

Texas Register

Volume 17, Number 46, June 19, 1992

Page 4391-4482

In This Issue...

Office of the Governor

Appointments Made June 10, 1992

Veterans Land Board 4401

Interagency Council for Services for the Homeless
4401

Lavaca-Navidad River Authority Board of Directors
4401

Sam Houston Bicentennial Celebration Commission
4401

Texas Board of Licensure for Professional Medical Physi-
cists..... 4401

State Board of Vocational Nurse Examiners 4401

Early Childhood Intervention Advisory Committee
4401

Texas Ethics Commission

Texas Ethics Commission Opinions

EAO 11-20 4403

EAO 21-30 4404

Emergency Sections

Texas Ethics Commission

Practice and Procedure

1 TAC §§10.1, 10.3, 10.5, 10.7, 10.9, 10.11, 10.13, 10.15,
10.17, 10.19..... 4405

1 TAC §10.31..... 4406

Proposed Sections

Texas Ethics Commission

Practice and Procedure

1 TAC §§10.1, 10.3, 10.5, 10.7, 10.9, 10.11, 10.13, 10.15,
10.17, 10.19 4409

1 TAC §10.31 4409

State Finance Commission

Banking Section

7 TAC §3.35 4409

Banking Department of Texas

Orders of the Commissioner

7 TAC §15.3 4413

7 TAC §§15.11-15.13 4413

Texas Department of Housing and Community Affairs

Home Investment Partnership Program Rules

10 TAC §§53.1-53.19 4414

Public Utility Commission of Texas

Practice and Procedure

16 TAC §21.151 4418

16 TAC §21.161 4419

CONTENTS CONTINUED INSIDE

Texas Register, ISSN 0362-4781, is published semi-weekly 100 times a year except February 28, November 6, December 1, December 29, 1992. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78711. Subscriptions costs: one year - printed, \$95 and electronic, \$90; six-month - printed, \$75 and electronic, \$70. Single copies of most issues are available at \$5 per copy.

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- Governor** - Appointments, executive orders, and proclamations
- Attorney General** - summaries of requests for opinions, opinions, and open records decisions
- Secretary of State** - opinions based on the election laws
- Texas Ethics Commission** - summaries of requests for opinions and opinions
- Emergency Sections** - sections adopted by state agencies on an emergency basis
- Proposed Sections** - sections proposed for adoption
- Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Sections** - sections adopted following a 30-day public comment period
- Open Meetings** - notices of open meetings
- In Addition** - miscellaneous information required to be published by statute or provided as a public service

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes accumulative quarterly and annual indexes to aid in researching material published.

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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: "17 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 17 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, Austin. Material can be found using *Texas Register* indexes, the *Texas Administration Code*, section numbers, or TRD number.

Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

How to Cite: Under the TAC scheme, each agency 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 rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

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This program is sponsored by the *Texas Register* to promote the artistic abilities of Texas students, grades K-12, and to help students gain an insight into Texas government. The artwork is used to fill otherwise blank pages in the *Texas Register*. The blank pages are a result of the production process used to create the *Texas Register*. The artwork does not add additional pages and does not increase the cost of the *Texas Register*.

Texas Register Publications



a section of the
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Austin, Texas 78711-3824
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Texas State Board of Examiners of Psychologists	
General Rules	
22 TAC §461.15	4419
Applications	
22 TAC §463.5	4419
22 TAC §463.29	4420
Rules of Practice	
22 TAC §465.26	4421
22 TAC §465.32	4421
Texas Department of Mental Health and Mental Retardation	
Client (Patient) Care	
25 TAC §§405.261-405.274	4422
25 TAC §§405.261-405.278	4422
Texas Workers' Compensation Commission	
Scope of Liability for Compensation	
28 TAC §112.401, §112.402	4427
Rejected Risk: Injury Prevention Services	
28 TAC §165.5	4429
Texas Water Commission	
Industrial Solid Waste and Municipal Hazardous Waste	
31 TAC §335.326, §335.329	4429
Comptroller of Public Accounts	
Tax Administration	
34 TAC §3.298	4430
34 TAC §3.403	4432
34 TAC §3.412	4432
34 TAC §3.413	4432
34 TAC §3.743	4433
Children's Trust Fund of Texas	
Child Protective Services	
40 TAC §§201.1-201.9	4433
40 TAC §§201.1-201.10	4434
Funded Program Award and Contracts	
40 TAC §§202.1-202.18	4437

Texas Department of Insurance	
Notification Pursuant to the Texas Insurance Code, Chapter 5, Subchapter L	4439
Withdrawn Sections	
Texas State Board of Examiners of Psychologists	
Rules of Practice	
22 TAC §465.29	4441
Texas Board of Professional Land Surveying	
Standards of Responsibility and Rules of Conduct	
22 TAC §§663.13-663.19	4441
Texas Department of Mental Health and Mental Retardation	
Texas Department of Mental Health and Mental Retardation	
25 TAC §402.151-402.153, 402.158-402.161	4441
25 TAC §402.158, §402.159	4441
Comptroller of Public Accounts	
Tax Administration	
34 TAC §3.298	4441
Adopted Sections	
Texas Ethics Commission	
Legislative Per Diem	
1 TAC §8.1	4443
Campaign Financing	
1 TAC §20.1	4443
Personal Financial Disclosure	
1 TAC §30.1	4443
Registration and Regulation of Lobbyists	
1 TAC §§40.1, 40.3, 40.5, 40.7, 40.9, 40.11, 40.13, 40.15, 40.17, 40.19, 40.21, 40.23, 40.25, 40.27, 40.29, 40.31, 40.33	4444
Office of the Consumer Credit Commissioner	
Consumer Credit Commission	
7 TAC §1.302	4447
State Finance Commission	
Currency Exchange	
7 TAC §4.07	4447
7 TAC §4.08	4448

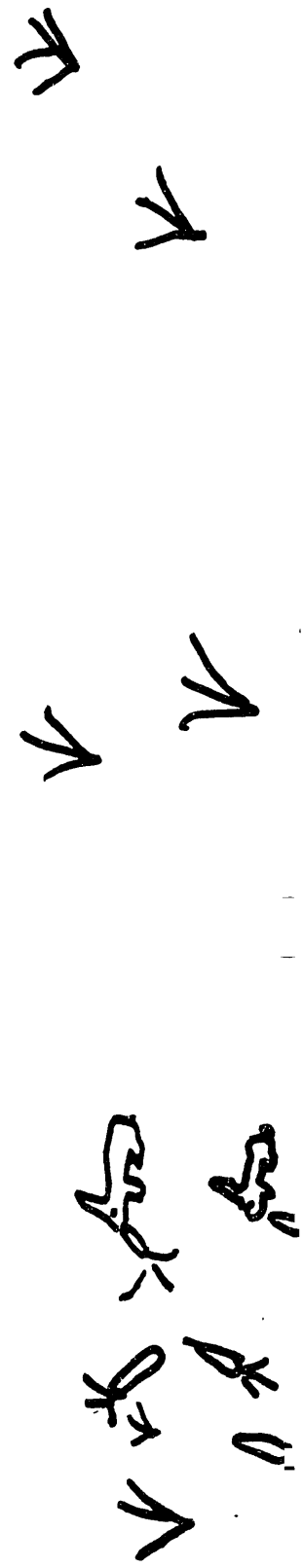
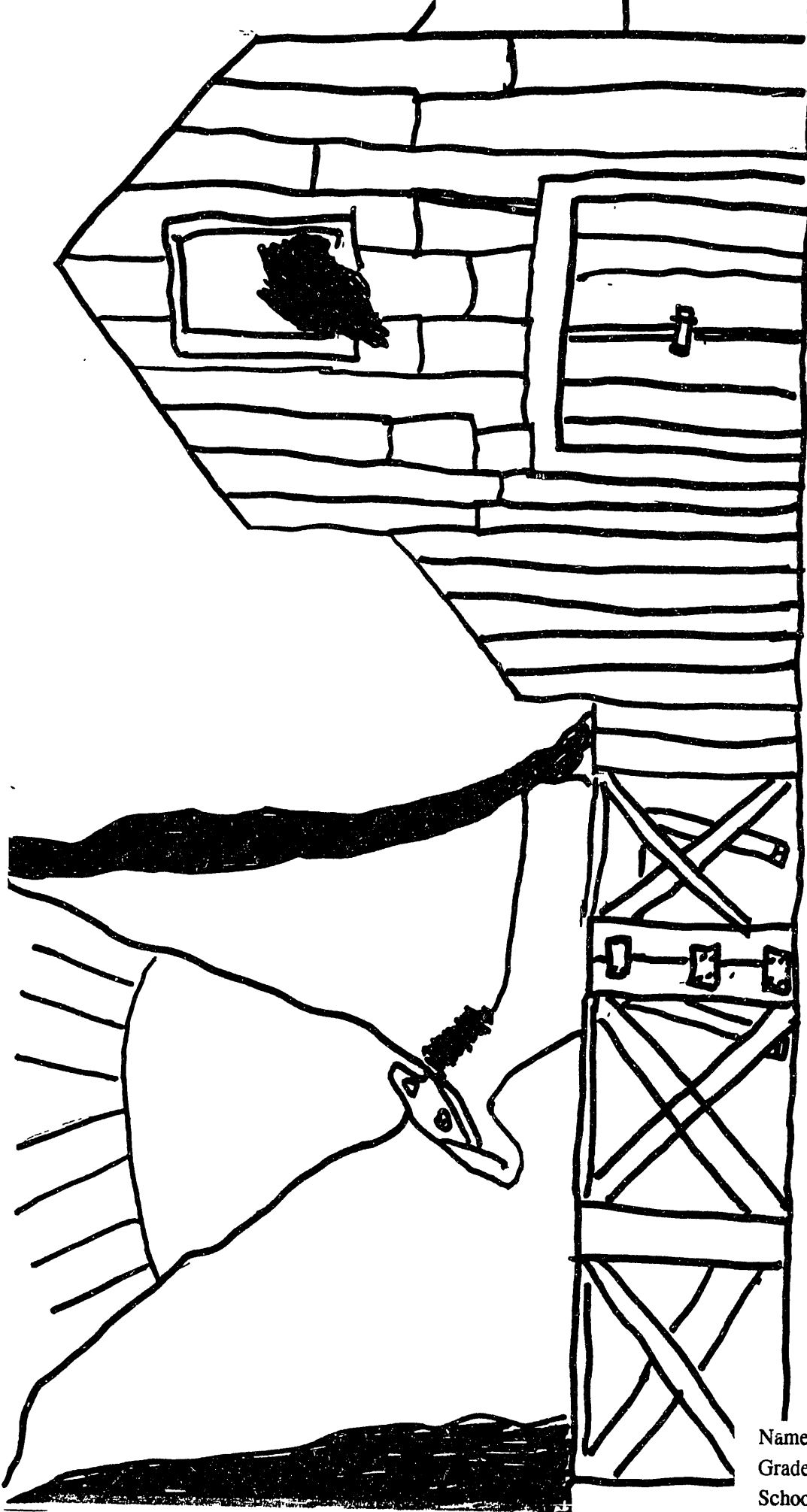
Texas Department of Licensing and Regulation	
Employers of Certain Temporary Common Workers	
16 TAC §64.70.....	4448
Texas Board of Professional Land Surveying	
General Rules of Procedures and Practices	
22 TAC §661.41.....	4448
Texas Department of Insurance	
Corporate and Financial Regulation	
28 TAC §7.83.....	4449
Texas Parks and Wildlife Commission	
Wildlife	
31 TAC §§65.3, 65.13, 65.40, 65.72	4451
State Depository Board	
Collateral Transactions	
34 TAC §171.1.....	4461
Texas Youth Commission	
Treatment	
37 TAC §87.113.....	4461
Open Meetings	
Texas Department on Aging.....	4463
Texas Department of Agriculture	4463
Texas Animal Health Commission.....	4463
Texas Department of Commerce	4464
Texas Education Agency	4464
Employees Retirement System of Texas	4464
General Services Commission.....	4464
Texas Higher Education Coordinating Board.....	4465
Texas Historical Commission.....	4465
Texas Department of Housing and Community Affairs	
4465	
Texas Department of Human Services.....	4465
Texas Department of Insurance	4465
Texas Board of Irrigators.....	4466
Texas Commission on Law Enforcement Officer	
Standards and Education.....	4466
Texas State Board of Medical Examiners.....	4466
Public Utility Commission of Texas.....	4467
Texas Rehabilitation Commission	4467
Sam Houston State University.....	4468
Stephen F. Austin State University.....	4468
Sunset Advisory Commission.....	4468
The Texas A&M University System, Board of Regents	
4468	
Texas Life, Accident, Health and Hospital Service	
Insurance Guaranty Association.....	4468
Texas Department of Transportation	4468

University of North Texas/Texas College of Osteopathic Medicine.....	4469
University of Texas System, M.D. Anderson Cancer Center	4469
Texas Water Commission.....	4469
Texas Water Conservation Association Risk Management Fund.....	4470
Texas Workers' Compensation Research Center	4470
Regional Meetings	4470
In Addition Section	
State Aircraft Pooling Board	
Notification of Rates for Aircraft Use.....	4475
Texas Department of Banking	
Notice of Hearing	4476
Texas State Board of Registration for Professional Engineers	
Correction of Error	4476
Governor's Energy Office	
Contract Award Notice.....	4477
Texas Department of Health	
HIV Health and Social Service Projects Request for Proposals	4477
Notice of Intent to Revoke Certificates of Registration	
4478	
Texas Department of Housing and Community Affairs	
Notice of Fund Availability Housing Trust Fund..	4478
Public Notice-Texas Interagency Council for Services for the Homeless.....	4479
Texas Department of Insurance	
Company Licensing.....	4479
Texas Department of Public Safety	
Correction of Error	4479
Public Utility Commission of Texas	
Correction of Error	4479
Notices of Intent to File Pursuant to Public Utility Commission Substantive Rules 23.27	4479
Notice of Waiver Request Regarding Public Utility Commission Substantive Rules 23.14	4480
Railroad Commission of Texas	
Invitation for Bids.....	4480
Texas Department of Transportation	
Correction of Error	4481

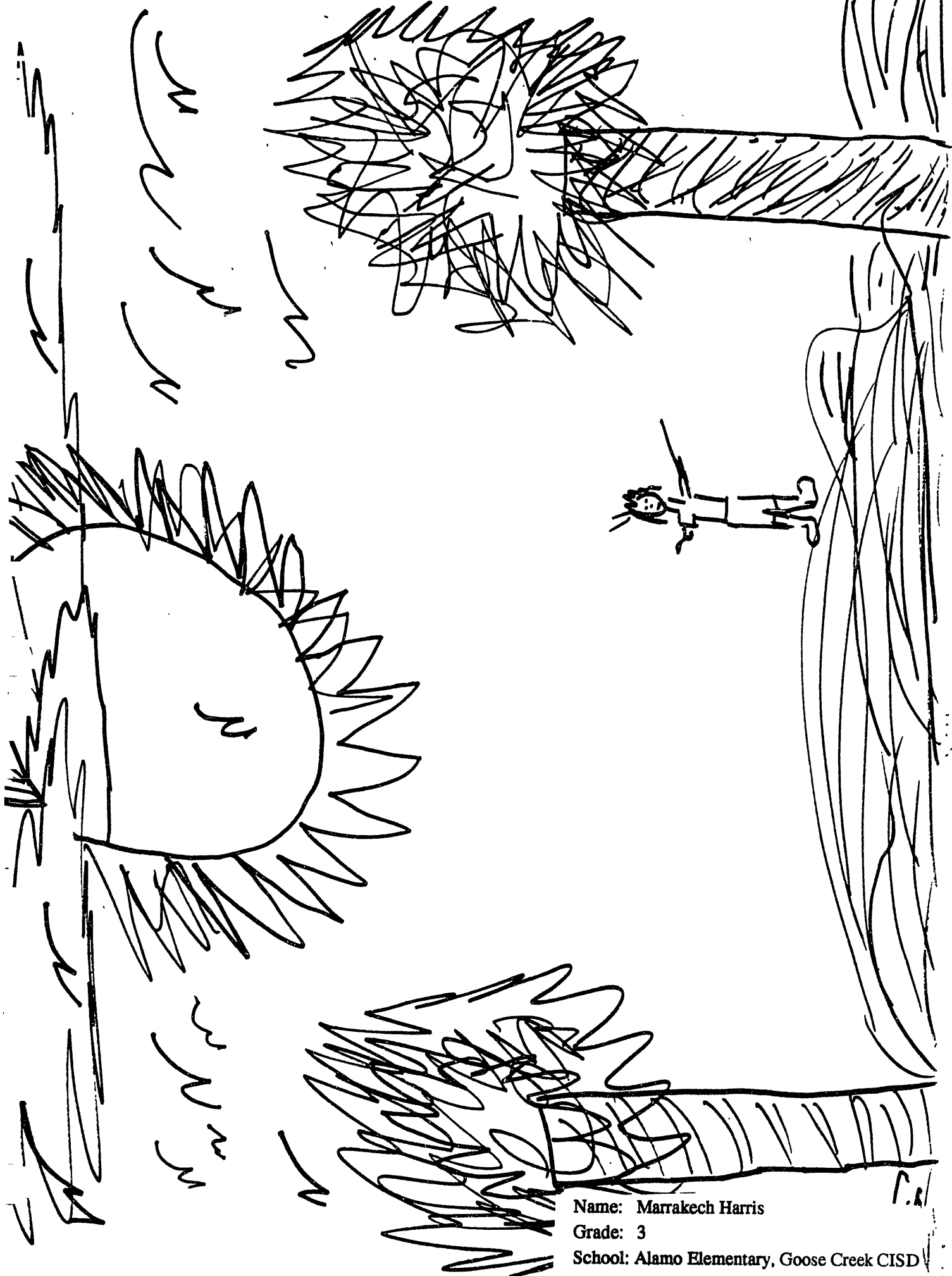
Public Hearing Notice 4481
Texas Water Commission
Enforcement Order 4482

Texas Water Development Board

Applications Received.....4482



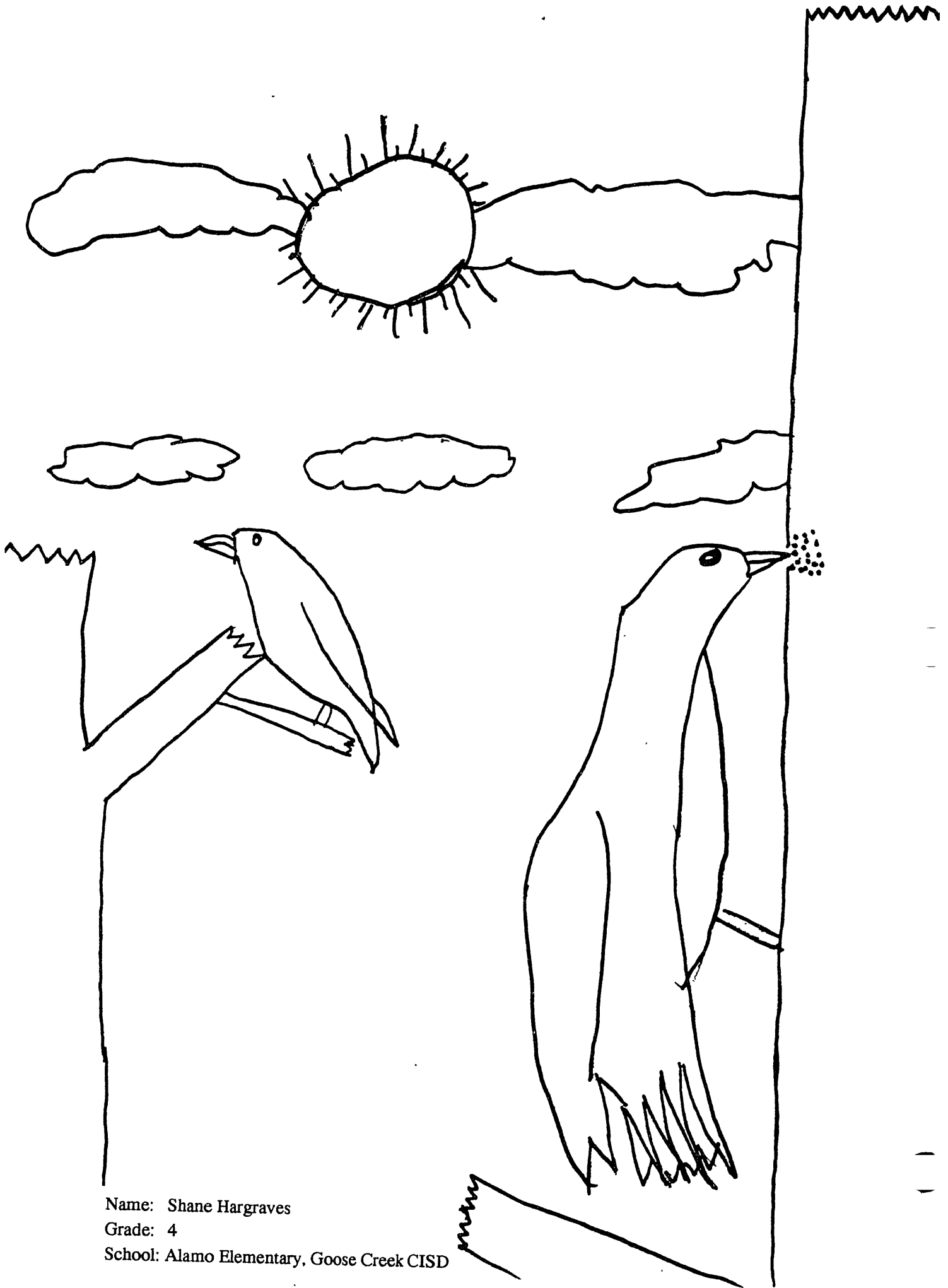
Name: Gary Burnett
Grade: 5
School: Alamo Elementary, Goose Creek C



Name: Marrakech Harris

Grade: 3

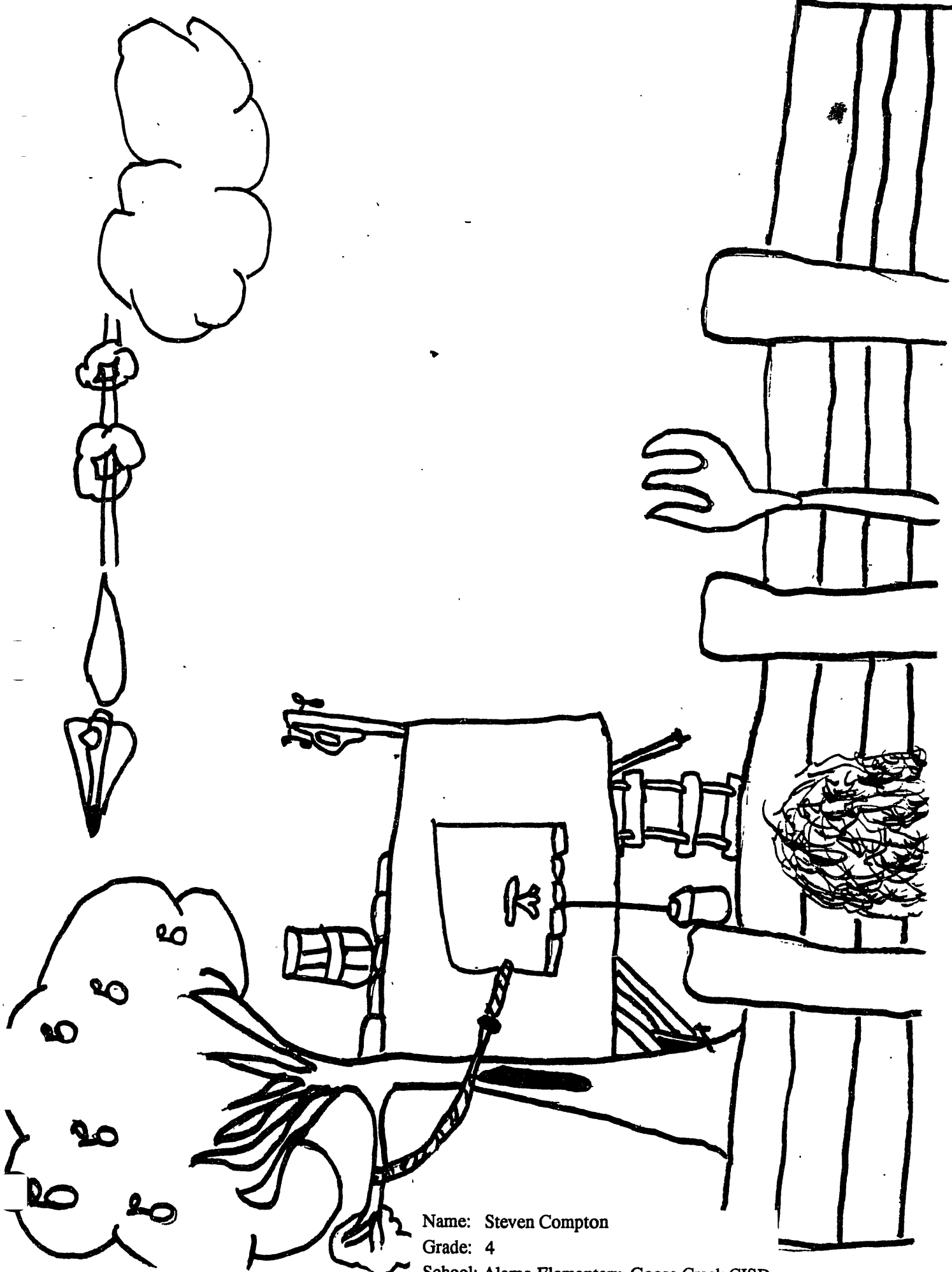
School: Alamo Elementary, Goose Creek CISD



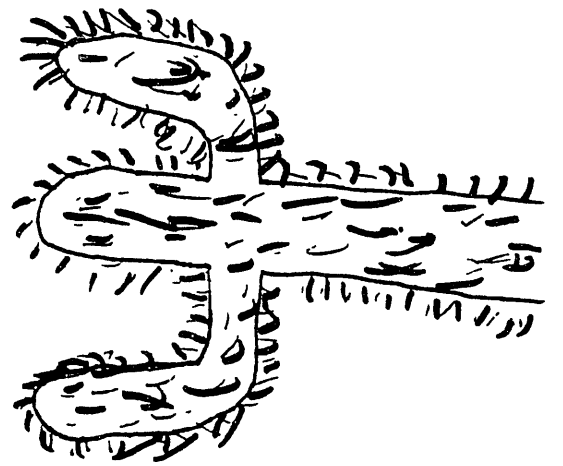
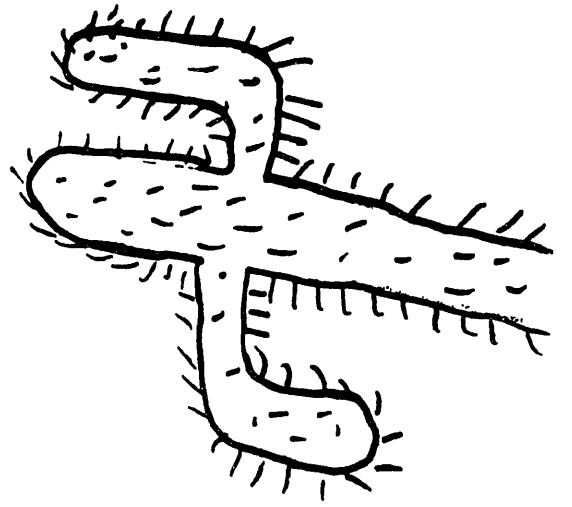
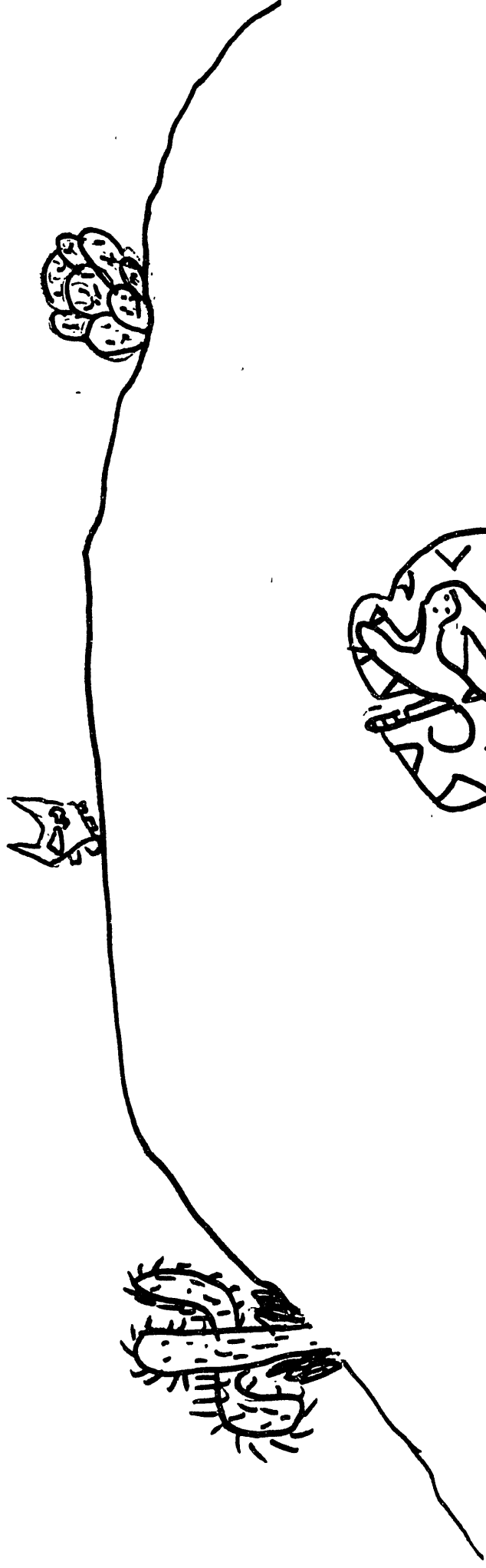
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The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in Chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1814.

Appointments Made June 10, 1992

To be a member of the Veterans Land Board for a term to expire December 29, 1994: Mike McKool, 6900 Royal Lane, Dallas, Texas 75230. Mr. McKool will be replacing Jim Sale of Dallas whose term expired.

To be a member of the Veterans Land Board for the term to expire December 29, 1996: Jesse D. Martin, 3403 92nd Street, Lubbock, Texas 79423. Mr. Martin will be replacing Jonathan Rogers of El Paso who resigned.

To be a member of the Interagency Council for Services for the Homeless for a term at the pleasure of the governor: Sally Shipman, 1905 Swift, Houston, Texas 77030. Ms. Shipman is being appointed pursuant to Senate Bill Number 379, 72nd Legislature.

To be a member of the Lavaca-Navidad River Authority Board of Directors for a term to expire May 1, 1997: Theresa McCaig, Box 606, Ganado, Texas 77962. Ms. McCaig will be filling the unexpired term of Lanita Skalicky of Ganado who is deceased.

To be a member of the Sam Houston Bicentennial Celebration Commission for a term to expire December 31, 1993: M. Houston McGaugh, Jr., Director, Star of the Republic Museum, Blinn College, 902 College Avenue, Brenham, Texas 77833. Mr. McGaugh is being appointed pursuant to House Bill Number 1519, 72nd Legislature.

To be a member of the Texas Board of Licensure for Professional Medical Physicians for a term to expire February 1, 1997:

Thomas S. Harle, M.D., 5292 Memorial Drive, G-12, Houston, Texas 77007. Dr. Harle is being appointed to a new position pursuant to Senate Bill Number 521, 72nd Legislature.

To be a member of the State Board of Vocational Nurse Examiners for a term to expire September 6, 1997: Opal M. Robinson, 2634 East Bates, Lubbock, Texas 79403. Ms. Robinson will be replacing Sharon Johnson of Taylor whose term expired.

To be a member of the Early Childhood Intervention Advisory Committee pursuant to House Bill Number 7, 72nd Legislature: for terms to expire February 1, 1993:

Claudette Wilkinson Bryant, 2761 Burlingon Boulevard, Dallas, Texas 75211.

Karen V. Douglas, Incarnate Word College, 4301 Broadway, San Antonio, Texas 78209.

Julian S. Harber, M.D., 5408 Woodway, Fort Worth, Texas, 76133.

The Honorable Libby Linebarger, State Representative, P.O. Box 2910, Austin, Texas 78769.

for terms to expire February 1, 1995:

Carla Jo Riggins, Texas Department of Insurance, P.O. box 149104, Austin, Texas 78714-9104.

Louise M. Scanlon, Education Service Center, Region 20, 1314 Hines Avenue, San Antonio, Texas 78208.

for terms to expire February 1, 1995:

David R. Levy, M.D., M.P.H., Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

Alba A. Ortiz, Ph.D., The University of Texas at Austin, College of Education, EDB 210, Austin, Texas 78712.

Bess Althaus Graham, 517 Coral Place, Corpus Christi, Texas 78411.

Pamela S. Marcum, Heart of Texas Regional MHMR Center, P.O. Box 890, Waco, Texas 76703-0890.

for terms to expire February 1, 1997:

Ernest A. Gotts, Ph.D., 1430 Dumont Drive, Richardson, Texas 75080.

Maurie Terry, Educational Service Center, Region XV, P.O. Box 5199, San Angelo, Texas 76902.

Lesla Raschke Walker, M.D., Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3179.

A. Kay Lambert, Advocacy, Inc., 7800 Shoal Creek Boulevard, #171-E, Austin, Texas, 78757.

John J. Delgado, 3031 IH-10 West, San Antonio, Texas 78225.

