. Commission Rule 293.13(b)(1) requires the legal description of the proposed SUD exclude any overlapping entities, unless those entities consent in writing to the inclusion of the dually certificated area in the proposed district. The WSC does not currently serve any customers in any of these five areas and requests exclusion of them from the proposed Special Utility District.

The proposed District is located wholly within Medina County, Texas, with a total approximate customer-base of 1550 customers and a projected growth in service of approximately 45 new connections per year. The proposed District is located within the extra-territorial jurisdiction of the cities of Castroville, La Coste and Natalia, and is generally bounded by the cities of Castroville and Quihi on the north, the community of Biry on the west, the cities of Devine and Natalia on the south, and the cities of Lytle and La Coste on the east.

The Executive Director will act on this application unless a written hearing request that includes the following information is filed within the 30 days after newspaper publication of this notice: the name, mailing address and daytime phone number of the person requesting the hearing; the name of the District; the statement "I/we request a public hearing"; and a brief description of how the person for whom the hearing is being requested would be adversely affected by the approval of the application in a way not common to the public.

If a hearing request is filed, the Executive Director will not act on the application and will forward the application and hearing request to the TNRCC Commissioners for consideration at a scheduled Commission meeting. If a

hearing is held, it will be a legal proceeding similar to civil trials in state district court.

Requests for a hearing must be submitted in writing during the 30-day notice period to the Chief Clerk's Office, MC105, TNRCC, P. O. Box 13087, Austin, Texas 78711, (512) 239-3315. Gloria A. Vasquez, Chief Clerk, TNRCC

Issued in Austin, Texas, on January 12, 1996.

TRD-9600507  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: January 12, 1996

◆ ◆ ◆  
**Notice of Application for Municipal  
Solid Waste Management Facilities for  
the Week Ending January 12, 1996**

APPLICATION BY ENVIRO WASTE MANAGEMENT, Proposed Permit Number MSW2250, authorizing a Type V (Grease trap) municipal solid waste management facility permit. The proposed permit authorizes the existing solid waste management facility to receive approximately 20,000 gallons of non-hazardous and non-industrial grit and grease trap waste per day for processing. The facility is located on approximately 0.5 acres of land located at 5119-B East 7th Street in the city of Austin, Travis County, Texas

The Executive Director will issue the permit unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of this notice. If you wish to request a public hearing, you must submit your request in writing. You must state: your name, mailing address and daytime phone number; the application number, TNRCC docket number or other recognizable reference to the application; the statement "I/we request an evidentiary public hearing."; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; and a description of the location of your property relative to the applicant's operations.

If one or more protests and/or requests for hearing are filed on an application, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where an evidentiary hearing may be held. If no protests and/or requests for hearing are filed on an application, the Executive Director will approve the application. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing or questions concerning procedures should be submitted in writing to the TNRCC, Chief Clerk's Office, P. O. Box 13087, Mail Code 105, Building F, Room 4301, Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300

Issued in Austin, Texas, on January 12, 1996.

TRD-9600504  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

◆ ◆ ◆  
**Notice of Applications for Waste  
Disposal Permits**

Attached are Notices of Applications for waste disposal permits issued during the period of January 9, 1996 through January 12, 1996

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state: your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing;" a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

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.

**FALK-PETER LOSCHE**, The wastewater treatment facilities are east of U.S. Route 75, one mile south of the intersection of State Route 121 and U.S. Route 75 in Collin County, Texas, new, 13806-01.

**HAOJEY, LTD.**, Greens Road Service Center Wastewater Treatment Plant. The plant is at 2421 Greens Road in the City of Houston in Harris County, Texas, renewal, 13066-01.

**CALHOUN COUNTY NAVIGATION DISTRICT**, The applicant operates a marine cargo transfer station. The plant site is approximately 2.3 miles south of the intersection of State Highway 35 and FM Road 1593, at the Calhoun County Navigation District Dock on the Point Comfort Turning Basin in Calhoun County, Texas, amendment, 03868.

**WARM SPRINGS REHABILITATION FOUNDATION, INC.**, The wastewater treatment facilities are approximately 1,000 feet south of the intersection of FM Road 1586 and FM Road 2091, at a point 2.0 miles west of U.S. Highway 183 in Gonzales County, Texas, renewal, 10943-01.