Maria Dolores Garcia, West Central Intermediate School, 120 Campbell Drive, Hereford, Texas 79045.

for a term to expire February 1, 1997:

Sister Mary Nicholas Vincelli, C.S.J., Texas Department of Health Public Health Region 8, 601 West Sesame Drive, Harlingen, Texas 78550.

Issued in Austin, Texas, on June 11, 1992.

TRD-9208133

Ann W Richards
Governor of Texas





Name: Charles Moores

Grade: 3

School: Alamo Elementary, Goose Creek CISD

Texas Ethics Commission

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

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

Opinions

EAO-11. Concerning the application of revolving door prohibition to former members of governing bodies of regulatory agencies (AOR-4).

Summary of Opinion. Texas Civil Statutes, Article 6252-9b, §7A(a), which prohibits a former board member or executive head of a regulatory agency from communicating or appearing before the agency to influence any agency action for two years after the end of the person's tenure with the agency, applies only to a person who ceases service with the state on or after January 1, 1992.

EAO-12. Concerning the legality of a legislator accepting a hunting trip paid for by a lobbyist and legality of a lobbyist providing a hunting trip to a legislator (AOR-5).

Summary of Opinion. A person required to register as a lobbyist may not provide, and a legislator may not accept from a person required to register as a lobbyist, transportation and lodging in connection with a hunting trip. Subject to certain monetary limitations and reporting requirements, a lobbyist may provide, and a legislator may accept, food in connection with a hunting trip and a place to hunt. A legislator may accept food in connection with a hunting trip and the provision of a place to hunt if the person providing such food and entertainment is present.

EAO-13. Concerning the use of political contributions to purchase a vehicle to be used for campaign or officeholder purposes (AOR-8).

Summary of Opinion. A candidate or officeholder may use political contributions to purchase an automobile to be used for campaign or officeholder purposes. An asset purchased in whole or in part with political contributions is subject in its entirety to the restrictions set out in the Election Code, Title 15. A candidate or officeholder may not, under the Election Code, Title 15, remove a portion of the asset from those restrictions by paying for a portion of the asset with personal funds. State Ethics Advisory Commission Opinion Number 3 (1984), which concluded that such bifurcation was permissible, is hereby overruled.

EAO-14. Concerning the applicability of the lobby statute to negotiations between

consultants and regulatory agencies in regard to permits (AOR-31).

Summary of Opinion. Applying for a permit with a regulatory agency is excepted from the application of the lobby statute, the Government Code, Chapter 305. Negotiations with regulatory agencies in regard to permits are excepted from the application of the lobby statute as long as the negotiations are in regard to whether an applicant does in fact meet existing agency standards of general application.

EAO-15. Concerning the application of the Government Code, Chapter 305, to certain communications between industry regulators and banking officers or employees (AOR-19).

Summary of Opinion. The registration and reporting requirements of the Government Code, Chapter 305 are not applicable, in the context of a bank examination, to responses to questions from bank examiners and discussions regarding loan quality. Nor are those requirements applicable to the submission of a charter application to the Banking Department of Texas or the submission of a notice of change in control. Further, those requirements do not apply to the provision of information intended to persuade the agency that the agency should take certain action in regard to the application or notice, as long as the information is intended to show compliance with standards of general applicability.

EAO-16. Concerning whether certain activities relating to the filing of a trademark application would be considered lobbying (AOR-14).

Summary of Opinion. A person is not required to register under the Government Code, Chapter 305 if direct communication and preparation to influence administrative action constitute no more than 5.0% of the person's compensated time during a calendar quarter. The registration and reporting requirements of Chapter 305 do not apply to the provision of "merely clerical assistance in producing direct communication" to influence administrative action. The registration and reporting requirements of Chapter 305 do not apply to a discussion between a lawyer and a member of the executive branch about whether a proposed trademark was in fact confusingly similar to an already existing trademark.

EAO-17. Concerning whether a legislator may accept a fee for a speaking engagement and accept reimbursement for travel, food, and lodging in connection with the event (AOR-25).

Summary of Opinion. A legislator may not accept a fee for a speaking engagement that would not have been requested but for the legislator's official position or duties. A legislator may accept reimbursement for transportation and lodging expenses incurred in connection with a speaking engagement at a conference or similar event. At such an event a legislator may accept meals or reimbursement for actual expenses for meals.

EAO-18. Concerning whether a nonprofit organization may pay for the transportation, meals, and lodging of a legislator invited to address the organization (AOR-15).

Summary of Opinion. Neither the Government Code, §305.024 nor the Penal Code, §36.07 precludes a nonprofit organization from paying the necessary transportation, meal, and lodging expenses for a member of the legislative or executive branch to speak at a conference or similar event hosted by the organization if the member's participation is more than "merely perfunctory." If the nonprofit organization is registered under §305.005, these expenses must be reported.

EAO-19. Concerning whether the Penal Code, §36.07 prohibits a public servant from soliciting a payment or agreeing to a payment to a tax-exempt organization in return for a speaking engagement related to the public servant's official position (AOR-17).

Summary of Opinion. The Penal Code, §36.07(a) prohibits a public servant from accepting or soliciting a fee for speaking if the public servant would not have been request to speak but for his official position or duties. The prohibition extends to a request for or acceptance of a payment made to a third party if the speaker agrees to speak in exchange for such payment.

EAO-20. Concerning whether an expert witness who is paid to testify during a contested, public hearing before an administrative agency is required to register as a lobbyist under the Government Code, Chapter 305 (AOR-18).

Summary of Opinion. Ethics Commission § 10.5 exempts from the compensation threshold of the lobby statute paid testimony by any person in a proceeding of an adjudicative nature of the type authorized by or subject to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

EAO-21. Concerning whether a physician who is a board member of a state agency must include on his financial disclosure statement information made confidential by the Medical Practice Act, Texas Civil Statutes, Article 4495b, (AOR-35).

Summary of Opinion. State officers who are physicians do not have to include on their financial disclosure report information that is made confidential by the Medical Practice Act.

EAO-22. Concerning whether an accountant who is a state officer must include on his financial statement the names of certain clients and fees paid by those clients (AOR-20).

Summary of Opinion. Texas Civil Statutes, Article 6252-9b, §4(f) which requires state officers to file annual financial statements, does not conflict with the Public Accountancy Act of 1991, Texas Civil Statutes, Article 41a-1, §26. The requestor presents no facts to indicate that by disclosing the name of a client and category of fee paid by that client, state officers who are accountants would be revealing information made confidential by the Public Accountancy Act. If a particular SEC rule makes financial information required by Article 6252-9b confidential, the person subject to that rule would have to keep such information confidential.

EAO-23. Concerning the applicability of the "revolving door" prohibitions of Texas Civil Statutes, Article 6252-9b, to a former employee of a regulatory agency (AOR-28).

Summary of Opinion. Only the highest ranking employee of a state regulatory agency would be an "executive head" of the agency for purposes of Texas Civil Statutes, Article 6252-9b §7A(a). A former employee whose resignation was effective January 31, 1992, is subject to Article 6252-9b, §7A(b) even if the former employee took vacation time on all working days in January. A former state employee covered by §7A(b) may not give his new employer advice in regard to a matter in which the former state employee participated during his tenure with a state agency.

EAO-24. Concerning whether an unsalaried board member of a state agency may make political contributions to candidates for public office and speaker candidates (AOR-29).

Summary of Opinion. An unsalaried state officer may make contributions to candidates for public office or to candidates for the Office of Speaker of the House of Representatives but may not expend more than

\$100 for the cost of correspondence to aid or defeat the election of speaker candidate.

EAO-25. Concerning the use of political contributions to purchase electronic equipment for official use in a judge's courtroom or chamber (AOR-30).

Summary of Opinion. A judge may use political contributions to purchase electronic equipment for official use in the judge's courtroom or chambers but may not convert the asset to personal use. The asset would be subject to the various provisions of the Electronic Code, Title 15 applicable to an asset purchased with political contributions.

EAO-26. Concerning whether the Texas Planning Council for Developmental Disabilities is a "state agency" for purposes of Texas Civil Statutes, Article 6252-9b (AOR-34).

Summary of Opinion. The Texas Planning Council for Developmental Disabilities is not a "state agency" for purpose of Texas Civil Statutes, Article 6252-9b.

EAO-27. Concerning whether a designee representative to the Interagency Council on Sex Offender Treatment is required to file a personal financial disclosure statement (AOR-37).

Summary of Opinion. A designated member of the Interagency Council on Sex Offender Treatment is a state officer for purposes of Texas Civil Statutes, Article 6252-9b. A designated member must file a personal financial disclosure form.

EAO-28. Concerning financial disclosure statements: who must file, what information must be included, and related questions (AOR-41).

Summary of Opinion. Members of the State Committee of Examiners for Speech-Language Pathology and Audiology, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Examiners of Dieticians, the Advisory Board of Athletic Trainers, and the Texas Medical Disclosure Panel are "state officers" who must file financial disclosure reports pursuant to Texas Civil Statutes, Article 6252-9b.

Financial disclosure statements that are filed in 1992 must include information about the previous year's financial activity, but no penalty attaches to any activity that was not prohibited under the law in effect at the time that activity occurred. Any service as a state officer during the period between and including January 1 to April 30 of the year in which the statement has to be filed triggers the filing requirement.

The Ethics Commission is authorized to adopt a financial disclosure form, which must include information required by the legislature. It is immaterial that the informa-

tion required is set out in the Penal Code rather than Texas Civil Statutes, Article 6252-9b. Where the statute specifically requests information only about the "state officer," he is not required to provide similar information concerning his spouse or dependent children. A person filing a financial disclosure statement must include a description of his employment position on the form.

Texas Civil Statutes, Article 6252-9b, does not contain civil or criminal penalties for violations of the code of conduct set out in the Act, §8. Failure to timely file a financial disclosure statement is punishable by a fine of the commission. Failure to file a statement at all is a Class B misdemeanor.

EAO-29. Concerning reporting requirements for the waiver of a symposium registration fee granted to certain members of the legislature and a governmental task force (AOR-16).

Summary of Opinion. A statement officer is not required to report on his personal financial statement a gift required to be reported by the donor under the Government Code, Chapter 305. The waiver of a fee is reportable as a lobby expenditure under the Government Code, Chapter 305. If the fee covers items in different reporting categories, the fee should be apportioned and reported in the applicable categories.

EAO-30. Concerning the application of the lobby statute to an event sponsored by a nonprofit organization that features a golf tournament and the opportunity to win valuable prizes, and related questions (AOR-26).

Summary of Opinion. A person required to register as a lobbyist may make a lobby expenditure for transportation between a local airport and the site of a local golf tournament. A state officer is not required to report on his financial disclosure statement a prize awarded by an organization required to register as a lobbyist. Expenditures reported under the Government Code, § 305.0062(a)(8) need not be reported under any other section of Chapter 305.

Issued in Austin, Texas, on June 10, 1992.

TRD-9208047

Sara Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: June 11, 1992

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

Emergency Sections

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

Symbology In amended emergency sections. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 1. ADMINISTRATION

Part II. Texas Ethics Commission

Chapter 10. Practice and Procedure

Subchapter A. General Provisions

Definitions and Scope

- 1 TAC §§10.1, 10.3, 10.5, 10.7, 10.9, 10.11, 10.13, 10.15, 10.17, 10.19

The Texas Ethics Commission adopts on an emergency basis new §§10.1, 10.3, 10.5, 10.7, 10.9, 10.11, 10.13, 10.15, 10.17, and 10.19, concerning definitions and scope. These sections set forth the guidelines, requirements, and procedures to be followed upon the filing of a sworn complaint with the Texas Ethics Commission.

The commission has determined that adoption of these sections on an emergency basis is in the public interest and is necessary to comply with Texas Civil Statutes, Article 6252-9d.1, which require the commission to process complaints filed with the commission. Additionally, when a complaint is filed with the commission, the commission is required to forward copies of the hearing procedure to the complainant and the respondent, thus providing notice as to the hearing procedure. Complaints have been filed with the commission; therefore, it is imperative that the proposed sections be adopted on an emergency basis.

The new sections are adopted under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules relating to the filing, processing, procedure, and resolution of sworn complaints filed with the commission alleging violations of laws, rules, and regulations administered by the commission.

§10.1. Definitions and Scope of Chapter.

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

(1) Act—Texas Civil Statutes, Article 6252-9d.1.

(2) Administrative prosecutor—An attorney employed by the commission and designated by the executive director to prepare, present, and prove to the commission the violation alleged in a sworn complaint.

(3) APTRA—The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

(4) Commission—The Texas Ethics Commission.

(5) Complainant—A person who files a sworn complaint with the commission.

(6) Hearing—A proceeding at a preliminary review, informal hearing, or formal hearing that is required by the Act and at which the legal rights, duties, and privileges of a party is to be determined.

(7) Party or parties—The respondent and the administrative prosecutor.

(8) Respondent—A person named in a sworn complaint filed by a complainant who is alleged to have violated a rule adopted by or a law administered and enforced by the commission.

(b) This chapter applies to a sworn complaint filed with the commission. These rules are intended to supplement procedures required by the Act and shall be construed to insure the fair and expeditious determination of a sworn complaint.

§10.3. Notice of Hearing.

(a) Notice of a hearing under this chapter at which the respondent is entitled to be heard shall be given to each party no less than 10 days before the date of the Texas Ethics Commission Practice and Procedure hearing.

(b) The notice required by subsection (a) of this section shall be hand-delivered, with receipt acknowledged, or mailed by certified mail, return receipt requested. A hand-delivered notice is effective when it is received by the respondent. Notice that is mailed is effective on the date it is deposited into an official repository of the U.S. Post Office, properly addressed to the respondent, with postage prepaid.

(c) The notice required by subsection (a) of this section must include:

(1) a statement of the date, time, place, and nature of the hearing;

(2) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) a reference to the particular sections of the statutes and rules involved; and

(4) a short and plain statement of the matters asserted.

(d) A party may waive notice by filing a written waiver with the commission.

§10.5. Appointment of Administrative Law Judge. The commission may refer a sworn complaint to an administrative law judge at the Office of Administrative Hearings to develop findings of fact, conclusions of law, and a proposal for decision.

§10.7. Record in Sworn Complaint Proceeding.

(a) The record in a sworn complaint case shall include:

(1) all pleadings, motions, intermediate rulings, and briefs;

(2) evidence considered or admitted;

(3) a statement of matters officially noticed;

(4) questions and offers of proof, objections, and rulings on them;

(5) proposed findings and exceptions;

(6) any decision, opinion, or report by the commission or administrative law judge presiding over the hearing; and

(7) all staff memoranda or data submitted to or considered by the commission, the administrative law judge, or members of the agency who are involved in making the decision.

(b) Proceedings before the commission or an administrative law judge shall be recorded on audio tape. The audio tape of a proceeding shall be transcribed, and a copy of the transcript made available to respondent if requested by the commission.

(c) Findings of fact must be based exclusively on the evidence and on matters officially noticed.

§10.9. Conduct of Hearings.

(a) The rules of evidence and privilege as applied in non-jury civil cases in the district courts of this state shall be followed in the resolution of a sworn complaint, except that evidence not reasonably susceptible to proof under those rules may be admitted if of the type commonly relied upon by reasonably prudent people.

(b) In connection with a sworn complaint, the commission may swear witnesses and take their testimony under oath.

(c) In a hearing or other type of resolution of a sworn complaint, a party may conduct cross-examination or other types of rebuttal argument.

(d) With notice to the parties, the commission or its delegate may take official notice of all facts judicially cognizable or generally recognized by the commission and its staff in the exercise of its authority.

(e) In the resolution of a sworn complaint, a party is entitled to assistance of counsel retained by that party.

§10.11. Discovery.

(a) After accepting jurisdiction, upon motion of any party, and upon notice to all other parties, the commission may order any party:

(1) to produce and permit the inspection and reproduction by or on behalf of the moving party any tangible thing not privileged that constitutes or contains or is reasonably presumed to lead to the discovery of evidence material to any matter involved in the sworn complaint; and

(2) to permit entry upon designated land or other property in the party's possession or control for the purposes of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon that may be material to any matter involved in the sworn complaint.

(b) The order shall specify the date, time, place, and manner for the execution of the order.

§10.13. Decision on a Sworn Complaint.

(a) By agreement of the parties, a proposed final disposition of a sworn complaint may be presented to the commission.

(b) By the written consent of the parties, the commission may consider a sworn complaint at the preliminary review or informal hearing stage without a hearing

and may communicate with the parties by mail or telephone. Either party may revoke consent for proceeding without a hearing at any time before the commission announces its final decision.

(c) A decision on a sworn complaint reached before a formal hearing is initiated shall be in writing.

(d) Any resolution of a sworn complaint stemming from alternative methods or statutorily prescribed proceedings is a final decision for purposes of appeal.

(e) When the commission has appointed an administrative law judge, the decision of the commission shall comply with the procedural requirements of APTRA, §15, which is hereby incorporated by reference into these rules.

§10.15. Prehearing Conference.

(a) When appropriate, the commission or its delegate may hold a prehearing conference to formulate recommendations to the commission on matters preliminary to the hearing.

(b) A prehearing conference may be convened to address the following matters:

- (1) issuance of subpoenas;
- (2) factual and legal issues;
- (3) stipulations;
- (4) requests for official notice;
- (5) identification and exchange of documentary evidence;
- (6) admissibility of evidence;
- (7) identification and qualification of witnesses;
- (8) motions in limine and other motions;
- (9) discovery disputes;
- (10) order of presentation;
- (11) scheduling;
- (12) settlement conferences; and
- (13) such other matters as will promote the prompt resolution of the sworn complaint.

§10.17. Jurisdiction.

(a) By record vote of at least six members, the commission shall determine its jurisdiction to hear a sworn complaint.

(b) The commission will not consider a complaint or vote to investigate any matter that is alleged to be a violation of a law that is not administered and enforced by the commission.

(c) The commission's consideration of and decision on its jurisdiction to consider a sworn complaint is not subject to Texas Civil Statutes, Article 6252-17 (the Open Meetings Act) or Article 6252-17a (the Open Records Act).

(d) A vote to decide jurisdiction under this section may be taken by the executive director individually polling the commissioners, by conference call, or at a meeting of the commissioners. The executive director shall record each commissioner's vote on the commission's jurisdiction and shall file a record of the vote with the sworn complaint file maintained by the commission.

§10.19. Notice of Jurisdiction. Notice of the decision by the commission on its jurisdiction shall be given to the complainant and the respondent in accordance with the Act, §1.17(d).

Issued in Austin, Texas, on June 4, 1992.

TRD-9208079

Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: June 11, 1992

Expiration date: October 9, 1992

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

◆ ◆ ◆ Preliminary Hearing

• 1 TAC §10.31

The Texas Ethics Commission adopts on an emergency basis new §10.31, concerning preliminary hearing. This section sets forth the preliminary review process initiated upon the filing of a sworn complaint with the Texas Ethics Commission.

The commission has determined that adoption of this section on an emergency basis is in the public interest and is necessary to comply with Texas Civil Statutes, Article 6252-9d.1, which requires the commission to process complaints filed with it. Additionally, when a complaint is filed with the commission, the commission is required to forward copies of the hearing procedure to the complainant and the respondent, thus providing notice as to the hearing procedure. Complaints have been filed with the commission; therefore, it is imperative that the proposed section be adopted on an emergency basis.

The new section is adopted under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules relating to the filing, processing, procedure, and resolution of sworn complaints filed with the commission alleging violations of laws, rules, and regulations administered by the commission.

§10.31. Preliminary Review.

(a) A hearing to conduct the commission's preliminary review of a sworn

complaint shall be scheduled no earlier than 10 days after a notice of jurisdiction is given to the parties.

(b) A respondent may contest the commission's jurisdiction at the preliminary review hearing.

(c) A hearing to conduct the commission's preliminary review is not subject

to Texas Civil Statutes, Article 6252-17 (the Open Meetings Act) or Article 6252-17a (the Open Records Act).

Issued in Austin, Texas, on June 4, 1992.

TRD-9208084

Jim Matheson
Assistant General Counsel
Texas Ethics Commission

Effective date: June 11, 1992

Expiration date: October 9, 1992

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





Name: Stephanie Caruth

Grade: 4

School: Alamo Elementary, Goose Creek CISD

Proposed Sections

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

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

TITLE 1. ADMINISTRATION

Part II. Texas Ethics Commission

Chapter 10. Practice and Procedure

Subchapter A. General Provisions

Definitions and Scope

- 1 TAC §§10.1, 10.3, 10.5, 10.7, 10.9, 10.11, 10.13, 10.15, 10.17, 10.19

(Editor's Note: The Texas Ethics Commission proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is in the Emergency Rules section of this issue.)

The Texas Ethics Commission proposes new §§10.1, 10.3, 10.5, 10.7, 10.9, 10.11, 10.13, 10.15, 10.17, and 10.19, concerning the filing, processing, procedure, and resolution of sworn complaints filed with the commission alleging violations of laws, rules, and regulations administered by the commission.

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

Mr. Mathieson also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the procedure by which sworn complaints will be received, filed, processed, and resolved will be implemented, thereby allowing for the orderly administration of sworn complaints filed with the commission. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jim Mathieson, 1101 Camino La Costa, Austin, Texas 78752.

The new sections are proposed under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning the filing of sworn complaints with the commission alleging violation of laws administered by 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 June 4, 1992.

TRD-9208080 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Earliest possible date of adoption: July 20, 1992

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

Preliminary Hearing

- 1 TAC §10.31

(Editor's Note: The Texas Ethics Commission proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is in the Emergency Rules section of this issue.)

The Texas Ethics Commission proposes new §10.31, concerning preliminary hearing. The new section governs the preliminary review conducted by the commission upon the filing of a sworn complaint.

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

Mr. Mathieson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to inform and guide the public during the preliminary hearing procedure initiated by the filing and processing of a sworn complaint. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jim Mathieson, 1101 Camino La Costa, Austin, Texas 78752.

The new section is proposed under Texas Civil Statutes, Article 6252.9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning the filing of sworn complaints with the commission alleging violation of laws administered by 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 June 4, 1992.

TRD-9208085 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Earliest possible date of adoption: July 20, 1992

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

TITLE 7. BANKING AND SECURITIES

Part I. State Finance Commission

Chapter 3. Banking Section

Subchapter B. General

- 7 TAC §3.35

The State Finance Commission proposes new §3.35, concerning imprinting safe deposit box keys with the issuing financial institution's routing number.

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

Mr. Graham, has determined that the proposed rule will have no local employment impact.

Ms. Graham, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to assist law enforcement officials in identifying and tracing proceeds for illegal activities. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed will be approximately \$200 per location.

Comments on the proposal may be submitted to Ann Graham, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The new section is proposed under Texas Civil Statutes, Article 342-906, which provide the State Financial Commission with the authority to promulgate rules not inconsistent with the statutes of this state.

§3.35. *Safe Deposit Box Facilities.*

(a) General. Texas Civil Statutes, Article 342-906 (the Act) require financial institutions to imprint keys issued to safe deposit boxes after September 1, 1992, with the financial institution's routing number. In addition, it requires a report to the Department of Public Safety if the routing number is altered or defaced so that the correct routing number is illegible. The purpose of this regulation is to clarify the requirements of this article.

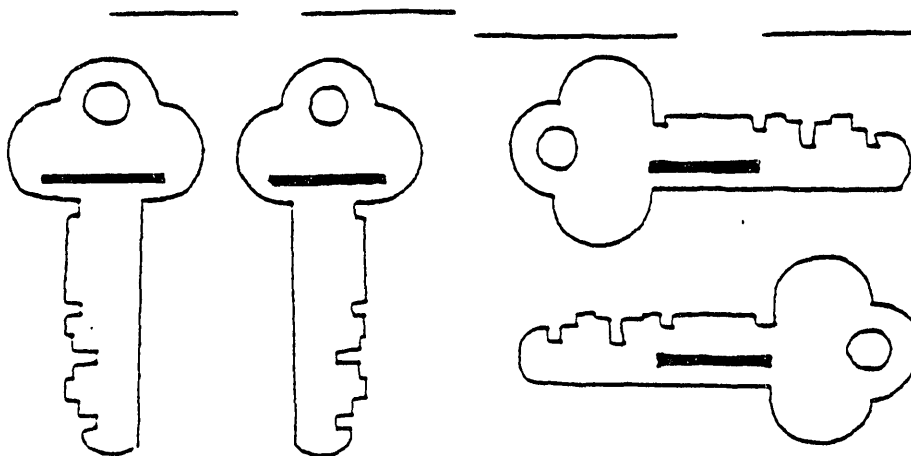
(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Financial institution—Includes a bank, savings and loan association, savings bank, or other financial institution that has been assigned a routing number unique to that institution.

(2) Routing number—For purposes of this regulation, shall mean the number printed on the face of a check in fractional form or in nine-digit form that identifies a paying financial institution.

(c) Imprinting requirements. A financial institution which has been issued a routing number shall imprint that routing number on safe deposit box keys on either the head of the key or the shank of the key if there is adequate room. The typical locations to be used are indicated in the following instructions and diagram. The imprint can be made anywhere on the key that has the required space available. It can be either on the head or on the shank of the key. When positioning the die on the key, be careful to place the die on the key where it will imprint on a flat surface and not in the area of the key cuts or on any of the shank ridges or grooves. Imprinting in these areas may interfere with the proper working of the key in the lock and may cause damage. In the event these standard areas for the location of the imprint are unavailable, either because of grooves on the key shank or the fact that the head of the key already has

names and other numbers imprinted on it, then the financial institution may attach to the key a tag imprinted with the routing number. The tag used must be of such a nature as to be secure. Thus, a paper or cardboard tag or a tag affixed with string will not be acceptable. However, any other medium such as plastic or metal which can retain an imprint of a number shall be acceptable. The tag may be attached in any way to assure its affixation to the key. Typically, this will mean inserting the tag or a device to affix the tag through the hole in the head of the key normally used for placing keys on key chains. The tag method shall not be used if there is adequate room on the key itself for imprinting of the numbers. There are four standard areas for the location of the imprinted routing number. These include: the head of the key, the shank of the key, and either place on the reverse side of the key. The standard imprint areas are shown following.



(d) Branch designation. A financial institution may, but is not required to, add a three-digit branch designation to its routing number. Thus, the main financial institution facility should receive the designation "001" and branch facilities should receive numbers consecutively beginning with "002" with successive numbers as needed. However, the financial institution may control the branch numbering system used provided

that the financial institution must maintain a master list of branch designations used for this purpose. The master list should be maintained at the main office of the financial institution and shall include the following information: three-digit branch designation and address of facility. The financial institution then may imprint safe deposit box keys or tags with the routing number plus three-digit branch designation for full identification of the facility.

(e) Report of defaced or altered key. Within 10 days after an officer or employee of a financial institution observes that a key used to access a safe deposit box has had the routing number altered or defaced or the tag removed, a report shall be prepared of such incident. The report shall be on a form promulgated by the attached exhibit. The report should be submitted to the Department of Public Safety, Attention: Criminal Law Enforcement, Box 4087,

Austin, Texas 78773-0001. The report should be mailed no later than 10 days after the incident. The financial institution should retain one copy of the incident report for a period of three years. Nothing in this regulation nor in the Act shall require a financial institution to inspect routing numbers imprinted on a key or an attached tag to determine if the number has been altered or defaced.

REPORT OF DEFACED OR ALTERED ROUTING NUMBER
ON SAFE DEPOSIT BOX KEY

Instructions: Complete the information below and submit the original report to Department of Public Safety, Attn: Criminal Law Enforcement, Box 4087, Austin, Texas 78773-0001, no later than 10 days after the defaced or altered key is used to access the box. Retain one copy for your files for a period of three years.

FINANCIAL INSTITUTION INFORMATION

Name of financial institution _____

Address of safe deposit box facility _____

Name and title of contact person
at facility _____

Area code and phone number of facility _____

Routing number and branch designation
(if any) _____

INCIDENT INFORMATION

Customer name _____

Date customer presented
defaced or altered key _____

Description of problem with key _____

Date of report: _____

(f) Effective date; applicability to existing keys. A financial institution must imprint all safe deposit box keys on or after September 1, 1992. Institutions may begin imprinting keys prior to that date. The imprinting requirement shall apply to all keys currently outstanding as well as to all keys issued after September 1, 1992. However, keys for boxes rented prior to September 1, 1992, need not be imprinted with the routing number unless and until a customer presents a safe deposit box key at a financial institution for access to a box. Nothing in this regulation or the Act shall be construed to require a financial institution to provide notice to its safe deposit box customers or to otherwise require such customers to present their keys for imprinting. However, on the first date after September 1, 1992, that a customer presents a key which has not been imprinted, the financial institution shall imprint the key with the routing number as required by Article 342-906.

(g) Effect of change in routing number. In the event a financial institution's routing number is changed as a result of a merger, acquisition, or other change, safe deposit box keys need not be replaced with a new routing number provided that the financial institution maintain a master list of the routing numbers used to imprint keys.

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 June 11, 1992.

TRD-9208073 Ann Graham
General Counsel
Texas Department of
Banking

Earliest possible date of adoption: July 20, 1992

For further information, please call: (512) 475-1300

◆ ◆ ◆
Part II. Banking
Department of Texas

Chapter 15. Orders of the
Commissioner

Supervision and
Conservatorship

• 7 TAC §15.3

The Banking Department of Texas proposes an amendment to §15.3, concerning appeal. The section governs procedures for imposition of supervision and conservatorship on state banks and trust companies.

D'Ann Johnson, assistant general counsel, has determined that for the first five-year period the section is in effect there will be no

fiscal implications for state or local government as a result of enforcing or administering the section.

Ann Graham, general counsel, has determined that the proposed rule will have no local employment impact.

Ms. Johnson 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 enhanced ability of the banking commissioner to supervise state-chartered banks and trust companies and protect the interests of depositors, customers, and creditors, through technical correction of the current rule. 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 Ann Graham, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The amendment is proposed under Texas Civil Statutes, Article 342-412, which provide the State Finance Commission with the authority to prescribe by rule, such rules or procedure as may be necessary to govern the fair hearing and adjudication of the questions appealed.

§15.3. Appeal. An order by the commissioner placing a bank under supervision or conservatorship may be appealed to the [Banking Section of the] Finance Commission. The Finance Commission [Banking Section] may stay the effectiveness of the commissioner's order of supervision or conservatorship pending its review of such order. An appeal of such an order is to be reviewed immediately and take precedence over all other business of a different nature pending before the Finance Commission [Banking 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 June 11, 1992.

TRD-9208075 Ann Graham
General Counsel
Texas Department of
Banking

Earliest possible date of adoption: July 20, 1992

For further information, please call: (512) 475-1300

◆ ◆ ◆
Cease and Desist

• 7 TAC §§15.11-15.13

The Banking Department of Texas proposes amendments to §§15.11-15.13, concerning: procedures for the effective date and appeal of the issuance of cease and desist orders; procedures for removal from office of an offi-

cer, director, or employee following the issuance of a cease and desist order; and the disposition of an order in the event of an appeal of a cease and desist order

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

Ann Graham, general counsel, has determined that the proposed sections will have no local employment impact.

Ms. Johnson also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the section will be enhanced ability of the banking commissioner to supervise state-chartered banks and trust companies and protect the interests of depositors, customers, and creditors through technical correction of the current rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Ann Graham, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The amendments are proposed under Texas Civil Statutes, Article 342-412, which provide the State Finance Commission with the authority to prescribe by rule, such rules or procedure as may be necessary to govern the fair hearing and adjudication of the questions appealed.

§15.11. Effective Date and Appeal. Cease and desist orders issued by the commissioner are effective instantly if the banking commissioner finds that immediate and irreparable harm is threatened to the bank or its depositors, creditors, or stockholders. Otherwise, the cease and desist order shall be effective not less than 10 days after delivery or mailing the notice of the cease and desist. Such orders may be appealed to the [Banking Section of the] Finance Commission. Failure to file notice of appeal with the Finance Commission [Banking Section] within 10 days of the commissioner's order, and an application for review within 30 days of the commissioner's order forfeits the right to appeal. See §13.126 of this title (relating to Time of Filing).

§15.12. Removal From Office. If the commissioner finds that an officer, director, or employee has continued such violations or practices as are described in a cease and desist order issued to such officer, director, or employee, and if the commissioner further finds that removal from office is in the best interests of the bank involved, then the commissioner may serve such officer, director, or employee with an order of removal

from office. The order of removal shall state the grounds for removal and the effective date of the order, such date being no less than 10 days after the order of removal is served. An order of removal may be appealed to the [Banking Section of the] Finance Commission, formerly the Banking Section of the Finance Commission. Failure to file notice of appeal with the Finance Commission [Banking Section] within 10 days of the commissioner's order forfeits the right to appeal. When an order of removal becomes effective, the person named therein is prohibited from further holding office with, employment by, or participating in the affairs of, the named bank.

§15.13. Disposition of Order. The Finance Commission [Banking Section] may, on an appeal of a cease and desist order, affirm the order, set aside the order, or affirm the order in part setting aside the order in part. The Finance Commission [Banking Section] may, on an appeal of an order of removal, affirm the order or set aside the order. An order of removal is effective immediately upon its being affirmed by the Finance Commission [Banking 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 June 11, 1992.

TRD-9208074

Ann Graham
General Counsel
Texas Department of
Banking

Earliest possible date of adoption: July 20, 1992

For further information, please call: (512) 475-1300

◆ ◆ ◆
TITLE 10. COMMUNITY DEVELOPMENT
Part IV. Texas Department of Housing and Community Affairs
Chapter 53. Home Investment Partnership Program Rules

• **10 TAC §§53.1-53.19**

The Texas Department of Housing and Community Affairs proposes new §§53. 1-53.19, concerning the Home Investment Partnership Program rules. The sections are proposed for adoption in final form to provide procedures for the allocation by the department of certain funds available under federal and state laws and regulations to, among others, qualified public entities, for-profit and non-profit organizations, and low- and very-low income families.

Virginia Brown, deputy director for housing finance and development, 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.

Ms. Brown also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to permit the adoption of new rules for the allocation of home investment partnership funds within the State of Texas to enhance the state's ability to provide affordable housing. There will be no effect on small businesses. The department is unable to determine whether the administration of these rules will have any final implication on persons.

Comments on the proposal may be submitted to Virginia Brown, Deputy Director for Housing Finance and Development, P.O. Box 13941, Austin, Texas 78711.

The new sections are Texas Civil Statutes, Article 4413(501), which provide the Texas Department of Housing and Community Affairs with the authority to adopt rules governing the administration of the department and its programs.

§53.1. Purpose. The Texas Department of Housing and Community Affairs (department) is creating new Chapter 53 applicable to the Home Investment Partnership Program (HOME) to be administered by the department on behalf of the State of Texas (state). The United States Department of Housing and Urban Development (HUD) through the Home Investment Partnership provides funds to the State of Texas pursuant to Title II of the Cranston-Gonzalez National Affordable Housing Act 1990, (42 United States Code §§12701-12839) and HUD's regulations at 24 Code of Federal Regulations Part 92, to develop and implement strategies to make available funds for affordable housing by creating a public-private partnership. The Texas program will give priority for funding to non-participating jurisdictions which do not receive HOME funds directly from HUD. HOME is a formula-based allocation program that draws on the expertise of a wide variety of affordable housing advocates from across Texas to create this partnership. HOME is designed:

(1) to focus on the areas with the greatest need as set out in the Texas Comprehensive Housing Affordability Strategy (CHAS);

(2) to provide funds for rental and homeownership housing through acquisition, new construction, rehabilitation, and tenant-based rental assistance;

(3) to strengthen partnership among all levels of government and the private sector, including for-profit organizations; and

(4) to provide low-income and

very low-income Texans with affordable, decent, safe, and sanitary housing.

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

ACT—The Cranston-Gonzalez National Affordable Housing Act of 1990.

Agreement—The agreement between the department and an applicant.

Board—The governing board of the department.

Cash and management information system—(CMI system) HUD's computerized system which manages, disburses, collects, and reports information on the use of HOME funds.

CHAS—The State of Texas Comprehensive Housing Affordability Strategy planning document which is reviewed and approved annually by HUD.

Community Housing Development Organizations (CHDOs)—A private non-profit organization that:

(A) meets the definitions of CHDOs in 24 Code of Federal Regulations, §92.2;

(B) is registered with the Texas Secretary of State, with charter, articles of incorporation, resolutions or by-laws in that office;

(C) has tax exempt status from the Internal Revenue Service under the Internal Revenue Code, §501(c) of 1986;

(D) ensures that at least one-third of the members of its governing board of directors are low-income persons (for rural areas, communities include neighborhoods, towns, villages, and county or a multi-county areas) or elected representatives of low-income neighborhood organizations.

Department—The Texas Department of Housing and Community Affairs.

First-time homebuyer—An individual and his or her spouse who have not owned a home during the three-year period before the purchase of a home with HOME funds.

HOME—The Home Investment Partnership Program pursuant to 42 United States Code §§12701-12839 and HUD regulations at 24 Code Federal Regulations Part 92.

Household—One or more persons occupying a housing unit.

HUD—The United States Department of Housing and Urban Development.

Low-income families—Families whose annual incomes do not exceed 80% of the median income of the area, as determined by HUD, with adjustments for

smaller and larger families.

Participating jurisdiction—Any jurisdiction HUD has designated to receive direct funds.

Project—A site or an entire building (including a manufactured housing unit), or two or more buildings together with the site or sites on which the buildings are located, that are under common ownership, management, and financing and are to be assisted with HOME funds under a commitment by the owner as a single undertaking. Project includes all the activities associated with the site and building. If there is more than one site associated with a project, the sites must be within a four block area.

Substantial rehabilitation—The rehabilitation of residential property where the average cost for the project is in excess of \$25,000 per dwelling unit.

Tenant-based rental assistance—Is a form of rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance.

Unit of general local government—A city, town, county, village, or other general purpose political subdivision of the state.

Very low-income families—Low-income families whose annual income does not exceed 50% of the median family income for the area as established by HUD, with adjustments for smaller and larger families.

§53.3. Allocation of Funds.

(a) Description of how the state will distribute funds. The department distributes HOME funds using both a formula allocation and competitive application process. The department transfers a portion of its HOME funds to enable threshold communities to become participating jurisdictions under HOME. For the remaining nonparticipating jurisdictions, HOME funds will be distributed according to regional allocation goals established for each of the six planning regions in the CHAS. Applications for funds will be reviewed within each region according to criteria that reflect the state's housing priorities.

(b) CHDOs. Not less than 15% of the total HOME funds received by the State of Texas shall be set aside by the department for a period of 18 months for CHDOs. Up to 10% of these funds may be set aside for such activities as project-specific technical assistance, site control loans, and project-specific seed money. The department may elect to waive loan repayment where it finds that to do so would impede the project development.

(c) Administration costs. The department and applicants are not permitted to use HOME funds to administer the HOME program.

§53.4. Eligible Applicants. Eligible applicants for HOME funds include:

- (1) nonprofit organizations which have established status under the Internal Revenue Code, §501(c) of 1986;
- (2) CHDOs;
- (3) for-profit entities;
- (4) units of general local government; and
- (5) public housing authorities.

§53.5. Eligible Activities. Eligible use of HOME funds include:

- (1) eligible HOME activities include those activities described in 24 Code of Federal Regulations, §92.205, that provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition (including assistance to first-time homebuyers), new construction, reconstruction, or moderate or substantial rehabilitation of nonluxury housing with suitable amenities, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing, costs, relocation expenses of any displaced persons, families, businesses, or organizations; and to provide tenant-based rental assistance;

(2) acquisition of vacant land or demolition must be undertaken only with respect to a particular housing intended project to provide affordable housing, and for which funds for construction have been committed;

(3) conversion of an existing structure to affordable housing is rehabilitation, unless the conversion entails adding one or more units beyond the existing walls, in which case, the project is new construction;

§53.6. Eligible Costs. HOME funds may be used in connection with the following eligible costs as specified in 24 Code of Federal Regulations, §92.206:

(1) development hard costs such as actual costs of constructing or rehabilitating housing, including:

(A) actual construction costs to meet the applicable new construction standards;

(B) actual rehabilitation costs to meet the applicable rehabilitation standards for the area or correcting substandard conditions to make essential improvements including energy-related repairs; improvements that will enable use by handicapped persons; abatement of lead-based paint haz-

ards; repair or replace major housing systems in danger of failure; and costs to demolish existing structures for both new construction and rehabilitation;

(2) soft costs that are reasonable and necessary:

(A) architectural, engineering, or related professional services required to prepare plans, including specifications and work write-ups;

(B) costs to process and settle financing for a project such as private lenders origination fees, credit reports, fees for title evidence, legal fees, private appraisals, building permits, independent costs estimates, and builder/developer fees;

(C) acquisition costs for improved or unimproved real estate;

(D) cost necessary to provide affirmative marketing and fair housing information to homeowners and tenants;

(E) costs of relocation payments and other assistance for permanently and temporarily relocated individuals, families, businesses, nonprofit organizations.

§53.7. Prohibited Activities. As approved in 24 Code of Federal Regulations, §92.214 HOME funds shall not be used to:

(1) provide Non-federal matching contribution required under any other federal program;

(2) provide a project reserve account for replacements, a project reserve account for unanticipated increases in operating costs, or operating subsidies;

(3) defray administrative costs of the program;

(4) provide tenant-based rental assistance for the special purposes of the existing §8 program, or preventing displacement from project assisted with rental rehabilitation projects;

(5) assist public housing development, modernization, or maintenance;

§53.8. Tenant-Based Rental Assistance. HOME funds may be used for tenant-based rental assistance where:

(1) the need for assistance is an essential element of an approved housing strategy for expanding the supply, affordability and availability of decent, safe, sanitary, and affordable housing and specifies the local market conditions that lead to the choice;

(2) the project provides tenants with a training program that leads to self-sufficiency and the removal from public assistance;

(3) families will be selected from the §8 waiting list based on preferences of the applicable public housing authority. Eligible families currently residing in units designated for rehabilitation may also be selected for rental assistance; and

(4) the department shall invest HOME funds made available during a fiscal year so that, with respect to tenant-based rental assistance and rental units:

(A) not less than 90% of such funds are invested with respect to dwelling units that are occupied by families whose annual incomes do not exceed 60% of the median family income for the area;

(B) the remaining of these funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families at the time of occupancy or at the time funds are invested whichever is later.

§53.9. First Time Homebuyers. To be eligible for assistance as a first time homebuyer:

(1) the initial purchaser must meet the low-income qualification at the time of purchase or at the time HOME funds are invested, and must occupy the property as their principal residence;

(2) the initial purchase price may not exceed the mortgage limit for the type of single family housing (one to four family residences, condominium unit, manufactured home, mobile home and cooperative unit) for the area;

(3) housing units must remain affordable for 20 years for new construction and 15 years for all others;

(4) the subsequent purchaser during this period must be a low-income family;

(5) the price must be such that the housing remains affordable and the purchaser's monthly payments of principal, interest, taxes, and insurance would not exceed 30% of the gross income of a family at 75% of median area income; and

(6) 100% of the funds are invested with respect to dwelling units which are occupied by households that qualify as low-income families at the time of occupancy or at the time funds are invested, whichever is later.

§53.10. Homeownership-Rehabilitation of Existing Property. To be eligible for

owner-occupied rehabilitation:

(1) property owners must own and occupy the single family housing (one to four residences, condominium unit, manufactured home, mobile home and cooperative unit) as their principal residence;

(2) the owner must be a low-income homeowner, that is the owner must have a gross annual income that does not exceed 80% of the median income for the area; and

(3) after rehabilitation, the property must meet at a minimum the §8 Housing Quality Standards (HQS).

§53.11. Rental Housing. To qualify as affordable housing under HOME a rental housing project must:

(1) bear rent not greater than the lesser of:

(A) the fair market rent for existing housing for comparable units in the area, less the monthly allowance for the utilities and services to be paid by the tenant; or

(B) a rent that does not exceed 30% of the annual income adjusted for family size whose gross income equals 65% of the median income for the area; in determining the maximum monthly rent that may be charged for a unit the owner must subtract a monthly allowance for any utilities and services (excluding telephone) to be paid by the tenant;

(2) have not less than 20% of the units:

(A) occupied by very low-income families and bearing rents not greater than 30% of the gross income of a family whose income equals 50% of the median income for the area; and

(B) will remain affordable, pursuant to deed restrictions, for not less than the appropriate period, beginning after project completions, without regard to the terms of the mortgage or to transfer of ownership: five years where less than \$15,000 of HOME funds have been invested in the project; 10 years if \$15,000-\$40,000, 15 years if over \$40,000 for rehabilitated housing, and 20 years for all new construction;

(3) ensure that with respect to tenant-based rental assistance and rental units;

(A) not less than 90% of such funds are invested with respect to dwelling units that are occupied by families

whose annual incomes do not exceed 60% of the median family income for the area; and

(B) the remaining of these funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families at the time of occupancy or at the time funds are invested, whichever is later.

§53.12. Rehabilitation.

(a) HOME funds may be used for multi-family and single family rehabilitation projects as follows:

(1) moderate—where unit cost is less than \$25,000; and

(2) substantial—where unit cost is greater than \$25,000.

(b) HOME funds may also be used for reconstruction where a new structure is built on an existing foundation.

§53.13. New Construction. HOME funds may be used for new construction in the following situations:

(1) if authorized by HUD, and placed on the official list of new construction locations;

(2) is part of a neighborhood revitalization program and has:

(A) certified that rehabilitation is not the most cost-effective approach for a neighborhood;

(B) provided documentation that new construction is needed for a neighborhood revitalization project that emphasizes rehabilitation; and

(C) shown that at least 51% of funds spent within the last year were spent on rehabilitation of substandard housing;

(3) is part of a plan that addresses special needs for one or more of the following:

(A) housing for families of five or more persons;

(B) housing for persons with disabilities as defined in 24 Code of Federal Regulations, §92.2;

(C) single-room occupancy housing as defined in 24 Code of Federal Regulations, §92.2; and

(D) housing necessary to further the desegregation or racial deconcentration of housing pursuant to a court-approved settlement agreement, compliance agreement, or voluntary plan approved by HUD.

§53.14. Mixed-Income and Mixed-Use Projects. Only units in a project that are assisted with HOME funds must meet the affordability requirement. Housing units that are in a project that are designed for other use may qualify for HOME funds if the residential living space constitutes at least 51% of the project space and all buildings within the project must contain residential space.

§53.15. Application Process. The department announces the availability of funds in the *Texas Register* and establishes a deadline for receiving all applications. Upon receipt, applications will be reviewed and scored. Recommendations for funding will be submitted to the Board. Applications that fail to meet all the threshold criteria shall be returned to the applicant without further review, however, they may be revised and resubmitted if submitted prior to deadline.

§53.16. Criteria for Funding. The department reviews applications to determine eligibility and conformance with the threshold requirements. In considering applications for funding, the Department will consider the following.

(1) The proposed HOME project must meet the requirements of the HUD regulations and these rules in all respects.

(2) The applicant must provide evidence of his or her ability to carry out the project and the project must address an identified housing need. This assessment will be based on statistical data, surveys, or other indicators of need as appropriate.

§53.17. Scoring. All applications that meet the threshold requirements will then be scored based on the following:

(1) the extent to which the project will provide affordable housing;

(2) the extent to which other funds have been committed to the project;

(3) the extent to which the proposal assists the special needs of the disabled or large families;

(4) the extent to which the project addresses environmental, affirmative marketing, and fair housing issues;

(5) the extent to which the applicant is ready to proceed and the experience of the development team;

(6) the extent to which the project serves a higher percentage of very low-income persons than is required by the state;

(7) the extent to which the project will provide affordable housing to residents for a longer period of time than is required under HUD regulations for HOME funded projects;

(8) the extent to which the project is located in a community with a severe need for affordable housing;

(9) the extent to which the project involves a particularly new or innovative approach for meeting housing needs in the area being served;

(10) the extent to which local government will eliminate or reduce barriers to affordable housing created by existing public policies, such as zoning regulations, building permit requirements, etc.

§53.18. Application Procedure and Requirements.

(a) The department shall, from time to time, solicit applications from eligible applicants.

(b) The applicants shall submit, in an application form and by a process prescribed by the Department which includes, but is not limited to, the following information:

(1) the name, address, and telephone number of the applicant;

(2) the description of the proposed activity including the number of low- and very low-income persons to be served;

(3) the names of additional funding sources;

(4) description of how the proposed activities addresses the priorities of the CHAS;

(5) detailed description of the type of experience the applicant has had with a project of this nature in the past or currently;

(6) description of market conditions for rental housing, including vacancy rates, market trends, and population growth;

(7) evidence of economic feasibility of the project and of the ability to repay the loan;

(8) the availability of alternative sources of financing and the effect of utilizing such sources;

(9) the experience and financial condition of the developer;

(10) brief description of developer's or applicant's business, including a statement as to financial condition and ex-

perience with multi-family development if applicable;

(11) location of property to be financed;

(12) description of multi-family project for which financing is being sought, including, if available, a copy of the plans for the project;

(13) name, address, and telephone number of the person from whom additional information can be obtained;

(14) statement of the public policy criteria with which the project shall comply; and

(15) other underwriting information which the applicant, the agency or the originator/servicer consider relevant to the consideration of the application including, but not limited to, available financial statements.

§53.19. Program Administration.

(a) Local HOME account. The department shall establish a local HOME account for HOME investment trust fund. The HOME account shall include repayments of HOME funds and matching contributions and any payment or interest or other return on the investment of HOME funds. The funds in the account shall be used solely for investment in eligible activities. All transactions are managed through the (CMI) system for the HOME program.

(b) Disbursement of HOME funds. HOME funds drawn must be expended on eligible activities within 15 days or returned to the CMI system which will ensure that a deposit is made into State of Texas' United States Treasury Account of the HOME investment trust fund. HOME funds in the local HOME account must be disbursed before a request can be made for additional funds.

(c) Agreement. Upon selection by the Board each applicant shall be required to enter into, execute, and deliver to the Department all documents necessary to insure that they are in compliance with HOME Regulations, as described in 24 Code of Federal Regulations, §92.504, prior to entering into a written agreement between the Department and the eligible applicant. The agreement shall remain in effect for the period of affordability or, if the applicant is a subrecipient, during any period that the entity has control over HOME funds. In awarding funds to an applicant, the board reserves the right to modify, amend, or reduce the funding of the scope of activities as proposed in the application. At a minimum, the agreement shall include the following items:

(1) description of the use of HOME funds;

(2) terms of affordability and a requirement that the funds must be repaid if the housing does not meet requirements for the specified time period;

(3) use of interest, repayments, and other return on investment;

(4) compliance with the uniform administrative requirements as described in 24 Code of Federal Regulations, §92.505;

(5) compliance with project requirements that are set out for the type of project funded;

(6) compliance by owners of rental housing to maintain the applicable housing quality standards and local housing code requirements for the duration of the agreement;

(7) compliance with all of the program requirements including but not limited to: equal opportunity and fair housing; affirmative marketing; environmental review; displacement, relocation, and acquisition; labor; lead-based paint; conflict of interest; debarment and suspension; and flood insurance;

(8) compliance with affirmative marketing requirements as described in 24 Code of Federal Regulations, §92.351 and §92.350 with regard to minority business enterprises and women's business enterprises;

(9) conditions for religious organizations as prescribed in 24 Code of Federal Regulations, §92.257;

(10) shall specify that the entity may not request disbursement of funds under the agreement until the funds are needed for payment of eligible cost. The amount of each request must be limited to the amount needed;

(11) where the entity is a subrecipient, shall specify that upon expiration of the agreement, the entity must transfer to the Department any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds;

(12) must specify the particular records that must be maintained and any information or reports that must be submitted to the department;

(13) must provide for a means of enforcement by the department or the intended beneficiaries. This will include specific remedies for breach of the provisions of the agreement;

(14) shall state the required period of affordability.

(d) Monitoring. The department will on behalf of the State of Texas from time to time carry out field inspections to ensure compliance with the requirements as

defined in 24 Code of Federal Regulations, §92.504 and these rules. Each applicant will be required to attend a compliance seminar after the award of funds and prior to first draw.

(e) Recordkeeping. Recipients shall be required to maintain and submit to the department records that are described under 24 Code of Federal Regulations, §92.508. The department will provide workshops and each applicant will be required to attend.

(f) Performance reports. Recipients must prepare and submit periodic performance reports as the department requests and upon completion of each project shall submit a detailed report. If these reports are not submitted, the applicant may be required to repay all funds immediately.

(g) Reallocation. In the event that the department fails to receive adequate applications from a particular region, it will be within the discretion of the department to elect to reallocate funds to other regions where applicants have documented their ability to proceed. The department will continue to work with the original applicant and will review the proposed project during the last two years for possible allocation of funds at that time.

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 June 10, 1992.

TRD-9208043

Mario Aguilar
Attorney
Texas Department of
Housing and
Community Affairs

Earliest possible date of adoption: July 20, 1992

For further information, please call: (512) 474-2974

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**TITLE 16. ECONOMIC
REGULATION**
**Part II. Public Utility
Commission of Texas**
**Chapter 21. Practice and
Procedure**

Orders

• **16 TAC §21.151**

The Public Utility Commission of Texas proposes an amendment to §21.151, concerning service of final decisions. The purpose of the amendment is to conform the commission's rules to the requirements of the Administrative Procedure and Texas Register Act.

Paula Mueller, assistant general counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as

a result of enforcing or administering the section.

Ms. Mueller 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 includes service of final decisions consistent with statutory requirements. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section.

Ms. Mueller also has determined that for each year of the first five years the section is in effect, there will be no impact on employment in the geographical area affected by implementing the requirements of the section.

Written comments (13 copies) on the proposal may be submitted to John Renfrow, Secretary of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days after publication. Persons should refer to Project Number 11165 when filing comments.

The amendment is proposed under Texas Civil Statutes, Article 1446(c), §16(a), which provide the Public Utility Commission of Texas with authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

§21.151. *Form, Content, and Service of Orders.* After the expiration of the time for filing exceptions and replies thereto, the examiner's report and proposal for decision will be considered by the commission and either adopted, modified and adopted, or remanded to the examiner. All final decisions or orders of the commission shall be in writing and signed by a majority of the commissioners. A final decision shall include findings of fact and conclusions of law separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified either personally or by first class mail of any decision or order. A copy of a final decision or order ruling on a motion for rehearing shall be sent by first class mail to representatives of parties, and an appropriate record of that mailing shall be kept. A party or attorney of record notified by mail of a final decision or order shall be presumed to have been notified on the date such notice is mailed [, and a copy of the decision or order shall be delivered or mailed to any party and to his authorized representative]

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 June 11, 1992.

TRD-9208090

John M. Renfrow
Secretary of the
Commission
Public Utility Commission
of Texas

Earliest possible date of adoption: July 20, 1992

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

Ancillary Proceedings and Proceedings Beyond the Order

• 16 TAC §21.161

The Public Utility Commission of Texas proposes an amendment to §21.161, concerning time limitations for filing and consideration of motions for rehearing. The purpose of the amendment is to conform the commission's rules to the requirements of the Administrative Procedure and Texas Register Act.

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

Ms. Mueller also has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section includes consideration of motions for rehearing consistent with statutory requirements. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the proposed amendment.

Ms. Mueller has also determined that for each year of the first five years the proposed section is in effect, there will be no impact on employment in the geographical area affected by implementing the requirements of the section.

Written comments (13 copies) on the proposal may be submitted to John Renfrow, Secretary of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days after publication. Persons should refer to Project Number 11165 when filing comments.

The amendment is proposed under Texas Civil Statutes, Article 1446(c), §16(a), which provide the Public Utility Commission of Texas with authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

§21.161. Rehearing. Motions for rehearing must be filed by a party [made] within 20 [15] days after the date the party or his attorney of record is notified of the [rendition of a] final decision or order. All motions for rehearing must with specificity appraise the commission of the claimed error. If a conclusory finding of fact is claimed to be in error, the motion for rehearing must appraise the commission of the underlying or basic findings of fact claimed to be in error, and cite to evidence relied upon which indicates such error. Replies to motions for rehearing must be filed with the commission within 30 [25] days after the date the party or his attorney of

record is notified [rendition] of the final decision or order, and commission action on the motion shall be taken within 45 days after the date the party or his attorney of record is notified [rendition] of the final decision or order. Copies of these motions and replies shall be served on all parties concurrently with the filing with the commission. If commission action is not taken within this 45 day period, the motion for rehearing shall be overruled by operation of law 45 days after the date the party or his attorney or record is notified [rendition] of the final decision or order. The commission may by written order extend the period of time for filing these motions and replies and for taking commission action, except that this extension shall not extend the period for commission action beyond 90 days after the date the party or his attorney of record is notified [of rendition] of the final decision or order. In the event of an extension, the motion for rehearing shall be overruled by operation of law upon the date fixed by the order, or in the absence of a fixed date, 90 days after the date the party or his attorney of record is notified [from the date] of the final decision or order.

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 June 11, 1992.

TRD-9208091 John M. Renfrow
Secretary of the
Commission
Public Utility Commission
of Texas

Earliest possible date of adoption: July 20, 1992

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

TITLE 22. EXAMINING BOARDS Part XXI. Texas State Board of Examiners of Psychologists

Chapter 461. General Rules

• 22 TAC §461.15

The Texas State Board of Examiners of Psychologists proposes an amendment to §461.15, concerning failure to comply with board directives, rules, and statutes. The board expressed a need to broaden the scope of this rule.

Patricia S. Bizzell, Tweedy, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section

Ms. Bizzell Tweedy, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to consider issues of concern to the board in a more timely manner in that persons not complying with board directives, rules, and state statutes will proceed through the hearing procedure to reach a conclusion. 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 Patricia S. Bizzell, Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 5412c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

§461.15. Failure To Comply with Board Directives, Rules and Statutes. It is unprofessional conduct to fail to adhere to any lawful directives issued in the name of the board, board rules, and/or statutes of the State of Texas. Persons subject to the jurisdiction of the board are required to maintain knowledge of current Texas statutes and case law applicable to their practice of psychology in Texas, including, but not limited to, pertinent parts of the Family Code, the Health and Safety Code, and the Insurance Code [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 June 8, 1992.

TRD-9208016 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: July 20, 1992

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

Chapter 463. Applications

• 22 TAC §463.5

The Texas State Board of Examiners of Psychologists proposes amendment to §463.5, concerning application file requirements. The amendment will clarify both board and statutory requirements for certification and licensure by reciprocity.

Patricia S. Bizzell Tweedy, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Bizzell Tweedy, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be clarified requirements for certification and licensure by reciprocity. The amendment allows psychologists from other states to be considered for licensure. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 5412c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

§463.5. Application File Requirements. An application file must be complete and contain whatever information or examination results the board requires. An incomplete application remains in the active file for 90 days, at the end of which time, if still incomplete, it is void. If certification or licensure is sought again, a new application and filing fee must be submitted. An applicant cannot have two types of applications for certification or licensure pending before the board.

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

(4) A completed application for certification and licensure by reciprocity as a psychologist includes:

(A) (No change.)

(B) proof that the qualifications of the Psychologists' Certification and Licensing Act, §11, in its entirety, have been satisfied;

(B) [(C)] official transcripts sent directly to the board's office from all colleges/universities where post-baccalaureate course work was completed;

(C)[(D)] if providing psychological services in Texas before receiving license, must be employed in an exempt agency, or must have a temporary permit, or must have a supervision contract which indicates the applicant is being supervised in an acceptable setting which is appropriate for the education/experience background of the applicant;

(D) [(E)] documentation that applicant is currently licensed and has been in good standing in one [another] jurisdiction for the five years immediately preced-

ing filing application in Texas;

(E)[(F)] proof that applicant is the identical person to whom the original license was issued;

(F)[(G)] documentation that there is no pending action against the applicant's license in any jurisdiction;

[(H)] a sworn statement that there is no pending action against the applicant for what is considered a felony in Texas;]

(G)[(I)] a sworn statement that applicant has never had any professional license suspended, revoked, cancelled, or otherwise restricted;

[(J)] if Examination for the Professional Practice of Psychology was taken, proof that score met or exceeded Texas cut-off at the time the examination was taken;]

(H)[(K)] proof that applicant has passed the board's Jurisprudence Examination;

[(L)] an interview, at the discretion of the board, to review and verify his or her credentials, character and plans to practice;]

(I)[(M)] three professional reference letters from three separate psychologists each of whom must attest without reservation to the applicant's professional competence, ethics, and current fitness to practice. An applicant whose file contains any negative reference letters will be asked to provide a written explanation and/or to meet with the board prior to final approval of the application file;

(J)[(N)] if licensed in a foreign country [graduate], proof that the requirements of §463.17 of this title (relating to Foreign Graduates) have been satisfied;

[(O)] proof that the requirements of the Psychologists' Certification and Licensing Act, §21, in its entirety, have been satisfied;]

[(P)] if licensed subsequent to January 1, 1987, proof that applicant passed an oral examination in the jurisdiction in which he/she has been licensed.]

(5) For an applicant who is practicing psychology in Texas under a temporary permit, a supervision affida-

vit, or employment in a statutorily exempt agency and a complaint is filed against the applicant. [If a complaint is filed against an applicant for certification as a psychologist or psychological associate, an applicant for the oral examination, an applicant for licensure, or an applicant for licensure by reciprocity,] the application process will be held in abeyance until the board has made a final determination on the complaint filed.

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 June 8, 1992.

TRD-9208015 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: July 20, 1992

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

◆ ◆ ◆
• 22 TAC §463.29

The Texas State Board of Examiners of Psychologists proposes new §463. 29, concerning reciprocity requirements. This rule establishes guidelines for the board to follow in determining whether a person satisfies the requirements for certification and licensure by reciprocity as set down in legislation passed by the 72nd Legislature.

Patricia S. Bizzell Tweedy, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Bizzell Tweedy, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that a person can receive services from an experienced professional. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

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

§463.29. Reciprocity Requirements. In determining whether the reciprocity requirements for licensure, certification, or registration in other jurisdictions are substantially equal to those prescribed by the

Psychologists' Certification and Licensing Act, for the granting of certification and licensure by reciprocity, the board will consider the following:

(1) proof that the current qualifications of a state or territory are substantially equal to the current requirements of the Psychologists' Certification and Licensing Act, §11, in its entirety;

(2) proof that a state or territory will not license an applicant with pending action against the applicant for what is considered a felony in Texas as stated in §465.19 of this title (relating to Persons with Criminal Backgrounds);

(3) proof that the cut-off score on the Examination for the Professional Practice of Psychology meets or exceeds the Texas cut-off score;

(4) proof that the supervised experience requirements as stated in the Psychologists' Certification and Licensing Act, §21 and §465.18 of this title (relating to Supervision Guidelines) are the same;

(5) proof that passage of an oral examination is required.

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 June 8, 1992.

TRD-9208014 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: July 20, 1992

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

Chapter 465. Rules of Practice

• 22 TAC §465.26

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.26, concerning temporary permit to practice. The amendment clarifies ambiguous language and more closely reflects the statutory requirements for certification and licensure in Texas.

Patricia S. Bizzell Tweedy, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Bizzell Tweedy, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the ability to receive psychological services from a person licensed in another jurisdiction while he/she is applying in Texas. The public benefits because a person can receive services

from an experienced professional. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

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

§465.26. Temporary Permit To Practice.

(a) (No change.)

(b) A completed application for temporary permit as a psychologist includes:

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

(3) official transcript from the regionally accredited educational institution which indicates that an applicant has received a doctoral degree in psychology [college/university showing the completion of a graduate training program in psychology and the awarding of a doctoral degree from the department of psychology]

(4) a notarized statement or a state seal from the appropriate psychology licensing agency in another jurisdiction on confirming:

(A) (No change.)

(B) the applicant has been licensed to practice psychology for at least five years immediately prior to the date of application [the license to practice psychology has been held by the applicant for at least five years];

(C) the license is unencumbered and the applicant has never been found guilty of violation of ethical principles or board rules and regulations, or the law governing the practice of psychology in any jurisdiction.

(c)-(g) (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 June 8, 1992.

TRD-9208012 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: July 20, 1992

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

• 22 TAC §465.32

The Texas State Board of Examiners of Psychologists proposes the jurisprudence examination for applications for certification and licensure by reciprocity. The board determined that applicants for certification and licensure by reciprocity will be able to sit for the board's jurisprudence examination throughout the year, rather than having to wait for the regularly scheduled examination dates.

Patricia S. Bizzell Tweedy, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Bizzell Tweedy, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the expedited application process for qualified professionals from other jurisdictions. The public benefits because a person can receive services from an experienced professional. 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 Patricia S. Bizzell Tweedy, M. P.A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

The new section is proposed under Texas Civil Statutes, Article 5412c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

§463.32. Jurisprudence Examination for Applications for Certification and Licensure by Reciprocity. Applicants for certification and licensure by reciprocity may take the jurisprudence examination at times mutually agreed upon between them and the board's office.

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 June 8, 1992.

TRD-9208011 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: July 20, 1992

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

TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 405. Client (Patient) Care

Subchapter K. Client Deaths

• 25 TAC §§405.261-405.274

(Editor's Note: Due to technical problems the following proposals, submitted by the Texas Department of Mental Health and Mental Retardation on June 8, 1992, were omitted from the June 16, 1992, issue of the Texas Register. The earliest date of adoption is July 17, 1992. The text of the following sections proposed for repeal will not be published. The sections may be examined in the office of the Texas Department of Mental Health and Mental Retardation or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Department of Mental Health and Mental Retardation (TXMHMR) proposes the repeal of §§405.261-405.274, concerning client deaths. The sections would be replaced by new §§405.261-405.278, concerning deaths of persons served by TXMHMR facilities or community mental health and mental retardation centers, which is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The sections are proposed for repeal to allow for the proposal of new sections which would provide more comprehensive guidelines for the review of deaths of persons served by the department and community centers.

Leilani Rose, director, Office of Financial Services, has determined that for the first five-year period the sections are in effect there will be no significant fiscal implications for state or local government as a result of enforcing or administering the repeals. There is no significant local economic impact anticipated.

William Reid, M.D., medical director, has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be to provide more comprehensive guidelines for the review of deaths of persons served by TXMHMR by recognizing the effectiveness of appropriate and timely data collection; enhancing the quality of death reviews through the identification of clinical and non-clinical issues; and extending the requirements for death reviews to community centers. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Written comments on the proposal may be submitted to Linda Logan, director, Policy Development, Texas Department Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The repeals are proposed under the Health and Safety Code, Title 7, §532. 015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§405.261. Purpose.

§405.262. Application.

§405.263. Definitions.

§405.264. Action Taken Upon Death of a Client on Facility Grounds.

§405.265. Certificate of Death.

§405.266. Disposition of Deceased Clients.

§405.267. Autopsy.

§405.268. Action Taken Upon the Death of a Client off Facility Grounds.

§405.271. Disposition of the Property of Deceased Clients.

§405.272. Death Review Committee; Review of a Client Death.

§405.273. Distribution.

§405.274. References.

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 June 8, 1992.