**INVITEX INCORPORATED**, The wastewater treatment facilities are approximately 1.4 miles east of the intersection of State Highway 146 and Interstate Highway 10 in Chambers County, Texas, renewal, 13033-01

**BERNARD TIMBERS WATER SUPPLY CORPORATION**, The wastewater treatment facilities are north of U.S. Highway 90A, approximately 1.4 miles northeast of the intersection of U.S. Highway 90A and State Highway 60 in Wharton County, Texas, renewal, 12097-01.

**CITY OF SILSBEE**, The wastewater treatment facilities are approximately 1,700 feet north and 300 feet west of the intersection of FM Road 418 and Roosevelt Drive extension in Hardin County, Texas, renewal, 10282-02.

**CITY OF HAWKINS**, The wastewater treatment facilities are approximately 3,500 feet south-southeast of the intersection of U.S. Highway 80 and State Highway 14; approximately 1,000 feet west of the intersection of State Highway 14 and County Road 3300 in Wood County, Texas, renewal, 10439-01.

**CITY OF FRANKSTON**, The wastewater treatment facilities are south of the City of Frankston, immediately north of Caddo Creek, and approximately 1,000 feet south and 1,500 feet east of the intersection of State Highway 155 and State Highway 175 in Anderson County, Texas, renewal, 10441-01.

**CITY OF PINEHURST**, The wastewater treatment facilities are at 3000 Gull Street in the City of Pinehurst in Orange County, Texas, renewal, 10597-01.

**NORTHWEST FREEWAY MUNICIPAL UTILITY DISTRICT**, The wastewater treatment facilities are approximately 3/4 of a mile north-northwest of the intersection of Becker Road and U.S. Highway 290 in Harris County, Texas, renewal, 11913-01.

**CITY OF MABANK**, The wastewater treatment facilities are approximately 6,000 feet west of the intersection of U.S. Highway 175 and State Highway 198 in Kaufman County, Texas, renewal, 10579-01

**PALO PINTO COUNTY**, The wastewater treatment facilities are on the east bank of Town Branch Creek approximately 1,200 feet due north of the intersection of U.S. Highway 180 and FM Road 4 at the end of North Ninth Avenue in the outskirts of the Town of Palo Pinto in Palo Pinto County, Texas, 11698-01, amendment.

**LAKEWAY MUNICIPAL UTILITY DISTRICT**, The wastewater treatment facilities are approximately 2.0 miles northwest of the intersection of Ranch Road 620 and Lohman's Crossing Road in Travis County, Texas, new, 11495-05.

**CITY OF ROYSE CITY**, The wastewater treatment facilities are approximately one mile south of the intersection of Interstate Highway 30 and FM Road 35 in Rockwall County, Texas, renewal, 10366-01

**CITY OF DONNA**, The wastewater treatment facilities are immediately west of FM Road 493 and approximately 1.5 miles south of U.S. Highway 83 (Business Route) in Hildago County, Texas, renewal, 10504-01.

**MALEK VASHMEH**, The wastewater treatment facilities are approximately 0.25 mile southeast of the intersection of State Highway 105 and Old State Highway 105, approximately 0.25 mile west of the intersection of State Highway 105 and East Beech Road in Montgomery County, Texas, renewal, 12761-01

**KEITH BLAIR**, The wastewater treatment facilities are approximately one mile south of the intersection of FM Road 515 and FM Road 17; approximately five miles north of the intersection of FM Road 17 and State Highway 182 in Wood County, Texas, renewal, 12960-01.

**VRDELL W. JOHNSON**, The wastewater treatment facilities are two miles east of the intersection of Interstate Highway 20 and State Highway Loop 281 on Whitehurst Drive in Harrison County, Texas, renewal, 12893-01.

Issued in Austin, Texas, on January 12, 1996.

TRD-9600508  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: January 12, 1996

◆ ◆ ◆  
**Notice of Awards**

The Texas Natural Resource Conservation Commission (TNRCC) furnishes this notice of a consulting services contract amendment for additional work under a contract for investigating the Petroleum Storage Tank (PST) program. The TNRCC has asked and received an emergency waiver by the Office of the Governor, pursuant to Texas Government Code, §2254.025.