TRD-9207867
Ann Utley
Chairman
Texas Board of Mental
Health and Mental
Retardation

Earliest possible date of adoption: July 17, 1992

For further information, please call: (512) 465-4670

◆ ◆ ◆ • 25 TAC §§405.261-405.278

The Texas Department of Mental Health and Mental Retardation (TXMHMR) proposes new §§405.261-405.278, concerning the deaths of persons served by TXMHMR facilities or community mental health and mental retardation centers. The new sections are proposed contemporaneously with the proposed repeal of existing Chapter 405, Subchapter K, concerning client deaths, which the proposed new subchapter would replace.

The proposed new sections would provide more comprehensive guidelines for the review of deaths of persons served by the de-

partment and community centers. Section 405.261 includes the provisions for a clinical death review and an administrative death review. The purpose and the application of this subchapter would apply to community centers and their contract providers as well as to facilities as stated in §§405.261 and 405.262. In §401.463, definitions of chief executive officer or CEO, community center, contract provider, death review, deceased, facility community-based services, and unusual circumstances would be added. The definition of death review would distinguish between a clinical death review (a death involving clinical issues) and an administrative death review (a death involving non-clinical issues). The definition of investigating officer would be changed to state that the person chosen must not have been actively involved for at least the preceding six months in the care of the deceased. Section 405.264 includes the special circumstances in which a nurse can pronounce a person dead and requires the completion and faxing of the Report of the Death of a Person Served form to TXMHMR Central Office. Additional sections would be added requiring facility community-based services and community centers to develop separate clinical peer review and administrative review procedures consistent with this subchapter to be implemented at the time a person receiving services dies on the premises or during activities of a TXMHMR-funded or contracted program. The new sections would require the completion and faxing of the Report of the Death of a Person Served form to TXMHMR Central Office in the case of such a death. A section would be added describing the information available to the family of the deceased. As outlined in §405.271, the membership of a facility clinical death review would include the clinical/medical director, the director of nursing, the attending physician, the director of clinical quality assurance, and other clinical professionals as deemed appropriate. Section 405.270 describes the types of circumstances surrounding a death which would require review.

Section 405.272 would state that after appointment, the investigating officer would proceed with a preliminary investigation. At facilities, the determination of which type of review to conduct, either clinical or administrative, would be made by the facility CEO, chair of the clinical death review committee, and the investigating officer, using the death/discharge summary and the preliminary investigation findings. At community centers, the determination would be made by the community center CEO and investigating officer using the preliminary investigation information.

The clinical death review procedures for community centers in §405.275 are comparable to the clinical death review procedures for facilities in §405.273. The clinical death review report would be submitted to the TXMHMR Central Office medical peer review committee. This committee's membership is similar to the facility clinical death review committee. Section 405.276 describes the administrative death review duties and the membership of the administrative death review committee.

Leilani Rose, director, office of financial services, has determined that for the first five-year period the sections are in effect there will be no additional fiscal implications for state or local government as a result of enforcing or administering the sections. There will be no significant local economic impact.

William Reid, M.D., medical director, has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to provide more comprehensive guidelines for the review of deaths of persons served by TXMHMR by recognizing the effectiveness of appropriate and timely data collection; enhancing the quality of death reviews through the identification of clinical and non-clinical issues; and extending the requirements for death reviews to community centers. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposed new sections may be submitted to Linda Logan, Director, Policy Development, Texas Department Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The new sections are proposed under the Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§405.261. Purpose. The purpose of this subchapter is to provide clinical peer review procedures and, separately, administrative review procedures to be followed upon the death of a person receiving services directly operated or contracted for by a facility of the Texas Department of Mental Health and Mental Retardation or a community mental health and mental retardation center and their respective contract providers, in order to improve the quality of care.

§405.262. Application. The provisions of this subchapter apply to all facilities of the Texas Department of Mental Health and Mental Retardation; to community mental health and mental retardation centers; and to their respective contract providers.

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

Attending physician—A physician licensed to practice medicine in the State of Texas who is responsible for the general medical care of the person served.

Chief executive officer or CEO—The superintendent or director of a state facility or the executive director of a community center.

Community center—A community mental health and mental retardation center

organized pursuant to the Texas Health and Safety Code, Title 7, Chapter 534, §053 (formerly the Texas Mental Health and Mental Retardation Act, §3, as amended, Texas Civil Statutes, Article 5547-201, et seq).

Contract provider—An entity which, through written agreement or contract, is providing services to a person served by a facility or a community center, including entities regulated by other governmental agencies.

Death review—A clinical quality assurance/peer review activity conducted to identify clinically related problems requiring correction and opportunities to improve the quality of care pursuant to the statutes that authorize peer review activities in the State of Texas or an administrative/quality assurance review activity to identify non-clinically related problems requiring correction and opportunities to improve the quality of care.

Deceased—A person who, at death, is receiving services directly operated or contracted for by a facility or community center.

Department—The Texas Department of Mental Health and Mental Retardation.

Duty physician—The physician designated by the chief executive officer to handle medical care or emergencies outside regular working hours.

Facility—Any state hospital, state school, state center, or other entity which is now or may hereafter be made a part of the department.

Facility community-based services—Community service residential and nonresidential programs under the jurisdiction of a facility.

Investigating officer—A physician or nurse who, for at least the preceding six months, was not actively involved in or responsible for the direct care of the deceased.

Person in charge—The employee designated as supervisor for a dorm, ward, or other program or residence area.

Registered nurse—A nurse licensed by the Texas Board of Nurse Examiners to practice professional nursing in the State of Texas.

Unusual circumstances—A death which occurs under circumstances including, but not limited to, the following: unnatural death; death by unlawful means or suspicion of death by unlawful means; absence of witnesses; suicide or suspicion of suicide; or death within 24 hours of admission to the facility.

§405.264. Facility Campus-Based Programs: Actions Taken Upon the Death of Person Served.

(a) Death occurring on facility grounds.

(1) When a death occurs, the person in charge shall immediately notify the attending or duty physician and the registered nurse, as appropriate.

(2) The person in charge or registered nurse, as appropriate, shall perform the following activities and document them in the progress flow sheet or progress notes of the person's record:

(A) the date, time, and location where the person was found, and the events immediately preceding and/or leading to the person's death;

(B) the name of the physician notified, the time and date of notification, and the name of the employee making notification;

(C) the names of persons who observed the person dying or who found the person; and

(D) any emergency procedures initiated.

(3) The attending or duty physician shall:

(A) identify, examine, and pronounce the person dead (see paragraph (4) of this subsection);

(B) make notation of:

(i) the date, the time, and if known, the probable cause of death;

(ii) the time and by whom the physician was notified of the person's condition;

(iii) the treatment, if any, administered to the person immediately prior to death; and

(iv) any information given by other individuals who were present at the time of death;

(C) determine whether the death occurred under unusual circumstances and whether the cause of death is uncertain; and

(D) perform the following activities or delegate them and ensure completion and documentation:

(i) notify the facility CEO or the administrative duty officer and the chairperson of the death review committee;

(ii) if the cause of death is uncertain or if the death occurred under unusual circumstances, immediately notify the appropriate justice of the peace or

county medical examiner and request an inquest;

(iii) notify the family and/or the guardian of the deceased person and request permission for an autopsy from the family and/or guardian; and

(iv) arrange for the notification of a funeral home of the family's and/or guardian's choice to which the decedent is to be released.

(4) In some cases, a registered nurse may pronounce a person dead and determine the date and time of death. In such instances, the registered nurse must ensure the accurate documentation of the requirements indicated in paragraph (2) of this subsection.

(A) The following conditions must be met:

(i) the registered nurse is privileged, in writing, by the facility to pronounce a person dead;

(ii) the person is classified either in Category II or Category III according to Chapter 405, Subchapter C of this title (relating to Life-Sustaining Treatment);

(iii) the person is not being treated with artificial means of supporting the respiratory and circulatory system;

(iv) the cause of death is determined not to be uncertain or to have occurred under unusual circumstances;

(v) the facility has a written policy and procedure, jointly developed and approved by the nursing staff and medical staff, governing the practice of registered nurses pronouncing death.

(B) The registered nurse shall complete the activities described in paragraph (3)(D)(i), (iii), and (iv) of this subsection.

(C) When a registered nurse has pronounced a person dead, a physician shall within 24 hours complete the activities described in paragraph (3)(D)(ii) of this subsection and complete the death certificate.

(5) The attending or duty physician, as appropriate, shall complete the Report of the Death of a Person Served form, which herein is adopted by reference as Exhibit A, copies of which may be obtained by contacting TXMHMR, Office of Policy Development, P.O. Box 12668, Austin, Texas 78711. Within one working day of each death, the facility CEO shall be responsible for ensuring the completed reporting form (attached to this subchapter as Exhibit A) is faxed to the Office of Medical

Services, Central Office, which shall be responsible for immediately transmitting the information to the appropriate deputy commissioner. The facility CEO should also initiate direct phone contact with the appropriate deputy commissioner or designee when warranted.

(b) Death occurring off facility grounds. Death occurring off facility grounds shall be reported as required in subsection (a)(5) of this section and reviewed as required in §405.272 of this title (relating to Facility Campus-Based Programs and Facility Community-Based Services: Death Review Determination).

§405.265. Facility Community-Based Services: Actions Taken Upon the Death of Person Served. Each facility community-based service shall develop separate clinical peer review and administrative review procedures consistent with this subchapter to be implemented at the time that a person receiving services dies on the premises or during activities of a TXMHMR-funded or contracted program. Within one working day of each death, the facility CEO shall be responsible for ensuring the completed reporting form (attached to this subchapter as Exhibit A) is faxed to the Office of Medical Services, Central Office, which shall be responsible for immediately transmitting the information to the appropriate deputy commissioner. The facility CEO should also initiate direct phone contact with the appropriate deputy commissioner or designee when warranted.

§405.266. Community Centers: Actions Taken Upon the Death of Person Served. Each community center shall develop separate clinical peer review and administrative review procedures consistent with this subchapter to be implemented at the time that a person receiving services dies on the premises or while participating in a community center sponsored activity. Within one working day of such a death, the community center CEO shall be responsible for ensuring the completed reporting form (attached to this subchapter as Exhibit A) is faxed to the Office of Medical Services, Central Office, which shall be responsible for immediately transmitting the information to the appropriate deputy commissioner. The community center CEO should also initiate direct phone contact with the appropriate deputy commissioner or designee when warranted.

§405.267. Facility Campus-Based Programs, Facility Community-Based Services, and Community Centers: Family Notification. The facility or community center CEO shall notify the parents, guardian, spouse, or other appropriate relative of the deceased regarding the death and the cir-

cumstances surrounding the death unless specifically prohibited by Chapter 403, Subchapter K of this title (relating to Client-Identifying Information), Chapter 404, Subchapter E of this title (relating to Rights of Persons Receiving Mental Health Services), or Chapter 405, Subchapter Y of this title (relating to Client Rights-Mental Retardation Services). The facility or community center CEO shall also inform the family and/or guardian of their right to examine the decedent's entire medical record, death certificate, and autopsy findings, if any.

§405.268. Facility Campus-Based Programs and Facility Community-Based Services: Statutory Requirements.

(a) Certificate of death. A certificate of death is required for every death which occurs in the state. When possible a copy of the certificate of death shall be made a part of the deceased person's record. Any additional findings that would reflect on the information contained in the original certificate should be amended and refiled as required and a copy retained in the deceased person's record.

(1) The individual responsible for interment or for removal of the body of the deceased for disposition is responsible for obtaining and filing the certificate of death.

(2) Medical certification of death will be made by the appropriate physician. The certificate of death shall document the disease(s), injuries, or complications that caused the death rather than the mode of dying, e.g., cardiac arrest, respiratory arrest, shock, heart failure, etc.

(b) Autopsy. Autopsy is recommended whenever possible providing that appropriate consent can be obtained. When possible, autopsy reports shall be made a part of the deceased person's record.

(1) The physician must request permission for an autopsy and document the request in the deceased person's record when:

(A) the death occurred under unusual circumstances or the cause of death is uncertain; or

(B) the autopsy would clarify the diagnosis and efficacy of treatment choices.

(2) Consent for autopsy will be deemed sufficient when obtained under the provisions of the Texas Code of Criminal Procedures, Article 49.13, and TXMHMR Operating Instruction 405-K, Deaths of Persons Served, which herein is adopted by reference as Exhibit B, copies of which may

be obtained by contacting TXMHMR, Office of Policy Development, P.O. Box 12668, Austin, Texas 78711.

(3) The person from whom consent for autopsy is sought shall be given an explanation of what an autopsy is and why an autopsy is appropriate or desirable.

(c) Disposition of deceased persons. If burial at public expense is necessary, or if the body of the deceased is not claimed for burial, a report to that effect must be made to the Anatomical Board of the State of Texas.

(1) If burial is to take place at no expense to the state, e.g., prepaid burial contract or designated funds in the deceased person's trust fund, then a report need not be made to the Anatomical Board provided the body is claimed.

(2) To claim the body for burial, an individual must provide documentation to the facility CEO which proves the individual is:

(A) related to the deceased by blood or marriage;

(B) a bona fide friend; or

(C) representative of an organization of which the deceased was a member.

(3) If efforts to contact the family and/or guardian of the deceased prove futile, a report must be made to the Anatomical Board.

(4) If the family and/or guardian is notified of the death, but the body remains unclaimed 48 hours after the notification, a report must be made to the Anatomical Board.

(5) If the body of the deceased is released to the Anatomical Board, the facility CEO or designee must file with the county clerk an affidavit that a diligent inquiry was made to find the family and/or guardian of the deceased. The affidavit will detail the manner of the attempts at notification. A copy of the affidavit will be retained in the deceased person's record.

(d) Disposition of the property of deceased persons. When appropriate, the property of the decedent will be disposed of under the provisions of the Texas Probate Code. When no claim is made, the property of the decedent, including clothing, personal effects, and trust funds, shall be disposed of under the provisions of the Texas Health and Safety Code, §§551.003, 551.004, 551.005, and 551.044 (formerly Texas Civil Statutes, Article 3183c).

§405.269. *Community Centers: General*

Guidelines Upon Death of a Person Served.

(a) When a person receiving services dies on the premises or while participating in a community center sponsored activity, a copy of the certificate of death shall be made a part of the deceased's record, when possible. Any additional findings that would reflect on the information contained in the original certificate should be amended and refiled as required and a copy retained in the deceased's record.

(b) When appropriate, the property of the deceased person will be disposed of under the provisions of the Texas Probate Code.

§405.270. *Facility Campus-Based Programs, Facility Community-Based Services, and Community Centers: Death Review Requirement.*

(a) Within one working day of the knowledge of death of a person receiving services in a TXMHMR-funded or TXMHMR-contracted program, the facility or community center CEO is responsible for conducting a preliminary review to determine whether:

(1) the death occurred on the premises of a TXMHMR-funded or TXMHMR-contracted program;

(2) the death occurred while the person was participating in TXMHMR-funded or TXMHMR-contracted program activities;

(3) other conditions indicate that the death may reasonably have been related to the individual's care or activities as part of the facility community-based or community center program; or

(4) other conditions indicate that although the death is not reasonably related to the individual's care or activities as part of the facility community-based or community center program, an evaluation of policy is warranted.

(b) If none of the conditions described in subsection (a) of this section is true, the facility or community center CEO may elect not to conduct a death review.

(c) If any of the conditions described in subsection (a) of this section are true, a death review must be conducted.

§405.271. *Facility Campus-Based Programs and Facility Community-Based Services: Clinical Death Review Committee.*

(a) Each facility shall maintain a clinical death review committee which shall be a medical peer review body responsible for reviewing deaths and the quality of care delivered prior to each death reviewed by that committee.

(b) The purpose of the committee is:

(1) to review the quality and appropriateness of medical care and other medically related services rendered prior to the death; and

(2) to recommend, when appropriate, changes in medically related policy and procedure, professional education, clinical operations, or patient care.

(c) The clinical death review committee shall be chaired by a physician and include representatives of the functions listed following which in some circumstances may be staffed by the same individual, e.g., the clinical/medical director may be the attending physician as well:

(1) the clinical/medical director or designee, who shall serve as chair provided that person is not the attending physician (the facility CEO will appoint a replacement chair when the chair of the clinical death review committee is the attending physician);

(2) the director of nursing or designee;

(3) the attending physician;

(4) the director of clinical quality assurance, designee, or the person who carries out clinical quality assurance functions; and

(5) other individuals as deemed appropriate by the committee chair, e.g., the duty physician at the time of the death; another physician (either an employee or a non-TXMHMR physician) not associated with the care of the deceased; etc.

§405.272. *Facility Campus-Based Programs and Facility Community-Based Services: Death Review Determination.*

(a) Upon notification of a death requiring review, the chairperson of the clinical death review committee shall appoint a member of the clinical death review committee or a qualified clinician from outside the facility to serve as an investigating officer. The investigating officer shall not be the attending physician or anyone who, for at least the preceding six months, was actively involved in or responsible for the direct care of the deceased. The investigating officer must be either:

(1) a physician (M.D., D.O.); or

(2) a registered nurse.

(b) After appointment, the investigating officer shall begin a preliminary investigation based upon the decedent's medical record and other information he/she deems appropriate.

(c) Within five working days of the knowledge of death, the appropriate physi-

cian shall complete a death/discharge summary. The death/discharge summary shall include:

(1) identifying information, including:

(A) name;

(B) case number;

(C) date of birth;

(D) sex;

(E) date and type of most recent admission; and

(F) date, time, and location of death;

(2) a summary of the medical history;

(3) a summary of active medical problems;

(4) significant recent laboratory and procedural findings;

(5) a summary of recent pertinent medical consultations;

(6) clinical factors leading up to the terminal event and a review of the clinical circumstances surrounding the death, or circumstances leading to the transfer to another facility or outpatient status where death occurred, i.e., all pertinent notes, procedures, medications, resuscitation category status, and pertinent quality of life issues;

(7) preliminary autopsy findings, if available; and

(8) additional clinically related information which may be furnished by other staff.

(d) Within 14 calendar days of the knowledge of death, the facility CEO, chair of the clinical death review committee, and investigating officer shall use the preliminary investigation information and the death/discharge summary to determine whether the death should be reviewed clinically, administratively, or both.

§405.273. Facility Campus-Based Programs and Facility Community-Based Services: Clinical Death Review and Clinical Death Review Report.

(a) Immediately after the determination of the need for a clinical death review has been made, the following actions shall be taken.

(1) The investigating officer shall prepare a confidential report solely for the clinical death review committee which

shall include, but not be limited to:

(A) the death certificate, bearing a valid diagnosis;

(B) the preliminary or full autopsy report if available;

(C) the probable final diagnosis, including contributory causes, and reasons for variance from the death certificate; and

(D) a summary of possible issues involving clinically related facility operational policies and procedures and quality of medical care.

(2) Within 14 calendar days (or 45 days in which an autopsy is performed, or for deaths occurring at medical facilities off campus) of the determination of the need for a clinical death review as described in §405.272 of this title (relating to Facility Campus-Based Programs and Facility Community-Based Services: Death Review Determination), the clinical death review committee shall meet to review the death/discharge summary and the investigating officer's report and its findings. On the basis of the summary and report, the committee shall document its impressions of the quality of medical and nursing care given prior to death and shall make recommendations to the facility CEO, if appropriate, for changes in policy and procedures, professional education, operations, or patient care. The investigating officer's report and the recommendations of the clinical death review committee are confidential peer review documents generated by the committee and will be treated as such.

(b) Within 21 calendar days of the determination of the need for a clinical death review (or 52 days in cases in which an autopsy is performed, or for deaths occurring at medical facilities off campus), the committee shall submit a confidential copy of the clinical death review report, containing the elements required in §405.272(c) of this title and subsection (a)(1) of this section, signed by the facility CEO, to the TXMHMR Central Office medical peer review committee.

(c) Any relevant information which is not available at the time that the report is submitted shall be forwarded as it becomes available.

(d) The chair of the clinical death review committee shall keep a copy of every clinical death review report in a confidential peer review file at a location designated by the facility.

(1) Clinical death review reports and related materials will not be distributed

other than as described in this section and will be used and reviewed in the context of the clinical death review committee function only.

(2) The distribution and filing of quality assurance/peer review materials, e.g., clinical death review reports and related materials, should be accomplished using procedures that protect the confidentiality of the documents.

(e) The recommendations of the clinical death review committee shall be considered and acted upon as appropriate by the facility CEO and the medical staff executive committee, and appropriate quality assurance committee. A copy of the written report of resulting actions shall be forwarded to the TXMHMR Central Office medical peer review committee, within 28 calendar days following the submission of the clinical death review report.

(f) The director of Medical Services, Central Office, is authorized to grant variances from the timelines required by this section on a case-by-case basis.

§405.274. Community Centers: Death Review Determination.

(a) Upon notification of a death requiring review, the community center CEO or designee appoints an investigating officer who shall begin a preliminary investigation based upon the decedent's medical record and other information he/she deems appropriate.

(b) Within 14 calendar days of the knowledge of death, the community center CEO and investigating officer shall use the preliminary investigation information to determine whether the death should be reviewed clinically, administratively, or both.

§405.275. Community Centers: Clinical Death Review and Clinical Death Review Report.

(a) Each community center shall develop and implement procedures consistent with this subchapter for the timely reporting and review of deaths.

(b) Deaths subject to a clinical death review will be reviewed by a committee of three medical professionals (M.D., D.O., R.N.) either on the community center staff or in independent practice, at least one of whom is a physician who was not the decedent's attending physician, and all of whom are either medical doctors or registered nurses.

(1) Within 14 calendar days (or 45 days in which an autopsy is performed, or for deaths occurring at medical facilities off campus) of the determination of the need for a clinical death review as described in §405.274 of this title (relating to Com-

munity Centers: Death Review Determination) an evaluation will be made of the quality and appropriateness of medical and nursing care given prior to death.

(A) The evaluation shall include a review of:

- (i) the individual's medical history;
- (ii) the individual's active medical problems;
- (iii) significant recent laboratory and procedural findings;
- (iv) recent pertinent medical consultations;
- (v) clinical factors leading up to the terminal event and a review of the clinically related circumstances surrounding the death, or circumstances leading to the transfer to another facility where death occurred, i.e., all pertinent notes, procedures, medications, resuscitative status category, and pertinent quality of life issues;
- (vi) additional clinically relevant information which may be furnished by other staff.

(B) The evaluation shall also include a review of:

- (i) the death certificate, bearing a valid diagnosis;
- (ii) the preliminary or full autopsy report if available; and
- (iii) the probable final diagnosis, including contributory causes, and reasons for variance from the death certificate.

(2) On the basis of the evaluation, recommendations may be made to the community center CEO, if appropriate, regarding clinical policies and procedures, professional education, clinical operations, and patient care.

(A) Within 21 calendar days of the knowledge of death (or 52 days in cases in which an autopsy is performed, or for deaths occurring at medical facilities to which the person was transferred prior to death), the committee shall submit a copy of the clinical death review report, signed by the community center CEO, to the TXMHMR Central Office medical peer review committee. The written report shall include the elements described in subsection (a)(2) of this section. This documentation will be considered medical peer review material and will be treated as such.

(B) The recommendations of the clinical death review committee shall be

considered and acted upon as appropriate by the community center CEO and the medical staff or similar body. A copy of the written report of resulting actions shall be forwarded to the TXMHMR Central Office medical peer review committee, within 28 calendar days following the submission of the clinical death review report.

(c) The chair of the review committee and the TXMHMR physician(s) reviewing the death shall be responsible for maintaining confidential files in which compliance with the requirements of this section is documented. The files shall be maintained at a location designated by the community center and accessible only to members of the clinical death review committee and to the community center CEO.

§405.276. Facility Campus-Based Programs, Facility Community-Based Services, and Community Centers: Review of Administrative or Other Nonclinically Related Issues. Immediately after the determination of the need for an administrative death review has been made, the facility or community center CEO will convene an administrative death review committee, separate from the clinical death review committee. The administrative death review committee will:

- (1) consist of members in positions appropriate to the death being reviewed;
- (2) carry out review and investigation of nonclinical issues;
- (3) make recommendations, as appropriate;
- (4) function confidentially to the extent allowed by law; and
- (5) not be party to, nor keep or receive records of, the deliberations of the clinical death review committee.

§405.277. Distribution.

(a) The provisions of this subchapter concerning deaths will be distributed to members of the Texas Board of Mental Health and Mental Retardation; medical director, deputy commissioners, associate deputy commissioners, assistant deputy commissioners, management and program staff of central office; chief executive officers of all TXMHMR facilities; and chief executive officers and chairpersons of the boards of trustees of all community centers.

(b) The facility CEO shall be responsible for the dissemination of the information contained in this subchapter to all appropriate staff members and to contract providers of services.

§405.278. References. Reference is made to the following:

- (1) Texas Code of Criminal Pro-

cedures, Article 49;

(2) Attorney General Opinion Number C-762;

(3) Chapter 405, Chapter C of this title (relating to Life-Sustaining Treatment);

(4) Chapter 403, Subchapter K of this title (relating to Client-Identifying Information);

(5) Chapter 404, Subchapter E of this title (relating to Rights of Persons Receiving Mental Health Services);

(6) Chapter 405, Subchapter Y of this title (relating to Client Rights-Mental Retardation Services);

(7) Texas Health and Safety Code, Chapters 532-534;

(8) Texas Health and Safety Code, Chapter 691 of Subtitle B, relating to death and disposition of a deceased person;

(9) Texas Health and Safety Code, Chapter 551, §§551.003, 551.004, 551.005, and 551.044; and

(10) Texas Probate Code.

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 June 8, 1992.

TRD-9207868

Ann Utley
Chairman
Texas Board of Mental
Health and Mental
Retardation

Earliest possible date of adoption: July 17, 1992

For further information, please call: (512) 465-4670

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

Chapter 112. Scope of
Liability for Compensation

Subchapter E. Professional
Athletes Election of Cover-
age

• **28 TAC §112.401, §112.402**

The Texas Workers' Compensation Commission proposes new §112.401 and §112.402, concerning the election of workers' compensation or contract benefits to be made by certain professional athletes. Proposed §112.401 requires a professional athlete, no later than 15 days after an injury, to make a written election to receive either workers' compensation insurance benefits or equivalent benefits provided by contract or collective

bargaining agreement, requires the employer to provide the athlete with written notice of this mandatory election at the time the contract is executed; and establishes filing requirements for the written election. Section 112.402 defines when contractual benefits are equivalent to workers' compensation insurance benefits. The new sections are mandated by Texas Civil Statutes, Article 8308-3.075, enacted by the 72nd Legislature, Regular Session, 1991.

Andrew Thigpen, associate director, financial management, has determined that for each year of the first five-year period the new sections are in effect, there will be no fiscal implications for the State or local government as a result of enforcing or administering the new sections.

There is no anticipated impact on employment, locally or statewide, as a result of implementing these new sections.

Mr. Thigpen also has determined that for each of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be implementation of the Texas Workers' Compensation Act and a means by which an athlete may choose coverage offering higher benefits. There will be no effect on small businesses. There is anticipated economic cost to employers required to comply with §112.401 as proposed, if they choose to file the athlete's election by certified mail, return receipt requested. For such employers, the cost of compliance will be \$2.29 per letter. There are no anticipated economic costs for persons required to comply with §112.402 as proposed.

Comments on the proposal may be submitted to Ken Forbes, Policy and Rules Administrator, Texas Workers' Compensation Commission, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Articles 8308-2.09(a), which authorizes the commission to adopt rules necessary to implement and enforce the Texas Workers' Compensation Act, and 8308-3.075, which requires adoption of rules to establish the procedures and requirements for the mandatory election.

§112.401. Election of Coverage by Certain Professional Athletes.

(a) A professional athlete employed by a franchise with workers' compensation insurance coverage and subject to the Texas Workers' Compensation Act, Article 8308-3.075 (the Act) shall elect to receive either the benefits available under the Act or the equivalent benefits available under the athlete's contract or collective bargaining agreement. The election shall be made not later than the fifteenth day after the athlete sustains an injury in the course and scope of employment. If the athlete fails to make an election, the athlete will be presumed to have elected the option which provides the highest benefits.

(b) When a contract is signed by a

professional athlete, the employer shall give the athlete a copy of the following statement: "(Name of employer) has workers' compensation coverage from (name of insurance carrier). If the benefits available to you under your contract and any applicable collective bargaining agreement are equivalent to or greater than those available to you under the Texas Workers' Compensation Act, Article 8308-3.075 of that Act requires you to elect whether to receive the benefits available to you under the Act or the benefits available to you under your contract and any applicable collective bargaining agreement. You must make this election no later than 15 days after sustaining an injury. If you elect to receive the benefits available to you under your contract and any applicable collective bargaining agreement, you cannot obtain workers' compensation income or medical benefits if you are injured. You can get more information about your workers' compensation rights and the benefits available to you under the Act from any office of the Texas Workers' Compensation Commission, or by calling (the commission's assigned toll free number)."

(c) The election shall be in writing and shall:

(1) indicate the date of the injury for which the election is being made;

(2) indicate whether the athlete elects to receive the benefits available under the Act or the benefits provided under the contract or agreement; and

(3) be signed by the athlete and the employer.

(d) If the athlete elects to receive the benefits available under the Act, the election shall be provided to the commission by personal delivery or registered or certified mail within 10 days of the date of execution. A copy shall also be provided to the franchise's workers' compensation insurance carrier within 10 days of the date of execution. Both the athlete and the franchise shall also keep a copy of the election.

(e) If the athlete elects to receive the benefits available under the contract and any agreement, the election shall be provided to the franchise's workers' compensation insurance carrier by personal delivery or registered or certified mail within 10 days of the date of execution. Both the athlete and the franchise shall keep a copy of the election.

(f) An election made under this section is irrevocable and binding on the athlete and the athlete's legal beneficiaries for a compensable injury incurred on the date specified in the election.

§112.402. Determination of Equivalent Benefits for Professional Athletes.

(a) Medical care available to a professional athlete subject to Article 8308-3.075 of the Act is equal to or greater

than medical benefits under the Act if:

(1) the athlete is entitled to all health care reasonably required by the nature of the work-related injury as and when needed, including all health care that:

(A) cures or relieves the effects naturally resulting from the work-related injury;

(B) promotes recovery; or

(C) enhances the ability of the employee to return to or retain employment; and

(2) the employer's liability for health care is not limited or terminated in any way by the contract or collective bargaining agreement.

(b) When the athlete is not eligible for lifetime income benefits or when the athlete's legal beneficiaries are not eligible for death benefits under the Act, weekly benefits available to a professional athlete subject to Article 8308-3.075 of the Act are equal to or greater than the income benefits provided under the Act if the total amount of the payments provided for in the contract or collective bargaining agreement and made under subsection (b)(1) is equal to or greater than the maximum weekly benefit available under the Act multiplied by 104.

(c) When the athlete is entitled to lifetime income benefits under the Act, weekly benefits available to a professional athlete subject to Article 8308-3.075 of the Act are equal to or greater than the income benefits provided under the Act if equal to or greater than the maximum weekly benefit available under the Act.

(d) When the athlete's legal beneficiaries are entitled to death benefits under the Act, weekly benefits available to the legal beneficiaries of a professional athlete subject to Article 8308-3.075 of the Act are equal to or greater than the death benefits provided under the Act if equal to or greater than the maximum weekly benefit available under the Act.

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 June 15, 1992.

TRD-9208171

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: July 20, 1992

For further information, please call: (512) 443-5592

Chapter 165. Rejected Risk: Injury Prevention Services

• 28 TAC §165.5

The Texas Workers' Compensation Commission proposes new §165.5 concerning approval of an employer's safety and accident prevention program plan. When an employer is identified by the Texas Workers' Compensation Insurance Facility (the Facility) as an extraordinary risk and the employer wishes to present a commission approved safety and accident prevention program plan for the facility to consider in determining the rate to apply, this rule specifies the actions that must be taken by the employer and by the commission.

Drew Thigpen, associate director, financial management, has determined that the Facility will be phased out in two years so this analysis will only cover the first two year period the section is in effect. Any expenses incurred by TWCC will be reimbursed by the facility. This fiscal note addresses only those costs imposed by the rule and not already mandated by statute. There will be no effect on the state or local government as a result of enforcing or administering the section. There will be no increase in revenue either in state or local government as a result of enforcing or administering this section.

Mr. Thigpen also has determined that for this time period, the public benefit anticipated as a result of enforcing the section will be implementation of the Workers' Compensation Act as adopted by the legislature in 1989. Additionally, insurance premiums may decline as employers implement safety programs to reduce risks and lower costs, which may prompt more employers to choose to carry compensation insurance. There will be costs to those who choose to participate as follows: an inspection will cost approximately \$31 per hour for an inspector, plus travel expenses; a consultant (if needed) will cost approximately \$31 per hour, plus travel expenses; and, there will be an additional charge of \$4.90 for TWCC to notify the facility of the status of the plan. The costs to small businesses may be proportional to the costs for large businesses, as the small business will pay the same per hour cost for a smaller facility, which may take less time, but the same travel expenses and notification fee as a larger business. There will be no effect on local employment.

Comments on the proposal may be submitted to Ken Forbes, Policy and Rules Administrator, Texas Workers' Compensation Commission, Southfield Building, 4000 South I-H 35, Austin, Texas 78704-7491.

The new section is proposed under Texas Civil Statutes, Article 5.76-2 §4. 06 of the insurance code regarding injury prevention requirements, and Texas Civil Statutes, Article 8308, §2.09(a), which authorizes the commission to adopt rules necessary to administer the Act.

§165.5. Approval of Safety and Accident Prevention Program for Employers Identified as Extraordinary Risk by the Facility.

(a) If the facility identifies an employer as an extraordinary risk and the employer wishes to present a commission approved safety and accident prevention program plan for the facility to consider in determining the rate to apply, the employer may take one of the following actions:

(1) Submit to the commission a safety and accident prevention program plan developed by a safety consultant as provided in Chapter 164 of this title (relating to the Extra-Hazardous Employer Program), or as provided in §165.2 of this title (relating to Safety Consultation and Formulation of the Accident Prevention Plan); or

(2) Submit to the commission a safety and accident prevention program plan developed independently of any program required by identification as extra hazardous or rejected risk. Requests for specific information about the contents required of a safety and accident prevention program plan may be made to the division.

(b) The commission:

(1) shall notify the facility that the employer has an approved safety and accident prevention program plan if the follow-up inspection by the division of the plan described in subsection (a)(1) of this section was performed within the 12 months preceding the current submission;

(2) shall, review the program plan described in subsection (a)(2) of this section within 30 days of receipt by the commission. If it covers risk assessment, identified hazards, and the seven components identified in §164. 4(a) of this title (relating to Formulation of Accident Prevention Plan) clearly and specifically, the commission shall verify implementation by the employer and notify the facility that the employer has an approved plan;

(3) may request supporting information, if required, from the facility. Information may include:

(A) a copy of the policy application;

(B) a copy of the rating information; and

(C) loss runs and other reasonable information relating to the employer's business required to evaluate the program plan;

(4) respond to requests made under subsection (a)(2) of this section.

(c) If the plan described in subsection (a)(1) of this section was not evaluated by a follow-up inspection within the 12 months preceding the current submission or the program plan described in subsection

(b)(2) of this section does not adequately cover the hazard and risk issues normally associated with the employer's industry, the commission shall notify the facility that the employer does not have a program plan approved by 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 June 15, 1992.

TRD-9208170

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: July 20, 1992

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter J. Industrial Solid Waste and Hazardous Waste Fee System

• 31 TAC §335.326, §335.329

The Texas Water Commission proposes amendments to §335.326 and §335.329, concerning the industrial solid waste and hazardous waste fee system. The Health and Safety Code, Chapter 361, Subchapter D, authorizes the commission to establish a hazardous waste fee system related to the generation and disposition of hazardous waste and the operation of hazardous waste facilities subject to permits. House Bill 1986, Acts of the 72nd Legislature, 1991, amended the Health and Safety Code, Chapter 361, Subchapter D, to restructure and expand the hazardous waste fee program. The commission adopted rules February 26, 1992, to implement the provisions of House Bill 1986 and restructure the existing hazardous waste fee program. These rules were published in the March 6, 1992, issue of the *Texas Register* (17 TexReg 1737). In its adoption of amendments to §§335.321-335.324, the repeal of §§335.325-335.333, and new §§335.325-335.332, the commission considered certain provisions of §335.326, concerning dry weight determination, and §335.329, concerning records and reports, in response to comments received on the proposed rules. The commission adopted the sections as they were published March 6, 1992, and postponed further action pending development of a separate proposal which is the subject of

this submission. These proposed changes would amend the method for determination of dry weight for certain waste streams which are disposed of in underground injection wells. Under the amended method, certain materials, which may not be solid wastes, added to a waste stream in order to meet federal operating requirements relating to prevention of waste migration may be excluded from the waste stream for the purpose of determination of the dry weight and the assessment of fees related to the disposal of hazardous wastes in injection wells. In addition, operators taking advantage of such exclusion would be required to maintain records of the amounts of any materials added for this purpose.

Section 335.326, concerning dry weight determination, is amended with the addition of new subsection (c), which provides that for the purpose of the assessment of hazardous waste management fees under §335.325 of this title (relating to Hazardous Waste Management Fee Assessment), the dry weight of a hazardous waste to which brine or other agents are added, to maintain density control to assure no migration of the waste under 40 Code of Federal Regulation 148 Subpart C, shall be the weight of the waste prior to the addition of the brine.

Section 335.329, concerning records and reports, is changed by the addition of language to subsection (a)(1) and (2), regarding recordkeeping of amounts of agents added to hazardous waste streams to be deep-well injected for the purpose of satisfying no-migration requirements. This change is consistent with changes to §335.326 regarding the exclusion of certain agents from dry weight measurements.

Norma J. Nance, director of budget, planning and evaluation, 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. While the clarification of the determination of dry weight measurement may affect hazardous waste fee assessments for a certain class of waste under specific circumstances, the commission is required to adjust all applicable fee rates for all hazardous wastes and methods of waste management to generate a specified amount of revenue annually. No assessments in the current fiscal year have been made relating to the wastes streams covered by this amendment and no revenues currently due to be paid to the commission would be affected.

Ms. Nance has also determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be an improved method of assessment of fees to support regulatory activities which is more consistent with state waste management policies. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

The amendments are proposed under the Health and Safety Code, Chapter 361, as amended by House Bill 1986, Acts of the 72nd Legislature, 1991, which provides the Texas Water Commission with the authority

to establish an industrial solid waste and hazardous waste fee program and implement fee assessments for industrial solid waste and hazardous waste generators, facilities and permit applicants, and the commercial and noncommercial management of hazardous waste and under the Water Code, §5.103, which gives the Texas Water Commission the authority to adopt any rules necessary to carry out its powers, duties, and responsibilities.

§335.326. *Dry Weight Determination.*

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

(c) For purposes of a fee assessed under §335.325 of this title (relating to Hazardous Waste Management Fee Assessment), the dry weight of a hazardous waste disposed in an underground injection well, to which brine, inorganic salts, or other authorized agents are added to maintain density control to assure compliance with no-migration requirements of 40 Code of Federal Regulation 148 Subpart C, shall be the weight of the waste prior to the addition of the agent. No solid waste, as defined by the Health and Safety Code, §361.003(37), may be excluded from the determination of dry weight under this subsection.

§335.329: *Records and Reports.*

(a) Generators are required to:

(1) (No change.)

(2) keep records of the dry weight amount of each hazardous waste designated for disposal in an underground injection well and records of the amounts of any solidification agents, brine, or other authorized material added to a waste stream which may be excluded from the determination of dry weight under §361.326 of this title (relating to Dry Weight Determination);

(3)-(4) (No change.)

(b)-(d) (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 June 15, 1992.

TRD-9208180 Mary Ruth Holder
Director, Legal Services
Division
Texas Water Commission

Earliest possible date of adoption: July 20, 1992

For further information, please call: (512) 463-8069



TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

• 34 TAC §3.298

The Comptroller of Public Accounts proposes an amendment to §3.298, concerning amusement services. The amendment makes changes authorized by the 72nd Legislature, 1991, First Called Session. Effective October 1, 1991, nonprofit country clubs described by the Internal Revenue Code of 1986, §501(c)(7), are required to collect sales tax from their members on various fees and dues such as initiation fees, membership dues, green fees, etc. Additionally, amusements provided jointly by the state, a municipality, county, school district, special district, political subdivision of the state or the United States, and a for-profit group are subject to sales tax. See new subsection (h) of this section for specific exclusions from the amusement services exemption for entities with dual classifications.

Tom Plaut, chief revenue estimator, has determined that for the first five-year period the section is in effect there will be no significant revenue impact on state or local government as a result of enforcing or administering the section. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses.

Dr. Plaut 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 providing new information regarding tax responsibilities. There is no significant anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Lucy Glover, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The amendment 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.

§3.298. *Amusement Services.*

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

(1) (No change.)

(2) Nonamusement services—Activities which are primarily instructional in nature or nontaxable personal services. Places, [and] services, and clubs, not cov-

ered by the tax on amusement services include, but are not limited to:

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

(I) membership in sororities and fraternities.

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

(6) Sales price of membership to country clubs, including clubs described by the Internal Revenue Code of 1986, §501(c)(7)-The sales price includes [Also included are] dues, initiation fees, and other charges, assessments, and fees required for a special privilege, status, or membership classification in a private club or organization. Whether or not the club has its own facilities is not relevant. Receipts subject to tax under the Texas Alcoholic Beverage Code, §202.02, are not included in the sales price of an amusement service.

(7)[(6)] Seller of admissions to amusement services-A person who sells more than 10 admissions to amusement services during a 12-month period and includes those persons who hold themselves out as engaging, or who habitually engage, in the selling of admissions to amusement services.

(8)[(7)] Sale of an amusement service admission-The transfer of title to or possession of a ticket or other admission document for a consideration or the collection of an admission, membership, or enrollment fee, whether by individual performance, subscription series, or membership privilege, or through the use of a coin-operated or credit-card-operated machine. The consideration paid may secure the admission privilege for an individual or a group of individuals. The contract or agreement whereby the right is secured for a provider to offer an amusement, recreation, or entertainment as an amusement service is not the sale of an admission to an amusement service and is not subject to sales tax, such as the paying of a fee to a singer for a performance that will be provided by the payer of the fee as an amusement service through the sales of tickets.

(b) Charges to private club members and guests. The membership dues, initiation fees, and other assessments and fees charged for a special privilege, status, or membership classification in a private club or organization, including organizations described by the Internal Revenue Code of 1986, §501(c)(7), if the organizations provide amusements, are taxable. Taxable fees for special privileges in the organization include, but are not limited to, liquor pool dues, boat slip rental fees, golf cart storage fees, locker rental fees, locker room use fees, and fees for access to the restaur-

ant and bar. Separate charges for amusement services by persons operating clubs or other facilities over and above amounts received for membership or initiation fees, such as green fees or fees for admissions to swimming pools, racketball courts, or tennis courts, are also taxable. Initiation fees which are refundable, as evidenced by a written agreement, are not taxable. [For charges for amusement services provided by nonprofit organizations, see subsection (g) of this section.]

(c)-(f) (No change.)

(g) Exemptions.

(1) Sales tax is not due on the sale of an amusement service if the service is provided exclusively:

(A) by a nonprofit organization, corporation, or association, other than organizations described by the Internal Revenue Code of 1986, §501(c)(7), if the proceeds do not go to the benefit of an individual, except as a part of the services of a purely public charity. Initiation and membership fees and other assorted fees charged by such a nonprofit organization, corporation, or association are not taxable. Examples would include: organizations, corporations, or associations recognized as nonprofit organizations under the Internal Revenue Code, §501(c), [nonprofit country clubs.] Kiwanis clubs, labor unions, and ex-students organizations. Organizations described by the Internal Revenue Code of 1986, §501(c)(7), that provide amusements, do not qualify for this exemption even though organized as nonprofit organizations;

(B)-(C) (No change.)

(D) by the United States, the State of Texas, a municipality, county, school district, special district, or other political subdivision of the State of Texas. An amusement service is not "exclusively provided" by a governmental entity if the entity contracts with an entity not listed in the Tax Code, §151.3101(a)(1), for the provision of the amusement;

[(E) by the United States; or]

(E)[(F)] in a place that is included in the National Register of Historic Places; or

(F)[(G)] in a place that is designated as a Recorded Texas Historic Landmark by the Texas Historical Commission.

(2) (No change.)

(3) Except as provided by subsection (h) of this section, a [A] nonprofit group may hire a for-profit organization to provide the expertise to produce an event without loss of the exemption provided by paragraph (1)(A) of this subsection. The nonprofit organization must hold itself out as the provider of the amusement and may not be a joint venturer with the for-profit entity.

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

(h) Governmental entities.

(1) Entities recognized as governmental entities are subject to the provisions of this subsection even though the entities may also be classified under the Tax Code, §151.3101(a) (3), (4), or (5).

(2) Unless an event is solely for educational purposes, this state, an institution owned or operated by the state, an agency of this state city, county, school district, special district, political subdivision of this state, or the United States that contracts with a person, a for-profit organization or any other organization not listed in the Tax Code, §151.3101(a)(1), to provide the expertise to produce or provide a musical concert or other amusement event loses the exemption provided in subsection (g) of this section. These organizations must collect sales tax on admissions to amusement events provided by or in conjunction with a person, a for-profit organization, or other organizations not listed in the Tax Code, §151.3101(a)(1).

(3) An amusement is not solely for educational purposes unless either: 100% of the proceeds from the admissions go to the educational organization; or students at the educational institution actually perform the amusement.

(i)[(h)] Collection of the tax.

(1) Persons who sell admissions to an amusement service for resale may accept a resale certificate from the purchaser of the amusement in lieu of tax. The resale certificate will cover all convenience fees, handling charges, service charges, etc., added to the sales price of the admission by promoters, ticket services, and others.

(2) Each seller of amusement services selling to the final consumer must collect and remit the tax to the comptroller on the total receipts from all taxable sales. A seller will be responsible for remitting the correct amount of tax based on the total sales price of admissions including any charges added by others.

(3) The comptroller may regard any seller of an admission to an amusement service as the agent of the person from whom he obtains the tickets or other admission document if the comptroller determines

that the tax will be collected more efficiently. The seller of an admission to amusement service will be regarded as agent if:

(A) the person providing the tickets or other admission documents obtains written authorization from the comptroller to assume responsibility for the tax collection of his agent; and

(B) the person providing the tickets includes in the sales price of the admission any convenience fee, handling charge, etc., added on by his agent; and

(C) the provider of the tickets gives to the seller/agent a written statement that the provider holds a tax permit issued by the comptroller and is assuming responsibility for tax collection and reporting for his agent.

(j) [(i)] Records. Every seller of admissions to amusement services is responsible for keeping accurate records of all sales and purchases. See § 3. 281 of this title (relating to Records Required; Information Required). Every seller of admissions to amusement services must hold a sales tax permit and must file reports as required by § 3.286 of this title (relating to Seller's and Purchaser's Responsibilities).

(k)[(j)] Local tax. City, county, transit authority, and special purpose district tax should be allocated to the city, county, transit authority, and/or special purpose district where the amusement event occurred.

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 June 12, 1992.

TRD-9208159 Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: July 20, 1992

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

Subchapter Q. Franchise Tax

• 34 TAC §3.403

(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 Comptroller of Public Accounts or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §3.403, concerning gross receipts: determining percent of Texas busi-

ness. This section is being repealed in order that it can be adopted under the Texas Administrative Code, Title 34, Part I, Chapter 3, Subchapter V. The section will be replaced with a new 34 TAC §3.549, concerning taxable capital: apportionment.

Tom Plaut, chief revenue estimator, has determined that repeal of the rule will not result in significant revenue impact on the state or on units of local government.

Dr. Plaut also has determined that there would be no cost or public benefit anticipated as a result of enforcing the repeal. Public benefit will be from the clarification of comptroller rules related to House Bill 11. This repeal is promulgated under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the repeal may be submitted to Lucy Glover, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The repeal 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.

§3.403. Gross Receipts: Determining Percent of Texas Business.

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 June 12, 1992.

TRD-9208157 Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: July 20, 1992

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

• 34 TAC §3.412

(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 Comptroller of Public Accounts or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §3.412, concerning survivors of mergers. The section is being repealed in order that it can be adopted under the Texas Administrative Code, Title 34, Part I, Chapter 3, Subchapter V. The section will be replaced with a new 34 TAC §3. 565, concerning survivors of mergers.

Tom Plaut, chief revenue estimator, has determined that repeal of the rule will not result in significant revenue impact on the state or on units of local government

Dr. Plaut also has determined that there would be no cost or public benefit anticipated as a result of enforcing the repeal. Public benefit will be from the clarification of comptroller rules related to House Bill 11. This repeal is promulgated under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the repeal may be submitted to Lucy Glover, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The repeal 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.

§3.412. Survivors of Mergers.

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 June 12, 1992.

TRD-9208156 Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: July 20, 1992

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

• 34 TAC §3.413

(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 Comptroller of Public Accounts or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Comptroller of Public Accounts proposes the repeal of §3.413, concerning franchise tax reports and payments. The section is being repealed in order that it can be adopted under the Texas Administrative Code, Title 34, Part I, Chapter 3, Subchapter V. The section will be replaced with a new 34 TAC §3.544, concerning reports and payments.

Tom Plaut, chief revenue estimator, has determined that repeal of the rule will not result in significant revenue impact on the state or on units of local government.

Dr. Plaut also has determined that there would be no cost or public benefit anticipated as a result of enforcing the repeal. Public benefit will be from the clarification of comptroller rules related to House Bill 11. This repeal is promulgated under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the repeal may be submitted to Lucy Glover, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The repeal 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.

§3.413. Franchise Tax Reports and Payments.

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 June 12, 1992.

TRD-9208155
Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: July 20, 1992

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

Subchapter EE. Boat and Motor Sales and Use Tax

• 34 TAC §3.743

The Comptroller of Public Accounts proposes new §3.743, concerning the purchase of accessories attached to a boat or boat motor. The new section is necessary so that persons in the business of selling boats and boat motor accessories will be aware of the manner in which the tax is collected.

Tax Code, Chapter 160, was passed by the 72nd Legislature, 1991. The tax is assessed on certain boats and motors formerly taxed under the Tax Code, Chapter 151.

Tom Plaut, chief revenue estimator, has determined that for the first five-year period the proposed section will be in effect there will be no significant revenue impact on the state or local government as a result of enforcing or administering the section.

Dr. Plaut 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 is providing new information regarding tax responsibilities. The new section 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 persons who are required to comply with the proposed section.

Comments on the new section may be submitted to Lucy Glover, Manager, Tax Administration 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 administra-

tion and enforcement of the provisions of the Tax Code, Title 2.

§3.743. Accessories Added to Boats and Boat Motors.

(a) General principles.

(1) The purchase of a taxable boat and boat motor and all accessories attached thereto at the time of sale is subject to the boat and boat motor sales and use tax (Tax Code, Chapter 160).

(2) The purchase of accessories for a boat and boat motor attached after the time of sale of the boat or boat motor is subject to the limited sales, excise, and use tax (Tax Code, Chapter 151).

(3) The purchase of tangible personal property is subject to the limited sales, excise, and use tax, if no item can be identified as a boat or boat motor even if the combination of items of tangible personal property becomes a boat or boat motor. If items of tangible personal property are combined to produce a boat or boat motor, the initial titling or registration of the boat or boat motor in the name of the person who produced the boat or boat motor is not subject to the provisions of the boat and boat motor sales and use tax. If, however, the boat or boat motor is titled or registered in any other person's name, the transfer is subject to the provisions of the boat and boat motor sales and use tax.

(4) For this purpose, the term "accessories" includes, but is not limited to, radios, mirrors, transom-mounted ladders, electric trolling motors, and depth finders.

(5) Safety equipment required by the Parks and Wildlife Code, §§31.064-31.071, including life preservers and fire extinguishers, purchased with a taxable boat or boat motor are considered to be attached to the boat or boat motor and subject to the provisions of the boat and boat motor sales and use tax.

(b) Purchase of accessories/components for resale.

(1) Items combined into a boat or boat motor. A resale certificate as provided for in the Limited Sales, Excise, and Use Tax Act may be used in purchasing tangible personal property to be combined into a boat or boat motor held for sale in the purchaser's regular course of business. This includes all accessories that are included in a single sales price for the accessory, boat, and motor. These accessories include water skis and tow ropes. The lump-sum sales price will be subject to the boat and boat motor sales and use tax.

(2) Accessories purchased to be attached to a boat or boat motor which is not subject to the boat and boat motor sales and use tax (boats and boat motors held for

rental, lease, used primarily in a commercial manner or are over 65 feet in length), are subject to the limited sales, excise, and use tax, and §3.285 of this title (relating to Resale Certificate; Sales for Resale), §3.294 of this title (relating to Rental and Lease of Tangible Personal Property), and §3.297 of this title (relating to Carriers).

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 June 12, 1992.

TRD-9208158
Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: July 20, 1992

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

TITLE 40. SOCIAL SERVICES AND ADMINISTRATION

Part VIII. Children's Trust Fund of Texas

Chapter 201. Child Protective Services

Subchapter B. Children's Trust Fund

• 40 TAC §§201.1-201.9

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

The Council of the Children's Trust Fund of Texas (CTF) proposes the repeal of §§201.1-201.9 of this title (relating to Children's Trust Fund Council, Applicant Eligibility, Grant Application Procedures, Selection Procedures, Payment Method, Payment Procedures, Council/DHS Special Reports, Evaluation, and Confidentiality) comprising Chapter 201: Child Protective Services, to be replaced by new §§201.1-201.10 of this title (relating to the same subject Chapter 201: Council Administration: Policies and Procedures) (The Children's Trust Fund of Texas Council, Definitions, Membership, Officer(s), Committees, Executive Director, Council Activities, Meetings, Actions Requiring Council Approval, Relationship Between Council and Private Organizations, and Donors) and Chapter 202, Funded Program Awards and Contracts, §§202.1-202.18 of this title (relating to the same subject) (Purpose, Definitions, Funding Cycle, Eligibility, Funding Priorities and Evaluation Criteria, Application Requirements and Proposal Submission, Review Process, Program Approval, Conflict of Interest, Renewal Funding, Appeals, Other Program Require-

ments, Audits, Reporting Requirements, Confidentiality of Records, Funding Restrictions, Amendments of Contracts, Termination of Contracts.)

The proposed repeals and new sections will consolidate into two chapters the rules governing the council and its policies and procedures for funding child abuse and neglect prevention programs, service, and awarding contracts. This consolidation is in response to CTF designation as a state agency on May 19, 1991.

Sue Marshall, CTF business manager, has determined that for the first five-year period the repeals and new sections are in effect there will be no fiscal implications for state government as a result of enforcing or administering the sections. There will be no known fiscal implications for local government or small businesses.

Ms. Marshall also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the repeals and new sections will be that all rules related to the administration of the Children's Trust Fund of Texas Council and its policies and procedures for funding programs and awarding contracts will be consolidated into two chapters. This action will result in an increase in public awareness of the availability of and procedures related to CTF funds to support community programs to prevent child abuse and neglect. When CTF grant awards increase because of increased knowledge of resources, education, and information available, a greater number of parents, other caretakers of children, and professionals will benefit. It is anticipated that such actions will result in the reduction of the incidence rate of child abuse and neglect and will expand the positive benefits to families and children. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Comments on the proposed rules may be submitted to Janie D. Fields, MPA, Executive Director, Children's Trust Fund of Texas Council, P.O. Box 160610, Austin, Texas 78716-0610.

The repeals are proposed under the Human Resources Code, Chapter 74, §74.003(a)(11), which authorizes the Children's Trust Fund of Texas Council to adopt rules governing the administration of the agency and its programs.

§201.1. *Children's Trust Fund Council.*

§201.2. *Applicant Eligibility.*

§201.3. *Grant Applications Procedures.*

§201.4. *Selection Procedures.*

§201.5. *Payment Method.*

§201.6. *Payment Procedures.*

§201.7. *Council/DHS Special Reports.*

§201.8. *Evaluation.*

§201.9. *Confidentiality.*

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 June 12, 1992.

TRD-9208129 Janet Monteros
Assistant Attorney General,
Office of the Attorney
General
Children's Trust Fund of
Texas

Earliest possible date of adoption: July 20, 1992

For further information, please call: (512) 458-1281

Chapter 201. Child Protective Services

Subchapter B. Children's Trust Fund

• 40 TAC §§201.1-201.10

The Council of the Children's Trust Fund of Texas (CTF) proposes new §§201.1-201.10, concerning the establishment of the Children's Trust Fund of Texas Council as a state agency (May 19, 1991) and the administration of the CTF Council. The section defines commonly used terms and sets policies and procedures for the council. CTF was established in 1985 to provide financial support for community-based efforts to address child abuse and neglect through prevention. Prevention programs, along with education and public awareness, encourage all citizens to be advocates for Texas children and youth. The trust fund is affiliated with other child advocacy organizations at both the national and international levels which share a common mission to provide a brighter future for all children.

Sue Marshall, business manager, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state government as a result of enforcing or administering the section. There are no known fiscal implications for local government or small businesses.

Ms. Marshall also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be increased awareness by the general public of the existence and consequences of child abuse and neglect. Parents, other caretakers of children, and professionals will have access to prevention services, education, and information through the support and funding of programs by the Children's Trust Fund of Texas. It is anticipated that such actions will result in the reduction of the incidence rate of child abuse and neglect and will expand posi-

tive benefits to families and children. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Comments on the proposed rules may be submitted to Janie D. Fields, MPA, Executive Director, Children's Trust Fund of Texas Council, P.O. Box 160610, Austin, Texas 78716-0610.

The new sections are proposed under the Human Resources Code, Chapter 74, Title 3, §74.003(a)(11), which authorizes the Children's Trust Fund of Texas Council to adopt rules governing the administration of the agency and its programs.

§201.1. *The Children's Trust Fund of Texas Council.* The Human Resources Code, Title 3, Chapter 74 (Senate Bill 371, 69th Legislature, 1985) established the Council on Child Abuse and Neglect Prevention (known as the Children's Trust Fund Council) in the Texas Department of Human Services and a children's trust fund and operating fund in the State Treasury. (Texas Civil Statutes, Article 3930a.2, Chapter 74 was amended by House Bill 806, 70th Legislative, effective June 19, 1987 and House Bill 961, 72nd Legislative, May 19, 1991.)

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

Chair-Presiding officer of the Council.

CTF-Children's Trust Fund of Texas Council.

Operating fund-Children's Trust Fund of Texas Council operating fund as specified in the Human Resources Code, Chapter 74, §74.001(2).

Primary prevention-Services available to the community-at-large or to families to prevent child abuse and neglect before it ever occurs. The key aspects of primary prevention are:

(A) is offered to all members of a population;

(B) is voluntary;

(C) attempts to influence societal forces which impact on parents and children; and

(D) seeks to promote positive family functioning rather than just to prevent problems.

Secondary prevention-Taking measures after certain warning signals have appeared to keep child abuse and neglect from happening. The major components of secondary prevention are:

(A) it is offered to a pre-defined group of "at risk" individuals;

(B) is voluntary;

(C) is more problem-focused than primary prevention; and

(D) seeks to prevent future parenting problems by focusing on the particular stresses of identified parents or caretakers.

State agency—A board, commission, department, office, or other state agency that:

(A) is in the executive branch of state government;

(B) was created by the constitution or a statute of this state; and

(C) has statewide jurisdiction.

Trust fund—Dedicated fund within the State Treasury which receives the marriage license fees and interest for the Children's Trust Fund of Texas Council (reference the Local Government Code, Texas Civil Statutes, §118.022).

§201.3. Membership.

(a) The Council is composed of nine persons appointed to six-year terms by the governor with the advice and consent of the senate. An appointee must have a demonstrated concern for child abuse and neglect.

(b) If a position on the Council becomes vacant, the chairperson with the agreement of the Council may submit recommendations to the governor for approval.

(c) The Council may recommend to the governor that any member who misses two regular consecutive Council meetings without notifying the chairperson prior to the meeting may be asked to resign.

§201.4. Officer(s).

(a) Chairperson. The chairperson will preside at all meetings at which he or she is in attendance and perform all duties prescribed by law or by rules of the Council and may serve as an ex-officio member of any committee.

(b) Responsibilities. The chairperson's responsibilities are:

(1) supervise executive director;

(2) appoint members of standing committees and/or ad hoc committees;

(3) preside at regular and called meetings;

(4) confer with the executive director in planning the agenda for meetings; and

(5) represent the Council in deliberations with the governor's office, the legislature, the media, and other agencies and entities.

(c) Vice-chairperson. The vice-chairperson will preside at meetings and perform all duties as delegated by the chairperson. The vice-chairperson will perform all duties as prescribed by law or by rules of the Council in the absence of the chairperson. In case the office of chairperson becomes vacant, the vice-chairperson will serve as chairperson until the governor designates a new presiding officer.

§201.5. Committees.

(a) The chairperson with the approval of the Council, may appoint standing and ad hoc committees to assist the Council in carrying out its duties and responsibilities.

(b) The committee chairpersons will be appointed by the Council chairperson.

(c) The chairperson may appoint non-Council members to serve as committee members on a voluntary basis, subject to Council approval.

(d) Committee chairpersons will make regular reports to the Council by interim written reports or at regular meetings, as appropriate.

(e) Committees will meet when called by the committee chairperson or when so directed by the Council chairperson.

(f) A budget and oversight standing committee will be appointed by the chairperson. This committee will work with Council staff in the areas of budget and financial planning.

(g) An ad hoc rules committee will be formed when necessary and will follow accepted state policies for rulemaking.

§201.6. Executive Director.

(a) The Council may recruit, select, hire, and recommend compensation for the executive director and will follow due process as required by state policy for any termination of employment. Termination will require notice and approval by two-thirds vote of the Council at meeting with the executive director present.

(b) The executive director will be an employee of the Council and perform duties assigned and assume responsibility

for functions delegated by the Council.

(c) The executive director responsibilities are:

(1) hire and supervise Council staff;

(2) implement administrative policies and procedures as adopted by the Council;

(3) maintain liaison with state, national, and other child advocacy organizations;

(4) prepare necessary reports; and

(5) represent the Council, or appoint other staff members, at state and/or national hearings, meetings, and related activities.

§201.7. Council Activities.

(a) The Children's Trust Fund of Texas Council (CTF) will establish its annual administrative budget within the requirements of the law.

(b) The Council will submit an annual report to the governor and the legislature and CTF staff will provide quarterly financial reports to the Council.

(c) The Council will require that evaluations of the funded programs are conducted to ensure program effectiveness and cost-efficiency. CTF-funded programs submit quarterly program performance reports for review and evaluation by CTF staff and evaluators.

§201.8. Meetings.

(a) Regular meetings. The Council will meet a minimum of two times per year.

(b) Special meetings. Special meetings may be called by the chairperson at a time and location designated in a notice of the meeting.

(c) Open meetings. All Council meetings are subject to the requirements of the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17. Regular and special meetings of the Council shall be open to the public.

(d) Executive sessions. Executive sessions of the Council are meetings with only Council members and invited persons present and are subject to the following requirements under the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17.

(1) Executive sessions are held only to consider the following items as provided by law:

(A) involving the appoint-

ment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear complaints or charges against such officer or employee, unless such officer or employee requests a public hearing;

(B) with respect to the purchase, exchange, lease, or value of real property and negotiated contracts for prospective gifts or donations to the state or the governmental body, when such discussion would have a detrimental effect on the negotiation position of the Council as between the Council and a third person, firm, or corporation;

(C) regarding the deployment, or specific occasions for implementation of security personnel or devices; or

(D) in private consultations between a governmental body and its attorney, in instances in which the Council seeks the attorney's advice with respect to pending or contemplated litigation, settlement offers, and matters where the duty of the Council's legal counsel to his/her client, pursuant to the Code of Professional Responsibility of the State Bar of Texas, clearly conflicts with applicable statutory provisions.

(2) For any meeting that is closed to the public, except for consultations in accordance with paragraph (1)(D) of this subsection, the Council will take one of the following actions.

(A) The Council shall keep an agenda of the proceedings certified by the presiding officer that each agenda is a true and correct record of such proceedings. The certified agenda shall:

(i) include an announcement by the presiding officer at the beginning and end of the closed session or meeting indicating date and time; and

(ii) state the subject matter of each deliberation.

(B) In lieu of the certified agenda requirement of subparagraph (A) of this paragraph, the Council may make a tape recording of the proceedings which shall include an announcement made by the presiding officer at the opening and closing of the meeting indicating the date and time.

(e) Notice of meeting. The notice of meetings shall be published in the *Texas Register* in accordance with state requirements.

(f) Agendas. The chairperson will approve the official agenda, which will be distributed the day of the meeting. Any

matter may be placed on the agenda for consideration by the written request of three members of the Council within 30 days of a regular or special meeting.

(g) Quorum. Five members will constitute a quorum.

(h) Rules of order. The Council will use Robert's Rules of Order, Newly Revised, except that the chairperson may vote on any action as any other member of the Council, and any other exception as provided in Council management policies or by statute.

(i) Minutes. Official minutes are retained by the state office of the CTF Council and the Texas Legislative Reference Library.

(j) Public participation. The public may participate in the Council's scheduled meetings by personal appearance in accordance with accepted rules of order and as determined by the chairperson and the executive director or by submitting written comments.

(k) Dissents. A Council member may enter a written statement into the official minutes to reflect opposition to any action taken at a meeting by the Council majority.

(l) Public statements. When making public statements concerning matters under the jurisdiction of the Council, members will not imply that their individual opinions reflect the official position or policy of the Council.

§201.9. Actions Requiring Council Approval. Council approval is required for the following actions:

(1) adoption of administrative procedures and policies to carry out the functions of the Children's Trust Fund of Texas Council;

(2) adoption of the annual operating budget of the Council;

(3) approval of grants,

(4) when required by law, requested by the executive director, or desired by the Council; or

(5) issuance of a formal public statement reflecting the opinion or policy of the Council.

§201.10. Relationship Between Council and Private Organizations and Donors.

(a) Authority and purpose. These rules are proposed under the provisions of the Human Resources Code, Chapter 74, whereby the Council may apply for and receive funds made available by the federal or state government or by another public or private source, which funds may be desig-

nated and expended for administrative purposes or for grants for child abuse and neglect prevention programs, and which may be deposited in either the trust fund or the operating fund, as appropriate. The Council may solicit donations for child abuse and neglect prevention programs and public information and education activities.

(b) Standards of conduct.

(1) Standards of conduct of members and employees of the Council are governed by Texas Civil Statutes, Article 6252-9B.

(2) No member or employee of the Council should accept or solicit any gift, favor, or service that might reasonably tend to influence him or her in the discharge of favor, or service that might reasonably tend to influence him or her in the discharge of official duties or that he or she knows or should know is being offered with the intent to influence him/her with the intent to influence his or her official contributions from individuals or organizations under contract with the Council.

(3) No member or employee of the Council should accept employment or engage in any business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by reason of his or her official position.

(4) No member or employee of the Council should accept other employment or compensations which could reasonably be expected to impair his or her independence or judgment in the performance of his or her official duties.

(5) No member or employee of the Council should make personal investments which could reasonably be expected to create a substantial conflict between his or her private interest and the public interest.