**Nature of Emergency.** Unanticipated legislative concerns and proposals, which were developed after the contract was in place, required the TNRCC to collect additional information during the legislative session.

**Description of Amendment.** The additional work required the contractor to collect additional information, substantially compress the time frame required for the project, present this information to the TNRCC and the Legislature, and modify the final report. The major product is an operational assessment.

**Effective Date and Value of Contract.** The contract dates are January 20, 1995 (original contract) through April 13, 1995 (contract as modified). The total cost of the contract, as modified, is \$38,950.00.

**Name of the Contractor.** The consultant is G.A. Herrera and Co., 5847 San Felipe, Suite 230, Houston, Texas, 77057.

Issued in Austin, Texas, on January 16, 1996.

TRD-9600544  
Kevin McCalla  
Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: January 16, 1996

◆ ◆ ◆  
The Texas Natural Resource Conservation Commission (TNRCC) furnishes this notice of a consulting services contract amendment for additional work under a contract for investigating the Waste Tire Recycling (WTR) program. The TNRCC has asked and received an emergency waiver by the Office of the Governor, pursuant to Texas Government Code, §2254.025.

**Nature of Emergency.** Unanticipated legislative concerns and proposals, which were developed after the contract was in place, required the TNRCC to collect additional information during the legislative session.

**Description of Amendment.** The additional work required the contractor to collect input from the generator industry, the legislature, and energy recovery industries, present this information to the TNRCC and the Legislature, and modify the final report. The major product is an operational assessment.

**Effective Date and Value of Contract.** The contract dates are December 26, 1994 (original contract) through April 13, 1995 (contract as modified). The total cost of the contract, as modified, is \$26,436.50.

**Name of the Contractor.** The consultant is G.A. Herrera and Co., 5847 San Felipe, Suite 230, Houston, Texas, 77057.

Issued in Austin, Texas, on January 16, 1996.

TRD-9600553  
Kevin McCalla  
Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: January 16, 1996

◆ ◆ ◆  
**Notice of Commission Action**

The following matters have reached settlement agreements of all issues in controversy. Therefore, they have been remanded by the State Office of Administrative Hearings (SOAH) to the Executive Director of the TNRCC for administrative disposition. Information concerning these matters may be obtained by contacting the TNRCC Chief Clerk's Office MC105, PO Box 13087, Austin, Texas 78711, or by at (512) 239-3300.

Petition of Mr. and Mrs. Clyde Welch and Mr. Jesse Welch Appealing the Connection Fee Charged by South Newton Water Supply Corporation; TNRCC Docket Number 95-1544-UCR; SOAH Docket Number 582-95-1628; CCN Number 11536 (Application Number 30921-X)

Issued in Austin, Texas, on January 12, 1996.

TRD-9600502  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: January 12, 1996

◆ ◆ ◆  
**Notice of Opportunity to Comment on  
Permitting Actions—for the Week  
Ending January 12, 1996**

The following applications will be signed by the Executive Director in accordance with 30 TAC §263.2, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain uncontested permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within ten days of the date notice concerning the application(s) is published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state: your name, mail-

ing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit ten days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to the Chief Clerk's Office (Mailcode 105), Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Consideration of the application of Walter F. DuVall doing business as Plaza Water to Purchase Facilities from Robert DuVall doing business as Nolanville Plaza Water in Bell County, Texas. (Application Number 30765-S, Albert Holck)

Consideration of the application of Walter F. DuVall doing business as Plaza Water for a Water CCN in Bell County, Texas. (Application Number 30766-C, Albert Holck)

Consideration of the application of Walter F. DuVall doing business as Plaza Water for a Sewer CCN in Bell County, Texas. (Application Number 30767-C, Albert Holck)

Consideration of the application of Brotherton Water Supply Corporation to amend Water Certificate of Convenience and Necessity Number 10154 in Fannin County, Texas. (Application Number 30933-C, Albert Holck)

Consideration of a Proposed Order Approving the Application by Wells Branch Municipal Utility District for Approval of \$3,040,000 Unlimited Tax Bonds, Fourth Issue, 8.11% Net Effective Interest Rate, Series 1996. For Commission consideration. The District's application requests Commission approval of a bond issue to finance the District's share of Off-site wastewater lines and water, wastewater and drainage facilities for Willow Run Section 1, Willow Run Section 2, Willow Run Section 6 (Phase 1 and 2), Bratton Park Section 1 and Bratton Park Section 2. (TNRCC Internal Control Number 071795-D03; Robert Ferguson)

PETITION BY FIVE ELECTORS FOR DESIGNATION OF A MEETING PLACE FOR HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NUMBER 136. Petitioners request that the Commission designate the meeting place at 4045 Deerfield Village Dr., Houston, Texas.

Issued in Austin, Texas, on January 12, 1996.

TRD-9600506

Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: January 12, 1996

## Notice of Public Workgroup

The first meeting of the Texas Natural Resource Conservation Commission (TNRCC) work group on the United States Environmental Protection Agency's proposed Open Market Trading Rule (OMTR) has been changed from Tuesday, January 30, 1996 to Friday, February 2, 1996 at 9:30 a.m. The OMTR is the federal government's proposal for a more flexible and cost-effective approach to complying with the requirements of the Federal Clean Air Act Amendments through the buying and selling of emission reductions.

The meeting location is the Austin Office of the TNRCC located at 12100 Park 35 Circle, Building B, Room 201A. The OMTR was published in the August 3 and August 25, 1995, issues *Federal Register*. If you would like to participate or have questions please contact Ruth Reiman, Office of Air Quality, TNRCC at (512) 239-1219.

Issued in Austin, Texas, on January 16, 1996.

TRD-9600580

Kevin McCalla  
Director, Legal Services Division  
Texas Natural Resource Conservation  
Commission

Filed: January 16, 1996

## Notice of Receipt of Application and Declaration of Administrative Completeness for Municipal Solid Waste Management Facility for the Week Ending January 12, 1996

APPLICATION BY BCS WASTE MANAGEMENT; Proposed Permit Number MSW2255, authorizing a Type VWI (thermal oxidation unit) medical and municipal solid waste facility permit. The site covers approximately 0.662 acres of land and is to receive approximately 48 tons of medical and municipal solid waste per day. The proposed site is located on the west side of Industrial Lane, which is bordered on the north by Wood Street and on the south by Kingsley Road, in the City of Dallas, Dallas County, Texas.

If you wish to request a public hearing, you must submit your request in writing. You must state: your name, mailing address and daytime phone number; the application number, TNRCC docket number or other recognizable reference to the application; the statement "I/we request an evidentiary public hearing."; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; and a description of the location of your property relative to the applicant's operations.

Requests for a public hearing or questions concerning procedures should be submitted in writing to the Chief Clerk's Office, Park 35 TNRCC Complex, Building F, Room 4301, Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300

Issued in Austin, Texas, on January 12, 1996.

TRD-9600505

Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: January 12, 1996

◆ ◆ ◆  
**Provisionally-Issued Temporary Permits  
to Appropriate State Water**

The following permits listed were issued during the period of January 8, 1996

Application Number TA-7599 by Union Pacific Resources Company for diversion of nine acre-feet in a one year period for mining purposes. Water may be diverted at the stream crossing of FM 1362, approximately eight miles northeast of Caldwell in Burleson County, Texas, Brazos River Basin.

Application Number TA-7603 by Enron Oil & Gas Company for diversion of ten acre-feet in a one-year period for industrial (oil and gas well drilling) use. Water may be diverted from the Pecos River at a location approximately 44 miles south/southwest of Ozona, Val Verde County, Texas, Rio Grande.

Application Number TA-7604 by T.L. James & Company, Inc. for diversion of 9.5 acre-feet in a one-year period for industrial (line stabilization and processing flexible base) purposes. Water may be diverted from Big Creek at a location approximately 22 miles southeast of Bryan, Brazos County, Texas, Brazos River.

Application Number TA-7605 by Arrow Drilling Company for diversion of one acre-feet in a one-year period for industrial purposes. Water may be diverted from Hondo Creek at a location approximately 13 miles west of Sinton, San Patricio County, Texas, Nueces River.