(6) No member or employee of the Council should intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or performed his or her official duties in favor of another.

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 June 12, 1992.

TRD-9208130

Janet Monteros
Assistant Attorney General,
Office of the Attorney
General
Children's Trust Fund of
Texas

Earliest possible date of adoption: July 20, 1992

Chapter 202. Funded Program Awards and Contracts

• 40 TAC §§202.1-202.18

The Children's Trust Fund of Texas Council (CTF) proposes new §§202.1-202.18, concerning the policies and procedures for allocating funds to eligible public entities, non-profit organizations, and individuals providing child abuse and neglect prevention services to families, children, and professionals statewide. The sections outline terms which are commonly used and set policies and procedures for funded program awards and contracts. CTF was established in 1985 to provide financial support for community-based efforts to address child abuse and neglect through prevention. Prevention programs, along with education and public awareness, encourage all citizens to be advocates for Texas children and youth. The Trust Fund is affiliated with other child advocacy organizations at both the national and international level which share a common mission to provide a brighter future for children.

Sue Marshall, business manager, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state local government as a result of enforcing or administering the sections as proposed.

Ms. Marshall also has determined that for each year of the first five years the sections are in effect the public benefits anticipated as a result of enforcing these rules as proposed will be an increase in public awareness of the availability of and procedures related to CTF funds to support community programs to prevent child abuse and neglect. When CTF grant awards increase because of increased knowledge of resources, education, and information available, a greater number of parents, other caretakers of children, and professionals will benefit. It is anticipated that such actions will result in the reduction of the incidence rate of child abuse and neglect and will expand the positive benefits to families and children. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Comments on the proposed rules may be submitted to Janie D. Fields, MPA, Executive Director, Children's Trust Fund of Texas Council, P.O. Box 160610, Austin, Texas 78716-0610.

The new sections are proposed under the Human Resources Code, Chapter 74, §74.003(a)(11), which authorizes the Children's Trust Fund of Texas Council to adopt rules governing the administration of the agency and its programs.

§202.1. Purpose. This part describes policies and procedures applicable to funds available from the Children's Trust Fund of Texas Council for child abuse and neglect

prevention services and activities.

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

Agency-Entity or organization which operates a program or multiple programs and which is authorized to enter into contractual agreements.

Grant-The terms "grant" and "contract" are synonymous as used in the Uniform Grant and Contract Management Act of 1981 by which CTF implements its policies. They are both contractual agreements.

Program-Activities and operations which an agency carries out in order to meet the purposes of the grant/contract. An agency may receive subsequent grants from CTF but may not be funded for more than three years for the same program.

Request for Proposal (RFP) -Application document which includes eligibility, funding priorities, evaluation criteria and other policies and procedures related to receiving CTF funds. A notice of the intent to allocate funds through an RFP is published in the *Texas Register*.

§202.3. Funding Cycle. The Children's Trust Fund of Texas Council has established a three-year funding cycle for CTF grants. Any group, except for a state agency or institution, may apply for a CTF grant to implement a primary or secondary child abuse and neglect prevention program at the community level. The CTF Council determines priorities and criteria for evaluation and selection of programs. Factors considered in selecting programs include, but are not limited to, the program plan, need, cost, geographic location, coordination with existing services, and use of volunteers.

§202.4. Eligibility.

(a) The council has established a procedure for accepting applications and the criteria for reviewing the applications. Each applicant must follow the procedures described in the Request for Proposal published in the *Texas Register*.

(b) All proposed programs to prevent child abuse and neglect must be directed toward primary and/or secondary prevention.

(c) Applicants must have a Texas office where financial records and documentation of services are available for review.

(d) Applicants must have a State Vendor Identification Number from the Texas Comptroller's Office.

(e) Local matching funds, mandated by law, escalate during the three years a program is eligible for funding, from 10%

the first year, 20% the second year, and 50% in the third and final year. This requirement supports the development of effective prevention programs while sponsors seek local or community support for continuation of services beyond the initial funding period.

(f) Letters of endorsement from at least two community organizations in the area for which the funds will be used must be submitted with each application as required by law and stated in each RFP.

§202.5. Funding Priorities and Evaluation Criteria.

(a) The council identifies and adopts funding priorities for each funding cycle. To be considered for funding, applicants must:

(1) meet initial eligibility;

(2) address an identified need; and

(3) verify required local match. Applications meeting above screening will be evaluated, scored, and ranked according to the published evaluation criteria. CTF will establish a system for assigning a weight to evaluation factors and giving priority to funding applications according to the weight assigned.

(b) Efforts will be made to ensure geographic distribution.

§202.6. Application Requirements and Proposal Submission.

(a) Proposal format. The Council adopts by reference the document entitled "Request for Proposal" (RFP), that is periodically updated and published by Council staff. Copies are available upon request from the Children's Trust Fund of Texas Council, P.O. Box 160610, Austin, Texas 78716-0610.

(b) Format content. The format consists of the forms and related material that the applicant will complete to apply to receive funds to perform services.

(1) The format included in the application package shall be used.

(2) Substantially incomplete proposals will not be considered.

(3) Proposals received after the closing date will not be considered.

§202.7. Review Process.

(a) All eligible proposals will be submitted to evaluation teams.

(b) Teams will review and score applications.

(c) CTF staff and Council will re-

view recommendations from evaluation teams and rank proposals.

(d) The council will approve proposals for funding.

(e) During the review process, applicants will direct all inquiries to Council staff.

§202.8. Project Approval.

(a) Council staff will notify each applicant of the council's funding decision.

(b) An applicant whose proposal is approved must execute a contract with the council.

(c) The contractor must agree to perform the services as presented in the proposal. CTF staff may negotiate and approve changes in the proposal as authorized by the council.

(d) The contract will contain appropriate provisions for program and fiscal monitoring and for collection and submission of evaluation data and related reports.

(e) The contractor must give assurances that the contractor will adhere to the terms of the contract, the Uniform Grant and Contract Management Standards (where applicable), and this subchapter.

(f) A contractor who provides direct client services must comply with confidentiality guidelines.

(g) Nothing contained in these rules will be considered to preclude an existing contractor which is receiving CTF funding from submitting a separate proposal for consideration.

(h) Interagency contracts with state and local governmental agencies may be executed under the provisions of the Interagency Cooperation Act, Texas Civil Statutes, Article 4412(32), or the Interlocal Cooperation Act, Texas Civil Statutes, Article 4413(32C).

§202.9. Conflict of Interest.

(a) No council member may provide technical assistance to any group, whether or not associated with the Council members, in responding to a request for a proposal.

(b) If a council member serves on a state board of an organization which submits a statewide proposal, the council member may not vote on the proposal.

(c) If a council member serves on the board of a statewide organization which has an affiliated chapter submitting a proposal, the council member may vote on the individual chapter's proposal.

(d) If a council member serves on the board of a local organization submitting

a proposal the, council member may not vote on that proposal.

(e) council members may not be employed as consultants to any successful applicant, any affiliate of an applicant, or current contractor, have any financial interest in a funded program, nor have knowledge of any such financial interest held by a Council member's relatives within the second degree of consanguinity or affinity.

(f) The council is free to accept non-personal contributions of goods or services from potential applicants as well as any other interested parties; however, no commitments may be offered in exchange for gifts being made to the Children's Trust Fund of Texas, and council members will not accept any personal gifts.

§202.10. Renewal Funding.

(a) Renewal of a grant is not automatic. Grants may be renewed twice for a total contract period of three years at CTF's option, when authorized by the CTF Council, and when it is in the best interest of the CTF Council.

(b) Programs eligible for renewal funding must follow application procedures as provided by CTF.

§202.11. Appeals.

(a) There is no appeals process in either an original RFP or renewal funding. CTF will provide information on the evaluation of a proposal when requested in writing.

(b) All council decisions are final in response to each published Request for Proposal (RFP).

§202.12. Other Program Requirements. Specific guidelines for publications and publicity will be published in each RFP.

(1) A contractor may be required to place the following disclaimer on certain materials: "The views expressed herein are those of the author(s) and do not necessarily reflect the official position or policy of the Children's Trust Fund of Texas Council."

(2) Any planned publication must be described in the original response to the Request for Proposal or renewal application and a detailed distribution plan with supporting documentation and endorsements will be required.

(3) A work that is created with Council funds will be considered a specially commissioned work and "work for hire" as that term is defined in the United States Copyright Law, 17 United States Code §§101-810. As such, the council shall own

the copyright for all materials, published and unpublished, that are created with council funds. The council shall be a co-owner of the copyright of a work that is created with more than one source of funding as provided by the United States Copyright Law.

§202.13. Audits. Contractors are subject to an audit by a Certified Public Accountant at their own expense and must provide a copy of the audit to CTF. Contractors are expected to create and maintain adequate and auditable fiscal records. Annual financial statements, tax returns, and agency budgets may be required from all programs.

§202.14. Reporting Requirements. Programs receiving CTF funds must develop procedures for meeting legal requirements for reporting suspected child abuse or neglect. The Texas Family Code, Chapter 34 requires any person who suspects that a child has been abused or neglected to make an immediate oral report to either the Department of Human Services or to a law enforcement agency.

§202.15. Confidentiality of Records. Council members, CTF staff, or service providers may not disclose information that identifies clients served by CTF programs. Fiscal and statistical information that does not identify clients is not confidential.

§202.16. Funding Restrictions.

(a) To receive payment, contracting organizations must comply with the payment schedule and procedures as specified in the contract and submit all required forms and reports.

(b) CTF must be notified if a contractor anticipates or desires program income. Program income must relate to projects financed in whole or in part with CTF funds or implemented on behalf of the CTF prevention program.

§202.17. Amendment of Contracts. CTF staff is authorized to negotiate proposed contract amendments within the budget and general scope of work of the contract.

§202.18. Termination of Contracts.

(a) The council may terminate the contract prior to the expiration of the contract.

(b) The contract will be subject to automatic termination if the council's funds are reduced or upon mutual agreement of the contractor and council.

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 June 10, 1992.

TRD-9208131

Janet Morteros
Assistant Attorney General,
Office of the Attorney
General
Children's Trust Fund of
Texas

Earliest possible date of adoption: July 20, 1992

For further information, please call: (512) 458-1281



Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure and Texas Register Act, Article 6252-13a, Texas Civil Statutes, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

The State Board of Insurance, at a board meeting scheduled for 9 a.m., July 23, 1992, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, will consider a petition filed by the staff of the Texas Department of Insurance proposing amendments to Rule IX of Texas Manual of Rules, Classifications and Rates for Workers' Compensation and Employers Liability. In addition, if this rule change is adopted, then staff recommends the repeal of the current Rule IX, Section E. The amendment was proposed in a petition (Reference Number W-0692-31-1), filed with the Chief Clerk's Office on June 15, 1992.

The proposed rule change provides that an employee leasing firm wishing to secure workers' compensation insurance shall secure such insurance by purchasing a standard workers' compensation insurance policy and by submitting an Employee Leasing Form EL-1 or EL-1A and a separate Employee Leasing/Client Company Endorsement Form EL-2 for each client company with which it has an employee leasing arrangement. It provides that premiums and other

charges shall be calculated based on the payrolls, classifications, and the most recently issued experience modifier of the client company for a period of two years from the date of the employee leasing firm's experience rating date. At the end of the two-year period, premium for leased workers will be calculated based on the experience modifier of the employee leasing firm. If the client company is not experience rated then the leased workers of the client company will be calculated based on an experience modifier of 1.00. If an employee leasing arrangement exists as of the effective date of this rule, the experience modifier of the client company shall be used beginning 90 days after the effective date of this rule. The rule also provides that when the employee leasing arrangement ends and the client company either obtains insurance in its own name or adds its former leased workers to an existing policy, then the premium for that client company will be calculated using the higher of its current experience modifier or the experience modifier of the employee leasing firm. If the client company does not have a current or last known experience modifier at the time the employee leasing arrangement ends, premiums and other changes shall be calculated as if the client company were entering the market for the first time.

The Employee Leasing Form EL-1 and EL-1A which is made part of the rule must be provided to the insurer with all information requested before insurance is bound and shall be sworn to as true by the owner, partner, or officer authorized to bind the employee leasing firm. If an employee leasing arrangement exists of the effective date of this rule, then form EL-1A is required within 90 days.

The Employee Leasing/Client Company Endorsement Form EL-2 shall be submitted by the employee leasing firm for each client company with which the employee leasing firm has an employee leasing arrangement. This endorsement shall be sworn to as true and correct by the owner, partner, or officer

authorized to bind the client company. If an employee leasing arrangement exists as of the effective date of this rule, the employee leasing firm shall provide to the insurer within 90 days of the effective date of this rule, the endorsement for each client company with which the employee leasing firm has an employee leasing arrangement.

A copy of the petition containing the full text of the proposed amendment to the rule is available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the petition, please contact Tammie Waites at (512) 463-6527, refer to (Reference Number W-0692-31-1).

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedures and Texas Register Act.

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 June 15, 1992.

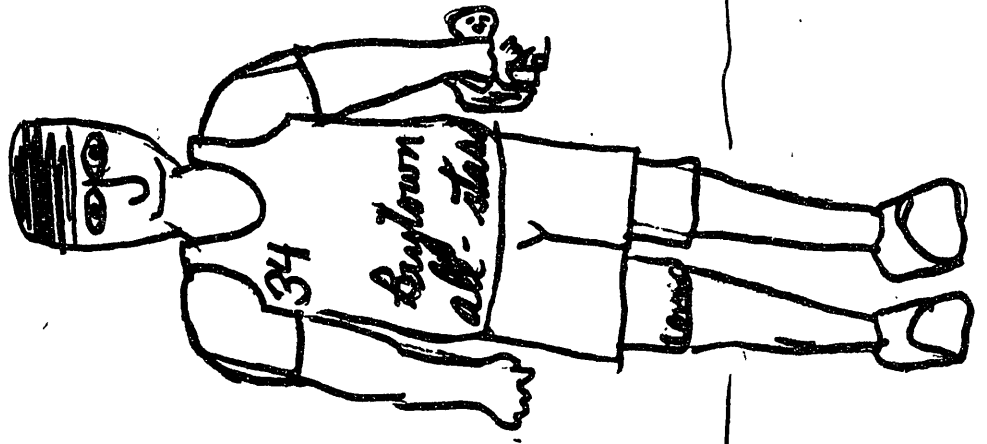
TRD-9208183

Linda K. von Quintus-Dom
Chief Clerk
Texas Department of
Insurance

For further information, please call: (512) 463-6327



VISITOR 0:09 HOME
58 57
BONUS.



Name: Roderick Thompson
Grade: 5
School: Alamo Elementary, Goose Creek CISD

Withdrawn Sections

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

TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologist

Chapter 465. Rules of Practice

• 22 TAC §465.29

The Texas State Board of Examiners of Psychologist has withdrawn from consideration for permanent adoption a proposed new §465.29 which appeared in the February 4, 1992, issue of the *Texas Register* (17 TexReg 925). The effective date of this withdrawal is July 1, 1992.

Issued in Austin, Texas, on June 10, 1992

TRD-9208009

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

Effective date: July 1, 1992

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

Part XXIX. Texas Board of Professional Land Surveying

Chapter 663. Standards of Responsibility and Rules of Conduct

Professional and Technical Standards

• 22 TAC §§663.13-663.19

The Texas Board of Professional Land Surveying has withdrawn from consideration for permanent adoption a proposed new §§663.13-663.19 which appeared in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7623). The effective date of this withdrawal is June 11, 1992.

Issued in Austin, Texas, on June 11, 1992

TRD-9208208

Sandy Smith
Executive Director
Texas Board of
Professional Land
Surveying

Effective date: June 11, 1992

For further information, please call: (512)
452-9427

TITLE 25. HEALTH SER- VICES

Part I. Texas Department of Mental Health and Mental Retardation

Chapter 402. Texas Department of Mental Health and Mental Retardation

Subchapter E. Determination Criteria for Preadmission Screening and Annual Resi- dent Review (PASARR) and Criteria for Alternate Place- ment

• 25 TAC §§402.151-402.153, 402.158-402.161

The Texas Department of Mental Health and Mental Retardation has withdrawn from consideration for permanent adoption proposed new and amended §§402.151-402.153, and 402.158-402.161 which appeared in the May 12, 1992, issue of the *Texas Register* (17 TexReg 3448). The effective date of this withdrawal is June 12, 1992.

Issued in Austin, Texas, on June 11, 1992.

TRD-9208053

Anne Hildebrand
Agency Liaison
Texas Department of
Mental Health and
Mental Retardation

Effective date: June 12, 1992

For further information, please call: (512)
465-4670

• 25 TAC §402.158, §402.159

The Texas Department of Mental Health and Mental Retardation has withdrawn from consideration for permanent adoption proposed repeal of §402.158, §402.159 which appeared in the May 12, 1992, issue of the *Texas Register* (17 TexReg 3450). The effective date of this withdrawal is June 12, 1992.

Issued in Austin, Texas, on June 11, 1992.

TRD-9208052

Harry Deckard
Attorney
Texas Department of
Mental Health and
Mental Retardation

Effective date: June 12, 1992

For further information, please call: (512)
465-4670

TITLE 34. PUBLIC FI- NANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

• 34 TAC §3.298

The Comptroller of Public Accounts has withdrawn from consideration for permanent adoption a proposed amendment to §3.298 which appeared in the January 2, 1992, issue of the *Texas Register* (17 TexReg 153). The effective date of this withdrawal is June 12, 1992.

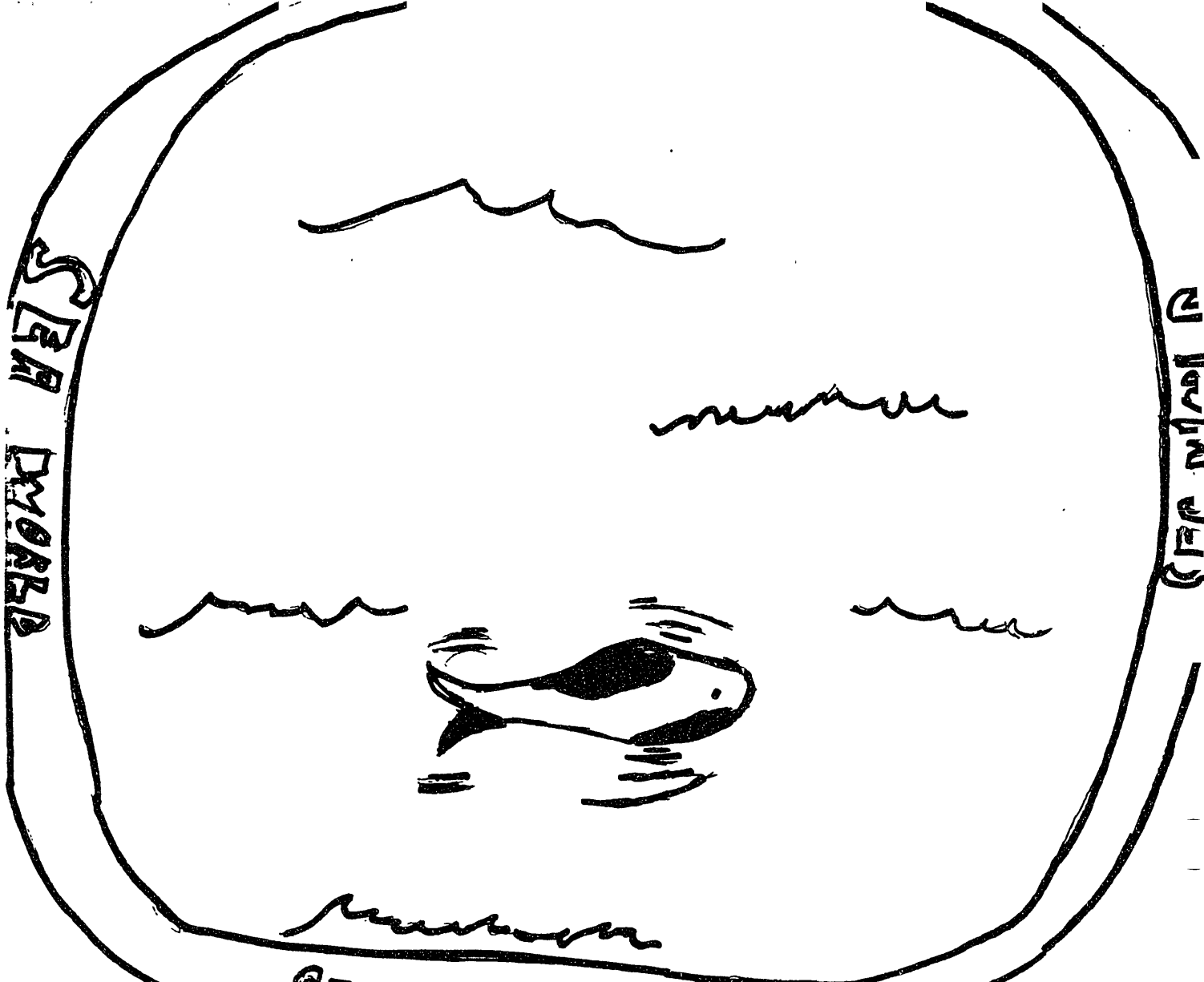
Issued in Austin, Texas, on June 12, 1992.

TRD-9208154

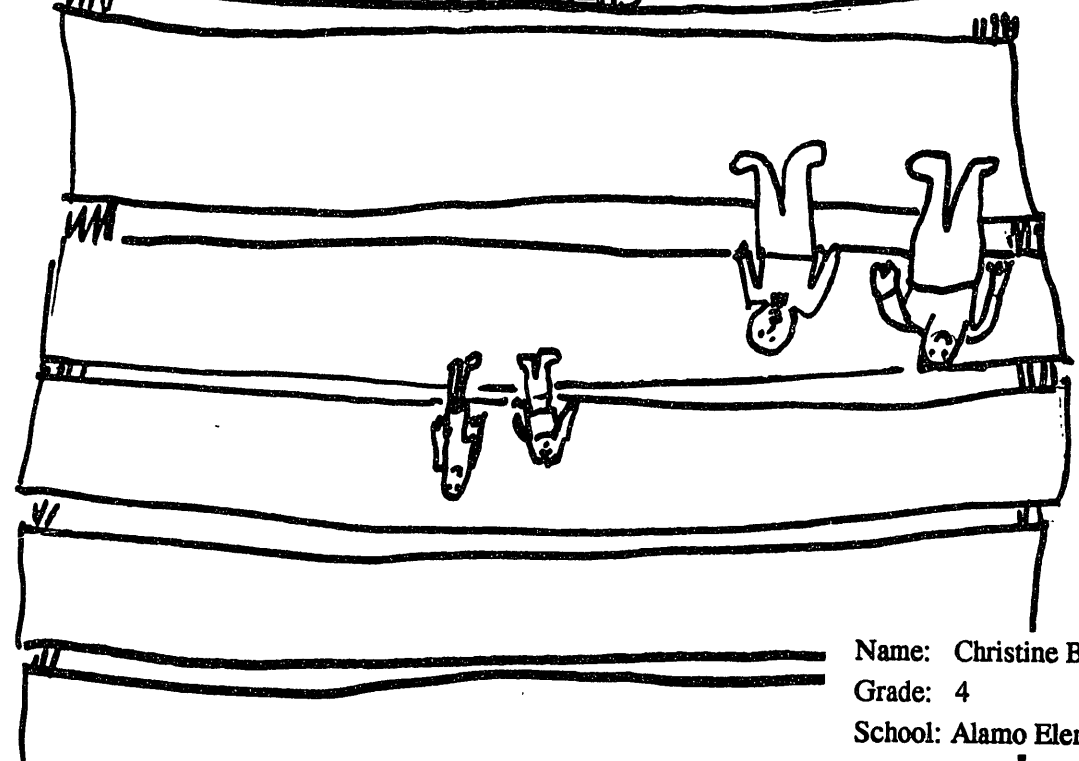
Anne Hildebrand
Agency Liaison
Comptroller of Public
Accounts

Effective date: June 12, 1992

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



SEA WORLD



Name: Christine Brady
Grade: 4
School: Alamo Elementary, Goose Creek CIS

Adopted Sections

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

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

TITLE 1. ADMINISTRATION

Part II. Texas Ethics Commission

Chapter 8. Legislative Per Diem

• 1 TAC §8.1

The Texas Ethics Commission adopts new §8.1, previously proposed as §15.1. This section is adopted with changes to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 370). The change was not substantive; however, the section number has been renumbered.

This section set forth the legislative per diem for members of the legislature and the lieutenant governor for each legislative day. The change in the section number is due to an inadvertent filing of other sections under section numbers previously assigned to the Governor's Office.

This section provides the rate of per diem receivable by legislators and the lieutenant governor.

No comments were received regarding adoption of the new section.

The new section is adopted in compliance with the Texas Constitution, Article III, §24, and Article III, §17, which provides the Texas Ethics Commission with the authority to set the per diem for members of the legislature and the lieutenant governor.

§8.1. Legislative Per Diem. Under the Texas Constitution, Article III, §24a, the Texas Ethics Commission sets the per diem of members of the legislature and the lieutenant governor under the Texas Constitution Article III, §24, and Article IV, §17, at the amount allowed as of January 1 of this calendar year of federal income tax purposes as a deduction for living expenses incurred in a legislative day by a state legislator in connection with the legislator's business as a legislator, disregarding any exception in federal law for legislators residing near the Capitol.

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 June 4, 1992.

TRD-9208083

Jlm Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: July 2, 1992

Proposal publication date: January 17, 1992

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

Chapter 20. Campaign Financing

Subchapter A. Contribution and Expenditure Reports Penalty for Late Filing

• 1 TAC §20.1

The Texas Ethics Commission adopts new §20.1, previously proposed as §5.1. This section is adopted with changes to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 369). No substantive changes were made. The section number has been renumbered.

This section sets forth the civil penalty for failure to timely file a sworn report of contributions and expenditures by a candidate/officeholder as required by the Election Code, Title 15. The section was renumbered to correct an inadvertent filing of the section under a section number previously assigned to the Governor's Office.

This section will provide notice to the public of the civil penalty, \$100, which will be imposed by the commission for the late filing of a contribution and expenditure report.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes Article, 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning the administration of the Election Code, §254.042(b).

§20.1. Penalty for Late Filing of Contribution and Expenditure Reports. The civil penalty for failure to timely file a contribution and expenditure report is \$100.

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 June 4, 1992.

TRD-9208082

Jlm Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: July 2, 1992

Proposal publication date: January 17, 1992

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

Chapter 30. Personal Financial Disclosure

Subchapter A. Disclosure Statements

Penalty for Late Filing

• 1 TAC §30.1

The Texas Ethics Commission adopts new §30.1, previously proposed as §7.1. This section is adopted with changes to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 369). The heading was changed from "§7.1. Penalty for Late Filing of Contribution and Expenditure Reports" to "§30.1. Penalty for Late Filing of Personal Financial Statement." The section number has been renumbered.

This section set forth the civil penalty for failure to timely file a personal financial statement with the Texas Ethics Commission for those state officers and employees required to file by Texas Civil Statutes, Article 6252-9b. The change in the section number is due to an inadvertent filing of other sections affecting this section under section numbers previously assigned to the Governor's Office. The change in the heading was made to conform with the following text and as scrivener's correction.

This section will provide notice to the public of the civil penalty, \$100, which will be imposed by the commission for the late filing of a personal financial statement.

No comments were received regarding adoption of the new section.

The new sections are adopted under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning the administration of the Article 6252-9b.

§30.1. Penalty for Late Filing of Personal Financial Statement. The civil penalty for failure to timely file a personal financial statement is \$100.

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 June 4, 1992.

TRD-9208081

Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: July 2, 1992

Proposal publication date: January 17, 1992

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

Chapter 40. Registration and Regulation of Lobbyists

- 1 TAC §§40.1, 40.3, 40.5, 40.7, 40.9, 40.11, 40.13, 40.15, 40.17, 40.19, 40.21, 40.23, 40.25, 40.27, 40.29, 40.31, 40.33

The Texas Ethics Commission adopts new §§40.1, 40.3, 40.5, 40.7, 40.9, 40.11, 40.13, 40.15, 40.17, 40.19, 40.21, 40.23, 40.25, 40.27, 40.29, 40.31, and 40.33 previously proposed as sections 10.1, 10.3, 10.5, 10.7, 10.9, 10.11, 10.13, 10.15, 10.17, 10.19, 10.21, 10.23, 10.25, 10.27, 10.29, 10.31, and 10.33, respectively. These sections are adopted with changes to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 369). The changes were not substantive; however, the section numbers have been renumbered.

These sections set forth the guidelines, requirements, exceptions, penalties, and registration fees concerning lobbyists who are required to file disclosure reports as mandated by the Texas Government Code, Chapter 305. The change in section numbers is due to an inadvertent filing of other sections under section numbers previously assigned to the Governor's Office.

These sections will provide the public and the commission with guidelines and a framework within which those persons required to register with the commission will operate, particularly in helping to define who must register and who does not.

Comments were received. The comments supported the rules as a whole, but suggested certain changes. The suggested changes were as follows: raise the compensation threshold amount from \$200 to \$2,000 in §40.1 and §40.3(a)(2); delete the preparation time from the compensation threshold for oral communication in §40.3(b); remove preparation time from the compensation threshold altogether in §40.3(b); add statutory cite "the Government Code, §305.003(b)" to the cite in §40.3(c); raise the 5.0% threshold to 10% in §40.3(d); add other parties representing any party to the exclusion under §40.5(a); add more examples to §40.5(c) and §40.7(a)(1); exclude additional types of communication that is part of the public record by amending §40.7(a)(4); redefine "special or extra compensation" as it applies to §40.7(a)(4); broaden the definition of the term "laws" as stated in §40.7(a)(10); include as an exception under a new section number the activities of engineers registered with the Texas State Board of Registration for Professional Engineers; delete §40.9(b); ex-

clude strategy sessions, analyzing actions, research, or advising clients when computing the compensation threshold pursuant to §40.11(a); allow a registrant to list prospective income when filing under the modified reporting method §40.11(a).

Comments were received from the Travis County Bar Association, Administrative Law Texas Ethics Commission Section; Air & Waste Management Association; Exxon Company, U.S.A.; Pilko & Associates, Inc; Waid & Associates; and the Texas Agricultural Cooperative Council. All comments supported the rules, but suggested changes as indicated previously.

The agency has taken the changes into account and is proposing amended §40.5 and §40.7 to embody most of the changes. The commission feels that the \$200 compensation threshold and the 5.0% "incidental contact" rules adequately and more accurately reflect the zones when certain activities become lobby activities. Preparatory time for written or oral direct communications to influence legislation or administrative action is not separable from the communication itself and cannot be excluded from the computation of threshold compensation. Additional examples will be added to the new proposed sections. The commission cannot exclude certain named classes of people from the mandates of the statutes due to equal protection problems.

The new sections are adopted under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt rules concerning the administration of the Texas Government Code, Chapter 305.

§40.1. Application of the Expenditure Threshold. A person who is not an officer or employee of a political subdivision or of a governmental entity created under the Texas Constitution or laws of this state must register with the commission as a lobbyist if the person makes total expenditures of more than \$200 in a calendar quarter on the activities described by the Government Code, §305.006(b), excluding expenditures on the person's own travel, food, lodging, or membership dues expenses.

§40.3. Application of the Compensation Threshold.

(a) A person who does not make the requisite type and amount of expenditures must nevertheless register as a lobbyist if the person:

(1) is not a member of the state judicial, legislative, or executive branch or an officer or employee of a political subdivision of the state; and

(2) communicates directly with a member of the Texas legislative or executive branch to influence legislation or administrative action and receives compensation or reimbursement of more than \$200 in a calendar quarter, but not including the

person's own travel, food, or lodging expenses or the person's own membership dues, to make such direct communication.

(b) To trigger the application of the registration threshold of the Government Code, §305.003(a)(2), a person must have communicated directly with a member of the legislative or executive branch to influence legislation or executive action. However, to determine the amount of compensation received for purposes of the Government Code, §305.003(a)(2), the amount of compensation received for the direct communication includes additionally any amounts received to prepare for the communication.

(c) For purposes of the Government Code, §305.003(a)(2), and these rules, a person is not required to register if direct communication to influence legislation or administrative action constitutes only an incidental portion of the activities and duties for which the person receives compensation.

(d) Direct communication constitutes an incidental portion of one's activities and duties if no more than 5.0% of one's compensated time during a calendar quarter constitutes time spent in direct communication and in preparing for such communication.

(e) In determining the amount of compensation or reimbursement received for purposes of the registration threshold of the Government Code, §305.003(a)(2), and this section, a person who receives compensation or reimbursement, both for direct communication with a member of the Texas legislative or executive branch to influence legislation or executive action, and for other activities, may allocate on a reasonable basis his or her compensation and reimbursement to determine the amount subject to Chapter 305.

§40.5. Exclusions from Administrative Action Lobbying.

(a) For purposes of the compensation threshold of the Government Code, §305.003(a)(2), direct communication to influence administrative action does not include testimony or appearance in a public hearing or other communication made by the party, or a party's representative of record, in a proceeding of an adjudicative nature of the type authorized by or subject to the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a) (APTRA). Examples of these exclusions include appearances and communications by a representative of record in a contested case where the appearance is documented as part of the public record for that particular contested case, whether or not the proceeding is subject to APTRA.

(b) A person required to register by the Insurance Code, Article 1.06D, must register notwithstanding this section.

(c) For purposes of the Government Code, Chapter 305, administrative action does not include actions which only affect the internal operations of the agency itself, such as the purchasing decisions of the state agency.

§40.7. Activities that Do Not Require Registration.

(a) For the purpose of the Government Code, §305.003(a)(2), the following direct communications do not constitute activities to influence legislation or administrative action and are not required to be reported on registration forms or activity reports:

(1) the mere preparation and submission of an application or other written document providing information required by law, including statute, rule, regulation, order, or subpoena;

(2) direct communication solely for the purpose of obtaining information if no attempt is made to influence the action of a member of the legislative or executive branch—examples include an inquiry as to when a particular matter has been set for hearing or the location of the hearing or as to what is an agency's official interpretation of a statutory provision;

(3) providing merely clerical assistance in producing direct communication to influence legislation or administrative action, such as typing or hand-delivering a letter or other document;

(4) appearing, submitting public written comments, or testifying at a hearing before a member of the legislative or executive branch in conjunction with official proceedings or rulemaking procedures if the person does not receive special or extra compensation for the preparation, appearance, submission, or testimony other than actual expenses incurred for the preparation, appearance, submission, or testimony;

(5) direct communication to the legal representative of a state agency whether concerning litigation in which the agency is a party or concerning adjudicative proceedings of the agency;

(6) direct communication to the appointing authority made by a person in his or her capacity as a member of an advisory committee or task force appointed by a member or an entity of the legislative or executive branch;

(7) the activities listed in the Government Code, §305.004 and §305.003(c), whether or not such activities constitute the sole activities of the person to influence legislation or administrative action;

(8) direct communication for the purpose of compliance with existing laws, administrative rules, policies, and procedures, when there is no attempt to change or seek exceptions to such rules, policies, or procedures;

(9) direct communication in connection with an audit, inspection, or government investigation to determine compliance with existing laws, regulations, and policies;

(10) direct communication involving a request to a person who is a member of the executive branch for a written opinion interpreting the law administered by the agency or office of which that person is a member; and

(11) direct communication to provide information in response to a specific request for the information from a member of the legislative or executive branch that are unsolicited or otherwise not a subterfuge from compliance with the requirements of these laws.

(b) A person whose only activities to influence legislation or administrative action is one or more of the activities excepted from the lobbyist registration requirement by the Government Code, §305.004 and §305.003(c), or by rules of this commission is not required to register with the commission as a lobbyist.

§40.9. Persons Who Assist the Registrant.

(a) For purposes of the Government Code, §305.005(f)(5), persons employed or retained by the registrant to assist in direct communication with a member of the legislative or executive branch include other registrants and persons who provide administrative or research assistance to the registrant, but not persons whose assistance is clerical in nature.

(b) A person employed by the same employer as the registrant and who assists the registrant in lobby activities at the direction of the registrant is employed or retained by the registrant for purposes of the Government Code, §305.005(f)(5). A client of a business entity is not an employer for the purposes of this subsection.

§40.11. Identifying the Amount of Compensation.

(a) The amount of compensation or reimbursement that must be reported on the registration or registration renewal is the amount received by the registrant for lobby activities during the calendar year for which the registration or registration renewal is effective. If a registrant terminates a registration during the calendar year or allows a registration to expire without filing a registration renewal, the registrant must file a

termination notice. The termination notice must report the amount of compensation or reimbursement received by the registrant during the calendar year for which the terminated or expired registration was effective. The term "lobby activities" means direct communication with one or more members of the Texas legislative or executive branch to influence legislation or administrative action, and activities in preparing for such direct communication. Examples of such activities include holding strategy sessions, reviewing and analyzing legislative or executive actions, conducting research, and advising the client on these matters.

(b) A registrant who receives compensation or reimbursement from a person for more than the purposes described in subsection (a) of this section may reasonably determine the amount of this compensation attributable to these purposes and report only that amount.

(c) Except as provided in subsection (e) of this section, if the amount of compensation or reimbursement that must be reported on the registration or registration renewal changes, the registrant must file an amended registration schedule to reflect the change, in accordance with the Government Code, §305.005(k), not later than the deadline for filing the next monthly activity report under the Government Code, §305.007.

(d) The members of an organization or association (whether or not it is incorporated) are not clients of the organization or association under the Government Code, §305.005(j). The shareholders of a for-profit corporation are not clients of the corporation under the Government Code, §305.005(j).

(e) The registrant is not required to report changes in the amount of reimbursement received for office expenses and lobby expenditures if those expenditures or reimbursements have been reported on a previous activity report or are reported on the next activity report the registrant is required to file.

§40.13. Disclosing the Lobbyist Employer.

(a) An individual registrant who is reimbursed, retained, or employed by a corporation, association, firm, partnership, committee, club, organization, or group of persons who are voluntarily acting in concert (hereinafter referred to as entity) that is itself engaged in the representation of clients for lobby purposes must provide on the registration or registration renewal the full name and complete address and amount of compensation received for lobby activities from that entity; the full name and complete address of each client of the entity for whom the registrant lobbies; and the

amount of compensation received by the entity from the entity's clients for the lobby activities of the registrant and of assistants when acting at the registrant's direction. Provided, however, if the entity registers and discloses the information required by this subsection, the individual registrant is excepted from the requirements of this subsection.

(b) In identifying the normal business of the registrant on the prescribed registration form, the registrant must provide the full name and complete address of the entity.

(c) An entity that receives compensation to influence legislation or administrative action on behalf of a client and whose only expenditure to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action is the compensation or reimbursement of one or more individual registrants may register as a lobbyist. Such an entity must disclose on its registration form the full name, complete address, and the amount of compensation received by the entity from each of its clients for lobby activities.

§40.15. Lobby Registration Fee.

(a) The lobby registration fee or renewal fee is \$300 per calendar year, except as provided by subsection (b) of this section.

(b) The lobby registration fee or registration renewal fee for a registrant who is retained, employed, or reimbursed for lobby activities exclusively by one or more organizations exempt from federal income tax under Internal Revenue Code, §501(c)(3) or 501(c)(4), is \$100 per calendar year. A registrant whose clients include a non-exempt entity is subject to the \$300 fee.

(c) A registration or registration renewal submitted without the proper fee will not be accepted. A registration or registration renewal submitted without the proper fee does not constitute a filing of a registration or registration renewal as provided by the Act. The submission of an amended registration does not require a fee.

(d) The fee should be paid by check or money order made payable to the Texas Ethics Commission.

§40.17. Lobby Forms. The Texas Ethics Commission adopts the Lobbyist Registration and Registration Renewal Form prescribed by the commission in January 1992. This form is published by and available from the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070.

§40.19. Identifying Subject Matters.

(a) On the registration form, registration renewal form, and activity report, in identifying the subject matter(s) of the direct communication made by the registrant or a person employed or retained by the registrant, the registrant must also provide the actual bill number, docket number, or other official designation of the matter if the registrant knows that information.

(b) A registrant is not required to file an amended registration form to indicate a change in the subject matter or administrative designation of legislation or administrative action if the registrant reflects that change in relation to the particular clients on the next monthly activity report that is due under the Government Code, §305.007.

§40.21. Adding or Deleting Clients. If there is a change in the list of persons for whom the registrant lobbies, the registrant must file an amended registration schedule to reflect this change no later than the date the next monthly activity report is due under the Government Code, §305.007.

§40.23. Identifying Persons Who Make Grants or Contributions. A political contribution as defined by the Election Code, §251.001, and reported as required by law is not a grant or contribution under the Government Code, §305.005(h)(4).

§40.25. Detailed Reporting.

(a) In itemizing expenditures of more than \$50 a day for transportation or lodging:

(1) identification of the place of transportation must include the name of the carrier and identification of the departure and arrival city or cities;

(2) identification of the place of lodging must include the name and complete street address of the hotel or other lodging and identification of the city in which such lodging is located;

(3) the date of the transportation or lodging is the date or dates in which the member used such transportation or lodging; and

(4) identification of the purpose of the transportation or lodging must include the name of the conference, seminar, or other events, if applicable.

(b) In itemizing expenditures of more than \$50 a day for food and beverages:

(1) identification of the place of the expenditures must include the name and complete street address of the vendor pro-

viding the food and beverages, such as the restaurant or the catering service, and the location where the food and beverages are consumed, if different; and

(2) the date of the expenditure is the date on which the food and beverages are consumed.

(c) In itemizing expenditures of more than \$50 a day for entertainment:

(1) identification of the place of the expenditure must include the name and complete street address of the entertainment hall, arena, or similar location and identification of the city in which such entertainment occurred; and

(2) the date of the expenditure is the date on which the entertainment occurred.

§40.27. Exclusion from the Definition of "Transportation." For purposes of the Government Code, Chapter 305, transportation does not include transportation of incidental value, such as a ride of short duration by personal car or taxi-cab.

§40.29. Civil Late Penalty. The civil penalty for failure to file timely a required registration or report is \$100.

§40.31. Legislative Advertising. Political advertising as defined by the Election Code, §251.001(16), does not constitute legislative advertising under the Government Code, §305.027.

§40.33. Conflicts of Interest; Waiver; Withdrawal From Representation. A registrant who resolves a conflict among clients, or withdraws from representation of one or more of the clients whose interests conflict, on the third business day or sooner after the day the registrant became aware of the conflict has not violated the Code of Conduct of the Government Code, §305.0011.

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 June 4, 1992.

TRD-9208078

Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: July 2, 1992

Proposal publication date: January 17, 1992

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

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**TITLE 7. BANKING AND
SECURITIES**

**Part V. Office of
Consumer Credit
Commissioner**

**Chapter 1. Consumer Credit
Commission**

**Subchapter B. Miscellaneous
Notice in Written Contracts
• 7 TAC §1.302**

The Finance Commission of Texas adopts an amendment to §1.302, concerning notice in written contracts, without change to the proposed text as published in the April 28, 1992, issue of the *Texas Register* (17 TexReg 3044).

Adoption of the amendment is necessary in order to notify consumers of a new toll-free telephone number of the Office of Consumer Credit Commissioner as well as the telephone number of the seller or creditor with whom the consumer contracted.

One comment was received regarding the adoption of the amended section from an attorney representing Bank One, Texas N.A. The comment was neither for or against the amendment, but suggested clarification as to the name of the person to be inserted as the seller or creditor as well as the appropriate telephone number. The commenter reasoned that there might be confusion as to whether the name of the individual should be the seller or a potential subsequent assignee of the seller.

Having considered the comment the Finance Commission is of the opinion that the consumer would be better served by preserving the language in the proposal. The rule being amended has been effective since July of 1987 and has been met with acceptance by both the industry and consumers. The intent of this change is to provide notice to the consumer of how he or she can contact the party to whom they are indebted under the contract or agreement. The Finance Commission has attempted to be flexible in the notice requirements to permit interested parties to design the most effective and useful notice. Obviously if a seller retains and services all of the seller's credit transactions, then the seller's name and telephone number should appear in the notice. If a seller routinely assigns all of its credit transactions to a particular person who subsequently services the accounts, then it would be desirable to place the name and telephone number of the assignee in the notice. All interested parties should strive to place the name and telephone number in the notice that would be most useful to the consumer in the future.

The amended section is adopted under Texas Civil Statutes, Article 342-114a which provides the Finance Commission with authorization to adopt rules necessary for ensuring compliance with Texas Civil Statutes, Article 5089-1.01 et seq.

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 June 12, 1992.

TRD-9208173 Al Endsley
Consumer of Credit
Commissioner

Effective date: June 6, 1992

Proposal publication date: April 28, 1992

For further information, please call: (512)
479-1280

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**Part I. State Finance
Commission**

Chapter 4. Currency Exchange

Subchapter A. General

• 7 TAC §4.07

The State Finance Commission adopts new §4.07, concerning currency exchange, with changes to the proposed text as published in the April 21, 1992, issue of the *Texas Register* (17 TexReg 2841).

The Currency Exchange Act requires licensees to post a bond in an amount set by the commissioner. In order to provide guidance and advance notice to licensees and potential licensees, this rule sets out a framework for calculating the bond amount. The rule would allow a prospective licensee to know, in advance, with some degree of certainty, what bond would be required. It also promotes uniformity of treatment.

This rule also allows a licensee to deposit cash or approved securities in lieu of posting a bond. The purpose of this provision is to lessen the financial burden on licensees and to provide a bonding alternative for those who do not wish to go through the mechanics of obtaining and renewing a bond each year. Licensees would save the bond premium by choosing this option. The rule is changed to reflect a comment from the Texas Treasury Safekeeping Trust Company.

The required bond amount for a licensee conducting a currency transmission business is based on a percentage of the licensee's dollar volume of transmission business. Licensees conducting only a currency exchange business are required to post the minimum bond of \$25,000. The rule, in most cases, will allow the licensee to calculate its required bond without action by the Department of Banking.

A deposit in lieu of bond will require the prior consent of the commissioner. Such deposits will be held in safekeeping by the Texas Treasury Safekeeping Trust Company.

One comment was received from the Texas Treasury Safekeeping Trust Company regarding the deposit in lieu of bond. They asked that the rule make clear that the deposit in lieu of bond is made with the commissioner and not with the Texas Treasury Safekeeping Trust Company. The rule has been revised to reflect that fact and that the commissioner will enter into an agreement with the Texas Treasury Safekeeping Trust

Company regarding the safekeeping arrangements.

The names of a group or association making comments for the section was the Texas Treasury Safekeeping Trust Company. The new section is proposed under Texas Civil Statutes, Article 350, §7, which empower the Finance Commission of Texas to promulgate general rules necessary to implement the provisions of the Act.

§4.07. Bond Requirements; Deposit in Lieu of Bond.

(a) Currency exchange. Licensees engaged exclusively in the business of currency exchange shall post a bond of \$25,000.

(b) Currency transmission. Licensees engaged in currency transmission or both currency exchange and transmission activities shall post a bond equal to the greater of \$50,000 or 1.0% of their total yearly dollar volume of currency transmission business (rounded to the nearest thousand dollars), but in no event will the bond be more than \$1 million.

(c) Multiple offices. One bond may be used to cover multiple licenses held by or multiple offices owned by one person. The required bond amount, however, may be increased by the commissioner in increments of up to \$10,000 for each additional license held or location owned by the licensee.

(d) Exception. Notwithstanding the foregoing, the commissioner may require a bond in excess of the amount set forth previously if, in the opinion of the commissioner, unusual circumstances exist, which give rise to an increased risk to the general public or an increased level of regulatory concern.

(e) Review. The commissioner shall review the bond amount each year when the licensee's license is renewed. The bond amount will be set based on volume of business in the previous four calendar quarters. The commissioner may review and reset the bond amount at any time if there is a change in the manner in which the licensee conducts business or a change in the ownership or management structure of licensee's business, including any change in principal.

(f) Deposit in lieu of bond.

(1) A licensee, with the prior permission of the commissioner, may deposit cash (in United States currency) or cash equivalent instruments or securities with the commissioner, in an amount greater than or equal to the amount of the required bond, in a restricted account or under a safekeeping arrangement with the Texas Safekeeping Trust Company in lieu of the bond required under the Act, §10.

The commissioner shall enter into an agreement with the Texas Treasury Safekeeping Trust Company to provide safekeeping of cash equivalent instruments or securities deposited with the commissioner under this section. The value of any cash equivalent instruments or securities shall be determined by using the lower of the principal amount or market value thereof.

(2) The term "cash equivalent instruments or securities" as used in this subsection shall include the following:

(A) certificates of deposit in United States dollars issued by a financial institution located in this or any other state and fully insured by the Federal Deposit Insurance Corporation;

(B) direct obligations of the United States Government; and

(C) other securities or investments approved by the commissioner.

(3) Securities deposited in lieu of posting a bond shall be held to secure the same obligations as would the surety bond, but the licensee depositor shall be entitled to receive all interest and dividends thereon. The licensee, with the prior approval of the commissioner, shall have the right to substitute other securities for those deposited, and shall be required to do so upon written order of the commissioner for good cause.

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 June 10, 1992.

TRD-9208071 Brian R. Herrick
Assistant General Counsel
Department of Banking

Effective date: July 2, 1992

Proposal publication date: April 21, 1992

For further information, please call: (512) 475-1300

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• 7 TAC §4.08

The State Finance Commission adopts new §4.08, concerning currency exchange, without changes to the proposed text as published in the April 21, 1992, issue of the *Texas Register* (17 TexReg 2841).

The Currency Exchange Act, §9(e), requires that a rule be adopted governing the custody of criminal history information in the department's possession with respect to applicants and their principals.

The proposed rule restricts access to this information to those individuals employed by the department and the attorney general to work on Currency Exchange Act regulatory and enforcement activities. The rule also lim-

its the use of such information to the legitimate needs of the department in carrying out its administrative duties under the Act.

No comments were received regarding adoption of the new section.

The new section is proposed under Texas Civil Statutes, Article 350, §7, and §9, which empower the Finance Commission of Texas to promulgate general rules necessary to implement the provisions of the Act.

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 June 10, 1992.

TRD-9208072 Brian R. Herrick
Assistant General Counsel
Department of Banking

Effective date: July 2, 1992

Proposal publication date: April 21, 1992

For further information, please call: (512) 475-1300

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TITLE 16. ECONOMIC
REGULATION

Part IV. Texas Department
of Licensing and
Regulation

Chapter 64. Employers of
Certain Temporary Common
Workers

• 16 TAC §64.70

The Texas Department of Licensing and Regulation adopts an amendment to §64.70 concerning rights and duties of a license holder, without changes to the proposed text as published in the May 8, 1992, issue of the *Texas Register* (17 TexReg 3332).

The amendment necessary to address the department's authority to enter business premises as a part of an inspection or investigation while also protecting the license holder's right to confidentiality.

The amendment requires that all information collected remain privileged and confidential for exclusive use of the department for the administration of the Act.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 5221a-10, which provide the Texas Department of Licensing and Regulation with the authority to promulgate rules necessary to regulate the Employers of Certain Temporary Common Workers Act.

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 June 11, 1992.

TRD-9208128 Jack W. Garrison
Acting Executive Director
Texas Department of
Licensing and
Regulation

Effective date: July 3, 1992

Proposal publication date: May 8, 1992

For further information, please call: (512) 463-3127

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TITLE 22. EXAMINING
BOARD

Part XXIX. Texas Board
of Professional Land
Surveying

Chapter 661. General Rules of
Procedures and Practices

Applications, Examinations,
and Licensing

• 22 TAC §661.41

The Texas Board of Professional Land Surveying adopts an amendment to §661.41, concerning applications, without changes to the proposed text as published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7623).

Section 661.41 clearly defines what a person must do to file an application.

Changes made to this section will change the deadline date for filing applications from June 30 to July 15 and from December 1 to January 15.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 5282c, which provide the Texas Board of Professional Land Surveying with the authority to make and enforce all reasonable and necessary rules, regulations, and bylaws not inconsistent with the Texas Constitution, the laws of this state and this Act.

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 June 10, 1992.

TRD-9208056 Sandy Smith
Executive Director
Texas Board of
Professional Land
Surveying

Effective date: July 2, 1992

Proposal publication date: December 24, 1992

For further information, please call: (512) 452-9427

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TITLE 28. INSURANCE
Part I. Texas Department
of Insurance

Chapter 7. Corporate and
Financial Regulation

Subchapter A. Examination
and Corporate Custodian and
Tax

• **28 TAC §7.83**

The State Board of Insurance of the Texas Department of Insurance adopts new §7.83, concerning the filing and adoption of examination reports of insurers, with changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1899).

The new section is necessary to implement the Insurance Code, Article 1.15, § 6 (enacted by House Bill 2, §11.104, 72nd Texas Legislature, 1991), which directs the board to adopt procedures for the filing and adoption of examination reports of insurers. Additionally, the new section will make adopted examination reports and examination reports made after December 30, 1990, open records under Texas Civil Statutes, Article 6252-17a, §3(c). The board believes the reports should be available to the public so persons will have the opportunity to be informed of the financial condition and market conduct of insurers authorized to do business in Texas.

The new section provides a procedure for the filing of examination reports and opportunities for the examined insurer to seek changes in its examination report. After a report is adopted by the associate commissioner, an insurer has the right to appeal the adoption to the commissioner, if the insurer believes the report to be factually wrong. If an insurer does not appeal the adoption, the adopted report shall become available to the public. If an insurer appeals the adoption, the adopted report will remain confidential under Texas Civil Statutes, Article 6252-17a, §3(a)(12), until the appeal is completed.

Seven parties submitted comments regarding the rule. A public hearing was requested under Texas Civil Statutes, Article 6252-13a, §5(c), and was held on May 5, 1992.

One commenter suggested the definition of examination report was vague and could be construed to include the examiner's work papers related to the examination report. The agency's intent is to make only the examination report available to the public and clarifies this by amending subsection (a)(4), (7), and (8).

Five commenters expressed concern that an insurer would not have a copy of the examination report to prepare for the exit interview and/or any management conferences following the exit interview. The agency responds by amending subsection (c)(1) to provide for the insurer to receive and retain a copy of the examination report prior to the exit interview.

One commenter suggested the rule contain an explanation of the purpose of the exit interview. The agency disagrees with the comment because such interviews are commonly used in many areas which involve a review of activities or transactions. Therefore, the agency believes the purpose of the interview is self explanatory.

Three commenters suggested the time frames for requesting a management conference, the certification of the report as final, and the filing of a written rebuttal to the final report, be amended to generally allow for a longer period of time. One commenter suggested, for example, that days be construed to mean business days. In response, the agency amends subsection (e) (1) to provide that an insurer has 15 days from the insurer's receipt of the report to file a written rebuttal. Otherwise, the agency disagrees with the comments. The agency finds the time frames, measured in calendar days, to be adequate and believes that they provide for the prompt resolution of issues before the report is made available to the public.

Three commenters expressed concern over the absence of an appeal to the commissioner from the associate commissioner's adoption of a final examination report. The agency responds by adding the following provision to subsection (e) (1): "A report will not be considered an adopted report during the pendency of any appeal to the commissioner or other appeal under Insurance Code, Article 1.04. Any appeal to the commissioner must be filed with the commissioner within 15 days from the company's receipt of the associate commissioner's decision."

Two commenters recommended an insurer have the right to submit its comments on the report and have them attached to the report. The agency disagrees with the specific recommendation, but amends subsection (c)(1) to provide for the examiner-in-charge to include in the report, a disclosure of the company's dissenting views.

One commenter suggested the rule be amended so as to require the report's inclusion of a new section styled "Alleged Violations." The agency disagrees because the comment is not germane and the suggested information would be redundant.

One commenter suggested market conduct examination reports be deleted from the rule because they are more subjective than financial examination reports and they are not included in the National Association of Insurance Commissioners' Model Law on Examination Reports. The agency rejects the suggestion because market conduct examinations are conducted under the Insurance Code, Article 1.15, and information about an insurer's market conduct should be available to the public.

Two commenters suggested that subsection (e)(2) be deleted since the commissioner's authority to act on a report at any time is clear.

Another commenter suggested the rule add emphasis on the need for the commissioner to use discretion when acting on reports before they become public. The agency rejects

the comment because the paragraph restates the law found in the Insurance Code, Article 1.15, and its inclusion in the rule is to prevent a construction which would limit the commissioner's authority to act due to the existence of the rule.

Five commenters objected to making examination reports public records. The agency disagrees with these comments. The agency believes the public will benefit from having this information available. The rule is retroactive to December 31, 1990, because internal examination procedures in effect since that time have remained similar to those contemplated by this rule. The agency also notes that examination reports prepared by the agency are already public for insurers that do business in states where reports are considered public information. The authority to make reports public exists in the Insurance Code, Article 1.10, §6, and the Open Records Act (Texas Civil Statutes, Article 6252-17a, §3(c)).

For: Office of Public Insurance Counsel;
Against: Texas Legal Reserve Officials Association, Association of Fire and Casualty Companies in Texas, and Alliance of American Insurers.

The new section is adopted under the Insurance Code, Article 1.15, which authorizes the State Board of Insurance to adopt procedures for the filing and adoption of examination reports.

§7.83. Examination Reports.

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

(1) Commissioner-Commissioner of insurance, Texas Department of Insurance.

(2) Associate commissioner-The associate commissioner, Financial Program of the Texas Department of Insurance or any successor named by the commissioner.

(3) Company-An insurer, group hospital service plan, or health maintenance organization authorized to do business under the laws of this state.

(4) Final examination report-An examination report which has been the subject of an exit interview between the examiner-in-charge and company management, any management conferences between the chief examiner and company management, and which has been certified as "final" by the chief examiner. A final examination report does not include work papers related to the examination or report.

(5) Financial statement-A balance sheet, income statement, schedule showing results of operations, summary of operations, underwriting and investment exhibit, schedule of capital and surplus accounts, or other similar schedules reflecting financial information about a company.

(6) Market conduct examination—An examination which focuses on the performance and general business practices of a company in its dealings with policyholders and the general public.

(7) Examination report—A report which contains a financial statement of the company examined or which reflects the results of a market conduct examination. An examination report does not include work papers related to the examination or report.

(8) Adopted examination report—An examination report which has been adopted or deemed adopted by the associate commissioner pursuant to this section. An adopted examination report does not include work papers related to the examination or report.

(b) Applicability. This section applies only to examination reports with examination dates as of June 30, 1992 or later.

(c) Filing of examination reports.

(1) Examination reports prepared by the Texas Department of Insurance. Upon completion of an examination, the examiner-in-charge shall provide company management a copy of the examination report for review. Upon completion of company management's review of the report, the examiner-in-charge shall immediately conduct an exit interview with company management. A factual rebuttal by company management shall be noted in the completed examination report along with written comments to the factual rebuttal by the examiner-in-charge. The examiner-in-charge shall submit the completed examination report to the chief examiner within 15 days after the exit interview and simultaneously furnish the company a copy for its retention. Within 30 days after the exit interview, the company examined may submit a written request for a management conference with the chief examiner on the examination report. The company's request shall include a detailed statement of the company's disagreement with the report. The chief examiner may request a management conference to address any regulatory concerns raised by the examination. The management conference must be scheduled for a date within 30 days after the request is made. If no conference is requested by either the company or the chief examiner within the time permitted, the chief examiner shall proceed as provided in subsection (d)(1) of this section, the examination report shall be deemed adopted by the associate commissioner, and the report shall be subject to subsection (f) of this section.

(2) Examination reports prepared by other jurisdictions. In lieu of examining any foreign or alien insurer licensed in this state, the Texas Department

of Insurance may accept an examination report on the company prepared by the insurance department for the company's state of domicile until January 1, 1994. Thereafter, such report shall be accepted only if the examining insurance department is required by law to conduct an examination of an insurer licensed in that state not less frequently than once every five years, and:

(A) the examining insurance department was at the time of the examination accredited under the National Association of Insurance Commissioners Financial Regulation Standards and Accreditation Program; or

(B) the examination is performed under the supervision of an accredited insurance department or with the participation of one or more examiners who are employed by such an accredited insurance department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by its insurance department.

(d) Notice to associate commissioner.

(1) Examination reports prepared by the Texas Department of Insurance. No later than 15 days following any management conference conducted pursuant to subsection (c)(1) of this section, the chief examiner may make changes to the report which are believed to be necessary or proper. After any such changes are made, the chief examiner shall simultaneously:

(A) certify the examination report as final;

(B) notify the associate commissioner of the certification; and

(C) transmit a copy of the final report to the company examined.

(2) Examination reports prepared by other jurisdictions. The chief examiner shall notify the associate commissioner of each examination report received pursuant to subsection (c)(2) of this section. Each such report shall be deemed to be a final report.

(e) Adoption of reports.

(1) Appeal of final report. A company which is the subject of a final examination report prepared by the Texas Department of Insurance and which has had a management conference pursuant to subsection (c)(1) of this section may, within 15 days after its receipt of the final report transmitted by the chief examiner pursuant

to subsection (d)(1)(C) of this section, submit for the associate commissioner's consideration, a written factual rebuttal to the report. Within 30 days following receipt of the rebuttal, the associate commissioner shall adopt the examination report, either with or without changes or shall reject the report. A report will not be considered an adopted report during the pendency of any appeal to the commissioner or other appeal under Insurance Code, Article 1.04. Any appeal to the commissioner must be filed with the commissioner within 15 days from the company's receipt of the associate commissioner's decision. If no written rebuttal is submitted within the time permitted, no further action is required and the report shall be:

(A) deemed adopted by the associate commissioner; and

(B) subject to subsection (f) of this section.

(2) Commissioner's authority. Nothing contained herein shall be construed to limit the commissioner's authority to use any final or preliminary examination report, any examiner or company work papers or other documents, or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action which the commissioner may deem appropriate.

(3) Disclosure by commissioner. Nothing contained herein shall be construed to prohibit the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of any other state or country, or to law enforcement officials of this or any other state, or to an agency of the federal government at any time. The commissioner may request any recipient of such reports or matters relating thereto to agree in writing to hold it confidential and in a manner consistent with this section.

(f) Open records treatment.

(1) Adopted examination report. Each adopted examination report prepared by the Texas Department of Insurance shall be considered an open record pursuant to the Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(c). Each report received from another jurisdiction pursuant to subsection (c)(2) of this section shall be considered an open record.

(2) Completed examination reports. All examination reports with examination dates as of December 31, 1990, or later, but before June 30, 1992, which are determined by the chief examiner to be completed shall be considered open records pursuant to the Open Records Act.

(3) Confidential supervision. No examination report will be made an open record under this subsection, until the examined company is released from any confidential supervision order issued by this agency.

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 June 11, 1992.

TRD-9208086

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: July 2, 1992

Proposal publication date: March 13, 1992

For further information, please call: (512) 463-6327

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Commission

Chapter 65. Wildlife

Subchapter A. Statewide Hunting and Fishing

- 31 TAC §§65.3, 65.13, 65.40, 65.72

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing held May 21, 1992, adopts amendments to §§65.3, 65.13, 65.40, and 65.72, concerning the Statewide Hunting and Fishing Proclamation. Section 65.40 and §65.72 are adopted with changes to the proposed text as published in the February 25, 1992, issue of the *Texas Register* (17 TexReg 1516). Section 65.3 and §65.13 are adopted without changes and will not be republished.

The changes were made at the request of staff, the public who attended the March 26 and May 21, 1992, public hearings, persons who gave testimony at 45 and 22 public hearings held during the periods of March 2-6 and April 27-May 1, 1992, and comments on the proposed changes by letter or telephone calls to the department.

The changes are: amend §65.40(1)(C) to reduce the number of days that antlerless deer may be taken in Cherokee and Nacogdoches Counties from 18 days to four days, and in Walker County antlerless deer may be taken only by antlerless deer permit, amend §65.72(b)(4)(A) to gradually increase flathead catfish minimum length limits from nine to 18 inches during the 1992-93 season and to 24 inches in length beginning September 1, 1993, amend §65.72(b)(4)(B) (ii) to permit the bag limit for bass in Lakes Brownwood and Coleman to remain at five bass per day, and amend §65.72(b)(4)(B)(ii) to add Van Zandt County to the description of the location of Purtil Creek Reservoir.

The adopted rules are based upon studies and investigations by the department which determine appropriate wildlife resource utilization. The rules as adopted have as their factual basis scientific studies and investigations which track trends in wildlife resource populations and assesses factors affecting those populations. The adopted rules are based upon the best available scientific information.

The commission is responsible for administering a flexible law to deal effectively with changing conditions to prevent depletion or waste of wildlife resources and to provide equitable and reasonable privileges of ownership to pursue, take, possess, and kill wildlife resources.

The Texas Employment Commission on February 12, 1992, indicated in reply to departmental correspondence that the amendments as proposed will have minimal fiscal and employment impacts upon the state.

The rules are needed to: appropriately manage wildlife resource populations; permit harvest options for areas or counties having attainable management goals; limit declines in available wildlife resource habitat; reduce the number of areas having high hunting pressure; clarify and simplify rules relating to possession of firearms during the archery only seasons; amend season opening dates to conform to weekends; initiate experimental regulations to assess management options for selected fish species such as: permit selected fish species to spawn once before being retained, moderate the effects of cyclic water levels upon spawning, and enhance fishing opportunities in small reservoirs near urban areas or within state parks; protect selected fish species from overharvest; simplify saltwater fish bag and possession limits; increase harvest opportunities on Spanish mackerel; allow retention of sharks taken by sail lines; and permit freshwater nongame fish to be taken for purposes other than bait.

The amendments will provide harvest opportunity of wildlife resources consistent with acknowledged fisheries and wildlife management tenets which are designed to prevent depletion or waste.

Comments by the public concerning the amendments proposed in the February 25, 1992, issue of the *Texas Register* were presented to the Parks and Wildlife Commission at public hearings held March 26 and May 21, 1992. The comments were summarized from: comments made at 45 county public hearings where 921 persons attended during the period of March 2-6, 1992, comments made at 22 county public hearings where 123 persons attended during the period of April 27-May 1, 1992, comments in the form of petitions, resolutions, department and citizen surveys, letters, and telephone calls, and comments made by the public attending the March 26 and May 21, 1992, commission public hearings.

The comments made by the public at the county hearings, by correspondence, or at the commission public hearings are available for public inspection at the Texas Parks and Wildlife Department Headquarters Complex, 4200 Smith School Road, Austin, Texas

78749, 1-800-792-1112, extension 4974 or 512-389-4974.

The public comments at county hearings included generalized statements relating to a deer population decline over large areas attributed to various reasons: overharvest of doe deer, lack of control over antlerless deer harvest, and buck deer harvest regulated through issuance of permits by landowners, overharvest of buck deer, harvest of spike bucks, lack of suitable deer habitat, special game management plans, and return regulatory authority over wildlife resources to county commissioners courts.

The public at the county hearings expressed opposition to either-sex deer hunting seasons, one buck bag limit, long deer season, opening date of deer season, length of doe season, "doe days," the late doe only season in south Texas, catfish minimum length limits, prohibition of netting non-game fish, crappie minimum length limits, white bass size limits, and proposed minimum length and bag limits for bass.