Application Number TA-7606 by Shell Western E&P, Inc. for diversion of two acre-feet in a six-month period for mining (gas well development) use. Water may be di-

verted from the Pecos River, approximately 48 miles northeast of Sanderson, Terrell County, and approximately 14 miles northwest of Pandale (Val Verde County), Texas, Rio Grande Basin.

The Executive Director of the TNRCC has reviewed each application for the permits listed and determined that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. Any person or persons who own water rights or who are lawful users of water on a stream affected by the temporary permits listed above and who believe that the diversion of water under the temporary permit will impair their rights may file a complaint with the TNRCC. The complaint can be filed at any point after the application has been filed with the TNRCC and the time the permit expires. The Executive Director shall make an immediate investigation to determine whether there is a reasonable basis for such a complaint. If a preliminary investigation determines that diversion under the temporary permit will cause injury to the complainant the commission shall notify the holder that the permit shall be cancelled without notice and hearing. No further diversions may be made pending a full hearing as provided in §295.174. Complaints should be addressed to Water Rights Permitting Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-4433. Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78731, (512) 239-3300.

Issued in Austin, Texas, on January 12, 1996.

TRD-9600501

Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: January 12, 1996  
◆ ◆ ◆

# Texas Register Services

The *Texas Register* offers the following services. Please check the appropriate box (or boxes).

## Texas Natural Resource Conservation Commission, Title 30

- Chapter 285 \$20     update service \$15/year (*On-Site Wastewater Treatment*)  
 Chapter 290 \$20     update service \$15/year (*Water Hygiene*)  
 Chapter 330 \$45     update service \$15/year (*Municipal Solid Waste*)  
 Chapter 334 \$35     update service \$15/year (*Underground/Aboveground Storage Tanks*)  
 Chapter 335 \$25     update service \$15/year (*Industrial Solid Waste/Municipal  
Hazardous Waste*)

Update service should be in  printed format     3 1/2" diskette     5 1/4" diskette

## Texas Workers Compensation Commission, Title 28

- Update service \$25/year

## Texas Register Phone Numbers

Documents	(512) 463-5561
Circulation	(512) 463-5575
Marketing	(512) 463-5564
Texas Administrative Code	(512) 463-5565

## Information For Other Divisions of the Secretary of State's Office

Executive Offices	(512) 463-5701
Corporations/ Copies and Certifications	(512) 463-5578
Direct Access	(512) 463-2755
Information	(512) 463-5555
Legal Staff	(512) 463-5586
Name Availability	(512) 463-5555
Trademarks	(512) 463-5576
Elections Information	(512) 463-5650
Statutory Documents Legislation	(512) 463-0872
Notary Public	(512) 463-5705
Public Officials	(512) 463-5552
Uniform Commercial Code Information	(512) 475-2700
Financing Statements	(512) 475-2703
Financing Statement Changes	(512) 475-2704
UCC Lien Searches/Certificates	(512) 475-2705

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 required. You may use your VISA or Mastercard. All purchases made by credit card will be subject to an additional 2.1% service charge. Return this form to the Texas Register, P.O. Box 13824, Austin, Texas 78711-3824. For more information, please call (800) 226-7199.

**Change of Address**

**Back Issue**

\_\_\_\_\_ Quantity

Volume \_\_\_\_\_,

Issue # \_\_\_\_\_

*(Prepayment required  
for back issues)*

**New Subscription (Yearly)**

Printed  \$95

Diskette  1 to 10 users \$200

11 to 50 users \$500

51 to 100 users \$750

100 to 150 users \$1000

151 to 200 users \$1250

More than 200 users--please call

Online BBS  1 user \$35

2 to 10 users \$50

11 to 50 users \$90

51 to 150 users \$150

151 to 300 \$200

More than 300 users--please call

NAME \_\_\_\_\_

ORGANIZATION \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_

Customer ID Number/Subscription Number \_\_\_\_\_

*(Number for change of address only)*

**Bill Me**

**Payment Enclosed**

Mastercard/VISA Number \_\_\_\_\_

Expiration Date \_\_\_\_\_ Signature \_\_\_\_\_

Please make checks payable to the Secretary of State. Subscription fees are not refundable.  
Do not use this form to renew subscriptions.

Second Class Postage

PAID

Austin, Texas  
and additional entry offices