Persons at the county hearings favored reduced deer bag limits, shortened deer season length, reduced "doe days," keep buck bag limit at one, return to a deer bag limit of two bucks and no does, closed deer season for certain areas, deleted late antlerless deer season in south Texas, protect spike bucks, decreased minimum size limits for bass, and netting for rough fish.

Correspondence received at the department headquarters in the form of letters, petitions, surveys, resolutions, and telephone calls concerned comments on white-tailed deer seasons, bag limits, decline of deer population, management options for differing harvest regimes, "doe days," protection of spike bucks, closure of doe season, closure of deer season, shortening deer season, reinstating antlerless deer permits, small landowners adjacent to large landowners overharvesting the deer population, and delaying the opening of deer season so majority of doe deer will be bred; and comments concerning freshwater fishing, specifically, bag limits for crappie, bass, and flathead catfish, gill nets, and more restrictive regulations for freshwater fish.

Comments attached to department surveys requested a return to issuance of antlerless deer permits, a deletion of "doe days," a reduction of deer bag limit, a closed deer season, and concern for a declining deer population.

Petitions were received from persons representing groups related to eliminating "doe days" and reinstating antlerless deer permits and removing the saltwater trolline ban on weekends.

Comments made by the public at the county hearings concerned many of the proposed amendments but they also commented upon regulations not being proposed for amendments.

A state senator requested that antlerless deer be taken only by the use of antlerless deer permits for Cherokee and Nacogdoches Counties.

A state representative of Walker County Wildlife Association, requested the use of antlerless deer permits for Walker County.

A state representative representing Nacogdoches, Panola, Shelby, Sabine, Angelina, and Houston Counties, requests that deer harvest be reduced as deer population is down.

The Walker County judge stated that deer are depleted and requests a deer permit system.

An individual from International Paper, spoke for keeping opening date of deer season as is.

An individual from Landowners in Lampasas County, Adamsville, and Lucy Creek Wildlife Management Areas, requested that the antlerless deer permit system be reinstated.

Two individuals from the Doss Wildlife Management Area, requested that deer season opening date be the second Saturday of November, and a third individual requested that deer season opening date be November 15.

An individual from Nacogdoches County Farm Bureau, stated that deer herd has been depleted.

Individuals from Jackson and Victoria Counties, presented petition of 800 signatures requesting a one buck limit and no antlerless deer be taken.

An individual from Harvest Creek Co-op, requested that seasons and bag limits be left as is.

An individual from the Texas Sportsmen's Association, requested a return to antlerless deer permits.

An individual from the Lone Star Bowhunters, requests an archery season with five full weekends.

An individual from the Texas International Blackpowder Hunters Association, requests a muzzleloading season for Texas.

An individual from the Temple-Inland, stated that a bag limit of one buck and one doe would make the logistics of getting more hunters more difficult.

An individual from the Texas Wildlife Association, stated that there was a decline in deer numbers and that small landowners overharvest deer.

Other individuals from the Texas Sportsmen's Association, requested that the "doe days" experimental harvest system be eliminated.

An individual from Cherokee County, stated deer population is depleted.

An individual from Cherokee County Farm Bureau, requests a "swing tag" for either a buck or doe deer.

Another individual from the Doss Wildlife Management Area, requests that no muzzleloading season be permitted during the first part of November.

An individual from Bowhunters of Texas, requests separation of archers and muzzleloaders due to safety.

The Texas Parks and Wildlife Commission disagreed with several comments received because they were judged not to be compati-

ble with wildlife resource management. The commission must make findings of fact based upon the department's scientific surveys and investigations. Several of the comments were related to rules not proposed as amendments in the February 25, 1992, issue of the *Texas Register* and will not be discussed.

With respect to deer regulations, the department staff through studies formulates regulations designed to conserve and protect the white-tailed deer resource and its habitat. The staff has determined that the status of deer populations determined from scientific surveys and investigations of deer populations does not warrant the extent of concern expressed by the public in their comments. Reduced deer bag limits for east Texas are appropriate because this population has been brought closer to the carrying capacity of the habitat. The regulations for deer bag limit reduction in east Texas are believed by staff to be adequate to protect the resource.

Most deer populations in the state remain near or above carrying capacity of the habitat even though numbers of deer may be down in some areas.

Comments from the public concerning white-tailed deer bag limits centered around the belief that bag limits are too liberal and permit harvest of too many antlerless deer. The majority of persons who commented requested either a stop in the harvest of antlerless deer or reinstatement of the antlerless deer permit system based upon landowner acreage. Additionally, several persons opposed the buck deer bag limit reduction to one buck as they believed this restriction was unnecessary. Staff reviewed those comments and the data upon which the bag limits were based. Staff believes that the proposed bag limits and season length are appropriate to address stable or declining deer populations and additional restrictions are not appropriate to deer management at this time except in a few situations. The existing one buck bag limit is due to high hunting pressure on the buck segment of the herd. A reduced buck harvest is necessary to balance the sex ratio of the deer herd and to insure adequate breeding age males for high reproductive rates. Maintaining the deer herd within the habitat's carrying capacity prevents degradation of habitat and lessens stress within the herd.

An experimental harvest regime commonly called "doe days" was implemented during the 1990 hunting season. This harvest approach has proven applicable and effective in much of the southeastern United States. Some persons opposed this regulation for being too liberal and believe too many antlerless deer were harvested and that existing deer populations are too low to support this harvest. Staff has reviewed the public's comments, the biological basis for this experiment, and the results of harvest surveys. This regulation appears to be a reasonable method of providing for limited antlerless deer harvest without requiring issuance of antlerless deer permits. Staff believes that this regulation can be tailored or adapted, with experience gained from this study, for future deer harvest needs of large areas of Texas.

Comments concerning "doe days" regulations were received from the public in east Texas and the lower Post Oak Savannah ecological region. The majority of the people wanted no harvest of antlerless deer. Other persons commented that the "doe days" harvest regime is too restrictive in time which results in the unintentional taking of many antlerless buck fawns. Staff reviewed this proposal and the public's concerns. There is cause for careful consideration and study in this region of Texas. Data indicate that the deer herd has declined from previous years in some areas. However, staff believes that the herd is at or near the carrying capacity of the habitat and that the harvest of antlerless deer is required.

With respect to freshwater fishing regulations, the staff, through studies, has determined the current nine-inch minimum size limit for flathead catfish does little to address potential overharvest. The proposed 24" minimum length limit assures that flathead catfish have the opportunity to spawn at least once prior to being retained by fishermen and that an increase will be achieved in total yield available. The cyclic fluctuations of water levels impacts spawning bass in certain locales and the proposed regulations are designed to temper those adverse conditions. Other comments opposed prohibiting the use of nets to take non-game fish and suggested that length and daily bag limits were too restrictive.

The commission after hearing and reviewing the public's testimony and staff's response to the testimony made the following changes: antlerless deer may be taken in Walker County only by antlerless deer permit which is based upon landownership acreage, reduce the "doe days" season length in Cherokee and Nacogdoches Counties from 18 days to four days, gradually increase the minimum length limit for flathead catfish from nine inches to 18 inches beginning September 1, 1992, and then increase to 24 inches beginning September 1, 1993, and thereafter, and keep the bag limit of five bass per day in Lakes Brownwood and Coleman but increase the minimum length limit to 18 inches.

The amendments are adopted under the Texas Parks and Wildlife Code, Chapter, §61, Uniform Wildlife Regulatory Act (Wildlife Conservation Act of 1983) which provides the Texas Parks and Wildlife Commission with authority to establish wildlife resources regulations for this state.

§65.40. Deer: White-tailed and Mule Deer. No person may take more than the aggregate total of five deer per license year; of which no more than two may be mule deer, only one of which may be a buck mule deer; no more than two white-tailed buck deer, or no more than five antlerless deer, both species combined.

(1) White-tailed deer: general open seasons, bag, and possession limits shall be as follows.

(A) (No change.)

(B) In Aransas, Atascosa,

Bee, Brooks, Cameron, Dimmit, Duval, Frio, Hidalgo, Jim Hogg, Jim Wells, Kennedy, Kinney (only south of U.S. Highway 90), Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina (only south of U.S. Highway 90), Nueces, Refugio, San Patricio, Starr, Uvalde (only south of U.S. Highway 90), Webb, Willacy, Zapata, and Zavala Counties, there is an open season for white-tailed deer.

(i)-(iii) (No change.)

(iv) Special (South Texas) late season. In the counties listed in this subparagraph there is a special late antlerless only white-tailed deer season.

(I) Open season: January 16-31, 1993.

(II) (No change.)

(C) No person may take or possess more than one white-tailed buck deer per license year from counties, in the aggregate, listed within this subparagraph.

(i) In Anderson, Angelina (only on Angelina National Forest and Corps of Engineers lands), Archer, Armstrong, Baylor, Borden, Brazos, Briscoe, Bursleson, Camp, Carson, Childress, Clay, Collingsworth, Cooke, Cottle, Crane, Crosby, Delta, Denton, Dickens, Donley, Ector, Ellis, Falls, Fannin, Fisher, Floyd, Foard, Franklin, Freestone, Garza, Gray, Gregg, Grimes, Hall, Hardeman, Haskell, Hemphill, Hill, Hopkins, Houston, Howard, Hutchinson, Jack, Jasper (only on Angelina National Forest and Corps of Engineers lands), Johnson, Jones, Kent, King, Knox, Lamar, Leon, Limestone, Lipscomb, Loving, Madison, McLennan, Midland, Milam, Montague, Motley, Navarro, Newton (only on Sabine National Forest and Sabine River Authority lands), Ochiltree, Parker, Rains, Randall, Red River, Roberts, Robertson, Sabine (only on Sabine National Forest, Corps of Engineers lands, and Sabine River Authority River lands), San Augustine (only on Angelina and Sabine National Forests and Corps of Engineers lands), San Jacinto (only on Sam Houston National Forest), Scurry, Smith, Stonewall, Swisher, Tarrant, Titus, Trinity, (only on Davy Crockett National Forest), Upshur, Upton, Van Zandt, Walker, Ward, Wheeler, Wichita, Wilbarger, Wise, Wood, and Young Counties, there is an open season for white-tailed deer.

(I)-(II) (No change.)

(ii) -(iii) (No change.)

(iv) In Bowie (except on Corps of Engineers lands), Cass (except on

Corps of Engineers lands), Colorado (only in that portion of the county that lies south and west of the Colorado River), DeWitt, Gonzales, Guadalupe (only in that area of the county bounded on the north by IH 10 and on the west by State Highway 123), Harrison (except on Corps of Engineers lands), Karnes, Lavaca (only in that area of the county bounded on the north by U.S. Highway 90A and on the west by U.S. Highway 77), Marion (except on Corps of Engineers lands), Morris (except on Corps of Engineers lands), Panola, Rusk, Shelby (except on Sabine National Forest and Sabine River Authority lands), and Wilson Counties, there is an open season for white-tailed deer.

(I)-(III) (No change.)

(v) In Bowie (only on Corps of Engineers lands), Cass (only on Corps of Engineers lands), Harrison (only on Corps of Engineers lands), Marion (only on Corps of Engineers lands), Morris (only on Corps of Engineers lands), and Shelby (only on Sabine National Forest and Sabine River Authority lands) Counties, there is an open season for white-tailed deer.

(I)-(III) (No change.)

(vi) In Bastrop, Caldwell, Cherokee, Fayette, Guadalupe (all lands north of IH 10 and all lands west of State Highway 123), Harris, Lavaca (all lands north of U.S. Highway 90A and all lands west of U.S. Highway 77), Montgomery (except on Sam Houston National Forest) and Nacogdoches (except on Angelina National Forest and Corps of Engineers lands) Counties there is an open season for white-tailed deer.

(I)-(III) (No change.)

(vii) In Montgomery (only on Sam Houston National Forest) and Nacogdoches (only on Angelina National Forest and Corps of Engineers lands), there is an open season for white-tailed deer.

(I)-(III) (No change.)

(viii) -(ix) (No change.)

(D)-(E) (No change.)

(2)-(5) (No change.)

§65.72. Fish.

(a) (No change.)

(b) Bag, possession, and length limits.

(1) It is unlawful for any person while fishing on or in public waters to have in his possession fish in excess of the daily

bag limit or fish within a protected length limit as established for those waters.

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

(4) There are no bag, possession, or length limits on game or nongame fish, except as provided in these rules.

(A) Statewide daily bag, possession, and length limits shall be as follows:

Species	Daily Bag	Possession	Minimum Length (Inches)	Maximum Length (Inches)
Amberjack, greater.	3	6	32	No limit
Black Basses	5 (in aggregate)	10 (in aggregate)		
Largemouth and smallmouth bass, their hybrids, and subspecies.			14	No limit
Spotted and Guadalupe bass.			12	No limit
Bass, striped, its hybrids, and subspecies.	5 (in aggregate)	15 (in aggregate)	18	No limit
Bass, white	25	50	10	No limit
Catfish: channel and blue catfish, their hybrids, and subspecies.	25 (in aggregate)	50 (in aggregate)	9	No limit
Catfish, flathead.	5	10	18	No limit
Note: During the period September 1, 1992 through August 31, 1993, the minimum length for flathead catfish is 18 inches. Beginning September 1, 1993 and thereafter, the minimum length for flathead catfish is 24 inches.				
Catfish, gafftopsail.	No limit	No limit	14	No limit
Cobia.	2	4	37	No limit
Crappie: white and black crappie, their hybrids, and subspecies.	25 (in aggregate)	50 (in aggregate)	10	No limit
Drum, black.	5	10	14	30
Drum, red.	3	6	20	28
Flounder: all species, their hybrids, and subspecies.	20	40	12	No limit
Jewfish.	0	0		
Mackerel, king.	2	4	14	No limit
Mackerel, Spanish.	7	14	14	No limit

Species	Daily Bag	Possession	Minimum Length (Inches)	Maximum Length (Inches)
Marlin, blue.	No limit	No limit	114	No limit
Marlin, white.	No limit	No limit	81	No limit
Mullet: all species, their hybrids, and subspecies.	No limit	No limit	No limit	*
*Special regulation: During the period October through January, no mullet more than 12 inches in length may be taken from public waters or possessed on board a vessel.				
Pompano, Florida.	No limit	No limit	9	No limit
Sailfish.	No limit	No limit	76	No limit
Seatrout, spotted.	10	20	15	No limit
Shark: all species, their hybrids, and subspecies.	5 (in aggregate)	10 (in aggregate)	No limit	No limit
Sheepshead.	5	10	12	No limit
Snapper, lane.	No limit	No limit	8	No limit
Snapper, red.	7	14	13	No limit
Snapper, vermillion.	No limit	No limit	8	No limit
Snook.	3	6	20	28
Tarpon.	0	0		Catch and release only.
Trout: rainbow and brown trout, their hybrids, and subspecies.	5 (in aggregate)	10 (in aggregate)	No limit	No limit
Walleye.	5	10	16	No limit

(B) Exceptions to Statewide daily bag, possession, and length limits shall be as follows:

(i) For licensed chartered vessels the bag limit is two king mackerel per person per day for all persons on board, or three king mackerel per person per day exclusive of captain and crew, whichever is greater.

(ii)

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Bass: largemouth and smallmouth, spotted and Guadalupe bass, their hybrids, and subspecies.			
Lakes Toledo Bend (Newton, Sabine and Shelby) and Caddo (Marion and Harrison).	8 (in aggregate)	14	
Bass: Largemouth and smallmouth, their hybrids and subspecies.			
Lakes Brownwood (Brown) and Coleman (Coleman).	5 (in aggregate)	16	
Lakes Fairfield (Freestone), Bastrop (Bastrop), San Augustine City (San Augustine), Ray Roberts (Denton, Cooke, and Grayson), Calaveras (Bexar), O.H. Ivie (Coleman, Concho, and Runnels), Raven (Walker), Madisonville (Madison), Bright (Williamson), and Cooper (Delta and Hopkins).	3 (in aggregate)	18	
Lake Braunig (Bexar).	2 (in aggregate)	21	
Nelson Park Lake (Taylor), Buck Lake (Kimble), Calliham State Park Lake (McMullen), and in all waters in the Lost Maples State Natural Area (Bandera).	0 (in aggregate)	No Limit	Catch and release only.
Lake Texoma (Cooke and Grayson).	5 (in aggregate)	14	

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Purtis Creek State Park Lake (Henderson and Van Zandt).	0	No Limit	Catch and release only except that any bass over 22 inches in length may be retained in a live well or other aerated holding device and immediately transported to the Park weigh station. After weighing, the bass must be released immediately back into the lake or donated to the Lone Star Lunker Program.
Lakes Pinkston (Shelby), Waxahachie (Ellis), and Burke-Crenshaw (Harris).	3 (in aggregate)	14-18 Inch Slot Limit	It is unlawful to retain largemouth and smallmouth bass between 14 and 18 inches in length.
Lakes Fayette County (Fayette), Houston County (Houston), Nacogdoches (Nacogdoches), Fork (Wood, Rains and Hopkins), Monticello (Titus), Mill Creek (Van Zandt) Joe Pool (Dallas, Ellis, and Tarrant) and Gibbons Creek (Grimes).	3 (in aggregate)	14-21 Inch Slot Limit	It is unlawful to retain largemouth and smallmouth bass between 14 and 21 inches in length.
Bass: smallmouth.			
Lake Meredith (Hutchinson, Moore, and Potter).	3	12-15 Inch Slot Limit	It is unlawful to retain smallmouth bass between 12 and 15 inches in length.
Bass: striped, its hybrids, and subspecies.			
Lake Toledo Bend (Newton, Sabine and Shelby).	5 (in aggregate)	No Limit	No more than 2 over 30 inches in length may be retained each day.

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Lake Texoma (Cooke and Grayson).	15 (in aggregate)	No Limit	No more than 1 over 20 inches in length may be retained each day. Striped bass caught and placed on a stringer, in a live well or any other holding device become part of the daily bag limit and may not be released.
Bass, white.			
Lakes Conroe (Montgomery and Walker), Livingston (Polk, San Jacinto, Trinity and Walker), Limestone (Leon, Limestone, and Robertson), Palestine (Anderson, Cherokee, Henderson and Smith), and Somerville (Burleson, Lee and Washington), The West Fork San Jacinto River (Walker), Trinity River below lock and dam near Highway 7 (Leon, Houston, Trinity and Walker), Navasota River between Lakes Limestone and Mexia (Limestone), East Yegua Creek (Burleson, Lee and Milam), Middle Yegua Creek (Lee), and Yegua Creek (Burleson and Washington).	25	12	
Catfish: channel and blue catfish, their hybrids, and subspecies.			
Lakes Canyon (Comal), Choke Canyon (Live Oak and McMullen), Conroe (Montgomery and Walker), Cooper (Delta and Hopkins), Fairfield (Freestone), Lewisville (Denton), Meredith (Hutchinson, Moore and Potter), O. H. Ivie (Coleman, Concho, and Runnels), Palestine (Cherokee, Anderson, Henderson and Smith), and Whitney (Hill, Bosque and Johnson).	15 (in aggregate)	14	

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Lake Bastrop (Bastrop), Bright (Williamson), Burke-Crenshaw (Harris), Nelson Park Lake (Taylor) and in reservoirs lying totally within the boundaries of a state park.	5 (in aggregate)	14	
Lake Livingston (Polk, San Jacinto, Trinity, and Walker).	50 (in aggregate)	9	The holder of a commercial fishing license may not retain channel or blue catfish less than 14 inches in length.
Crappie: black and white crappie, their hybrids and subspecies.			
Caddo Lake (Marion and Harrison) and Lake Toledo Bend (Newton, Sabine, and Shelby).	50	No Limit	
Lake Fork (Wood, Rains, and Hopkins) and Lake O'The Pines (Camp, Harrison, Marion, Morris, and Upshur).	25 (in aggregate)	10	From December 1, through the last day in February, there is no minimum length limit. All crappie caught during this period must be retained.
Choke Canyon (Live Oak and McMullen).	15	10	
Drum, red.			
Lakes Braunig and Calaveras (Bexar), Colorado City (Mitchell), Fairfield (Freestone), Nasworthy (Tom Green), and Tradinghouse Creek (McLennan).	3	20	No maximum size limit.
Shad: gizzard and threadfin shad.			
The Trinity River below Lake Livingston between Polk and San Jacinto Counties.	500 (in aggregate)	No Limit	Possession Limit 1,000 in aggregate.

Location (County)	Daily Bag	Minimum Length (Inches)	Special Regulation
Sunfish: Bluegill, redear, green, warmouth, and longear sunfish, their hybrids and subspecies.			
Purtis Creek State Park Lake (Henderson and Van Zandt).	25 (in aggregate)	7	

(iii) Bag and possession limits for black drum, sheepshead, and flounder do not apply to the holder of a valid commercial finfish fisherman's license.

(c) Freshwater devices, means, and methods.

(1) (No change.)

(2) It is unlawful for any person to take, attempt to take, or possess fish caught by any device, means, or method other than as authorized in these rules.

(A) (No change.)

(B) Trotline. Nongame fish, channel catfish, blue catfish, and flathead catfish may be taken by trotline. It is unlawful for any person to use a trotline:

(i)-(vi) (No change.)

(vii) in Gibbons Creek Reservoir in Grimes County, Lake Bastrop in Bastrop County, Fayette power project cooling pond in Fayette County, Pinkston Reservoir in Shelby County, Lake Burke-Crenshaw in Harris County, and Bright Lake in Williamson County, or in reservoirs 500 acres or less lying totally within boundaries of a state park.

(C) Jugline. Nongame fish, channel catfish, blue catfish and flathead catfish, may be taken with a jugline. It is unlawful for any person to use a jugline in

Lake Bastrop in Bastrop County, Lake Burke-Crenshaw in Harris County, and Bright Lake in Williamson County.

(D) Throwline. Nongame fish, channel catfish, blue catfish and flathead catfish may be taken with a throwline. It is unlawful for any person to use a throwline in Lake Bastrop in Bastrop County, Lake Burke-Crenshaw in Harris County, and Bright Lake in Williamson County.

(E) Shad trawl. Nongame fish only may be taken with a shad trawl. It is unlawful for any person to use a shad trawl longer than six feet or with a mouth larger than 36 inches in diameter. A shad trawl may be equipped with a funnel or throat and must be towed by boat or by hand.

(F) Seine. Nongame fish only may be taken with a seine. It is unlawful for any person to use a seine:

(i)-(iii) (No change.)

(G) Dip net. It is unlawful for any person to use a dip net except:

(i) (No change.)
(ii) to take nongame fish.

(H) Cast net. Nongame fish only may be taken with a cast net. It is

unlawful for any person to use a cast net exceeding 14 feet in diameter.

(I) Minnow trap. Nongame fish only may be taken with a minnow trap. It is unlawful for any person to use a minnow trap exceeding 24 inches in length or with a throat larger than one by three inches.

(J) (No change.)

(K) Umbrella net. Nongame fish only may be taken with an umbrella net. It is unlawful for any person to use an umbrella net with the area within the frame exceeding 16 square feet.

(L)-(M) (No change.)

(N) Gill nets, trammel nets, and hoop nets.

(i) It is unlawful for any person to use gill nets, trammel nets, or hoop nets in the public freshwaters of this state without a permit in compliance with §§57.377-57.386 of this title (relating to Permits to Sell Nongame Fish Taken from Public Freshwater).

(ii) It is unlawful for any person to use gill nets, trammel nets, or hoop nets in the freshwaters of this state except that (this clause (ii) expires on September 1, 1993).

(I) Nongame fish only may be taken in the following rivers and streams, exclusive of tributaries:

(-a-) the Angelina River from U.S. Highway 84 in Rusk County to the Texas Eastern Transmission Company pipeline above Sam Rayburn Reservoir;

(-b-) the Attoyac River (Bayou) from U.S. Highway 84 in Rusk County to Cottonham Crossing above Sam Rayburn Reservoir;

(-c-)a the Brazos River from State Highway 7 in Falls County to IH 10 in Austin County;

(-d-) the Navasota River from State Highway 7 in Robertson County to its confluence with the Brazos River;

(-e-) the Neches River from State Highway 294 in Cherokee County to U.S. Highway 69 in Jasper County and from FM Road 1013 in Jasper County to IH 10 in Jefferson County;

(-f-) the Sabine River from Lake Tawakoni Dam to U.S. Highway 80 in Van Zandt County and from State Highway 63 in Newton County to Sabine Lake;

(-g-) the San Antonio River and Coleta Creek (exclusive of Coleta Creek Reservoir) in Goliad and Victoria Counties;

(-h-) the San Bernard River between Austin and Colorado Counties; and

(-i-) Yegua Creek from Somerville Dam to its confluence with the Brazos River.

(II) Nongame fish only may be taken in all freshwaters of Dimmit, Gillespie, Liberty, and Zavala Counties and in all fresh waters of Jefferson and Orange Counties, except those eastward of State Highway 347 and southward of IH 10.

(iii) It is unlawful for any person:

(I) while using a gill net, trammel net, or hoop net, to have in his possession fish, other than those species permitted for that device;

(II) to use gill nets or trammel nets exceeding 1,800 feet in length, in any one operation;

(III) to use gill nets, trammel nets, or hoop nets without valid gear tags attached within three feet of each end of the net;

(IV) to use gill nets or hoop nets with mesh less than three inches square; or

(V) to use trammel nets with mesh on any wall less than three inches square.

(d) Saltwater devices, means, and methods.

(1) (No change.)

(2) Only the following means and methods may be used for taking fish:

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

(C) Trotlines.

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

(iii) No person may retain or possess red drum, sharks, or spotted seatrout caught on a trotline other than a sail line.

(iv)-(xiii) (No change.)

(D) (No change.)

(e) (No change.)

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

Issued in Austin, Texas, on June 11, 1992.

TRD-9208067

Paul M. Shinkawa
Director, Legal Services
Texas Parks and Wildlife
Department

Effective date: September 1, 1992

Proposal publication date: February 25, 1992

For further information, please call: (512) 389-4974

TITLE 34. PUBLIC FINANCE

Part VIII. State Depositor Board

Chapter 171. Collateral Transactions

• 34 TAC §171.1

The State Depositor Board adopts an amendment to §171.1, concerning collateral transactions, without changes to the proposed text as published in the April 24, 1992, issue of the *Texas Register* (17 TexReg 2966).

The amendment is necessary in order to provide less restrictive requirements for acceptable security collateral for state deposits.

The amendment will include Federal Home Loan Mortgage Corporation discount notes and primary debt instruments or debentures as acceptable security collateral for state deposits.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Government Code, §404.013 (Vernon 1991), which provides the State of Depository Board with the authority to adopt and enforce rules governing the handling of funds in state depositories.

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 June 12, 1992.

TRD-9208127

Alicia M. Fechtel
General Counsel
Texas State Treasurer
Department

Effective date: July 3, 1992

Proposal publication date: April 24, 1992

For further information, please call: (512) 463-5971

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

Chapter 87. Treatment

Health Care Services

• 37 TAC §87.113

The Texas Youth Commission (TYC) adopts new §87.113, concerning substance abuse services, without changes to the proposed text as published in the May 12, 1992, issue of the *Texas Register* (17 TexReg 3456).

The new section concerning clinical management of chemically dependent youth will bring about more efficient substance abuse services.

The new section will provide procedures for managing chemically dependent youth.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, §81.076, which provides the Texas Youth Commission with the authority to determine the type of treatment received by each youth.

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 June 12, 1992.

TRD-9208179

Ron Jackson
Executive Director
Texas Youth Commission

Effective date: July 6, 1992

Proposal publication date: May 12, 1992

For further information, please call: (512)
483-5244



Open Meetings

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

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

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

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

Texas Department on Aging

Wednesday, July 8, 1992, 10 a.m. (Rescheduled from Wednesday, July 8, 1992, 1 p.m.). The Texas Board on Aging's Networking/Advocacy/Legislative Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Conference Room, Austin. According to the complete agenda, the committee will call the meeting to order; discuss approval of the minutes of the May 14, 1992 meeting; discuss visibility issues of Area Agencies on Aging (AAA's) including an identifiable logo, and adoption of a logo for the network; update on Public Service Announcement efforts; adoption of uniform telephone listings for AAA's, including toll free or collect information and assistance and ombudsman numbers; update on progress of accountability efforts; discussion and adoption of identification of the Texas Department on Aging as primary funding source of AAA's in all public awareness efforts and communications; and the requirement that subcontractors of area agencies on aging also fall under this procedure.

Contact: J. Kenneth Huff, Sr., 2507 Evelyn Road, Whitesboro, Texas 76273, (903) 564-6375.

Filed: June 12, 1992, 11:29 a.m.

TRD-9208136

Wednesday, July 8, 1992, 1 p.m. (Rescheduled from Wednesday, July 8, 1992, 10 a.m.). The Texas Board on Aging's Health Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Conference Room, Austin. According to the complete agenda, the committee will call the meeting to order; discuss approval

of the May 13, 1992 minutes; consider T4A recommendation on approach for statewide case management; report on and recommendation to Texas Department on Aging Board on House Resolution 90; review and possibly act on results of survey on health resources in rural areas; further discussion and possible action on positions related to health care reform; and adjourn.

Contact: J. Kenneth Huff, Sr., 2507 Evelyn Road, Whitesboro, Texas 76273, (903) 564-6375.

Filed: June 12, 1992, 11:28 a.m.

TRD-9208134

Wednesday, July 8, 1992, 1 p.m. The Ombudsman Advisory Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Conference Room, Austin. According to the complete agenda, the committee will call the meeting to order; discuss approval of the minutes of the May 28, 1992 Ombudsman Advisory Committee; discuss draft ombudsman service standards; recommendation for revised ombudsman service standards to Texas Department on Aging Board on Aging; and adjourn.

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

Filed: June 12, 1992, 11:29 a.m.

TRD-9208135

Texas Department of Agriculture

Tuesday, July 7, 1992, 7 p.m. The Southern Rolling Plains Cotton Producers Board of the Texas Department of Agriculture will

meet at the Miles Cooperative Gin, 1 1/2 Miles Northwest of Miles, FM 1692, Miles. According to the agenda summary, the board will read and discuss approval of minutes; hear treasurer's report and approval of same; report of activities; committee reports; reports from special guests with discussion and action on proposals; and discuss and act on old and new business.

Contact: Sid Long, P.O. Box 30036, San Angelo, Texas 76903, (915) 453-2383.

Filed: June 15, 1992, 2:27 p.m.

TRD-9208218

Tuesday, July 21, 1992, 10 a.m. The Office of Hearings of the Texas Department of Agriculture will meet at the Stephen F. Austin Building, Room 928B, 1700 North Congress, Austin. According to the complete agenda, the Office will administer hearing to review alleged violation of 4 Texas Administrative Code §§6.1-6.4, by Anthony Wayne Wilson.

Contact: Ivry R. Pollard, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: June 11, 1992, 2 p.m.

TRD-9208063

Texas Animal Health Commission

Tuesday, June 23, 1992, 1 p.m. The Subcommittee on Review and Recommend Regulations of the Texas Animal Health Commission will meet at 210 Barton Springs Road, First Floor Conference Room, Austin. According to the complete agenda, the subcommittee will discuss organizational issues-plan for progress of regulation rewrite.

Contact: Jo Anne Conner, 210 Barton Springs Road, Austin, Texas 78704, (512) 479-6697.

Filed: June 12, 1992, 10:44 a.m.

TRD-9208125

Tuesday, June 23, 1992, 2:15 p.m. The Subcommittee on Review Duties of the Internal Auditor of the Texas Animal Health Commission will meet at 210 Barton Springs Road, First Floor Conference Room, Austin. According to the complete agenda, the subcommittee will discuss report on brucellosis herd testing; evaluation process; and annual audit plan for FY 92 and 93.

Contact: Jo Anne Conner, 210 Barton Springs Road, Austin, Texas 78704, (512) 479-6697.

Filed: June 12, 1992, 10:44 a.m.

TRD-9208124

Tuesday, June 23, 1992, 3:30 p.m. The Subcommittee on Finance of the Texas Animal Health Commission will meet at 210 Barton Springs Road, First Floor Conference Room, Austin. According to the complete agenda, the subcommittee will discuss agency operating budget for FY 1992-1993 and legislative appropriations request for FY 1994-1995.

Contact: Jo Anne Conner, 210 Barton Springs Road, Austin, Texas 78704, (512) 479-6697.

Filed: June 12, 1992, 10:45 a.m.

TRD-9208126

Wednesday, June 24, 1992, 9 a.m. The Texas Animal Health Commission will meet at 210 Barton Springs Road, First Floor Conference Room, Austin. According to the agenda summary, the commission will discuss approval of minutes of previous meeting; approve actions of executive director; reports of the Finance Committee; Regulation Rewrite Committee; committee that supervises duties of the Internal Auditor; consideration for adopting regulations, poultry, brucellosis, scabies, tuberculosis, interstate and swine; consideration for proposing amendments to regulations; consideration for proposing amendments to regulations; brucellosis, tuberculosis and equine and interstate; discussion on EIA and fever ticks; and discuss Senate Bill 3.

Contact: Jo Anne Conner, 210 Barton Springs Road, Austin, Texas 78704, (512) 479-6697.

Filed: June 15, 1992, 10:55 a.m.

TRD-9208199

Texas Department of Commerce

Wednesday, June 24, 1992, 1 p.m. The Capital Certified Development Corporation Members of the Texas Department of Commerce will meet at the First City Centre Building, 816 Congress Avenue, 11th Floor Board Room, Austin. According to the agenda summary, the members will call the meeting to order; introduce members and staff; present overview of the United States Small Business Administration 504 Loan Program; outline general membership responsibilities; outline director and officer roles; present corporate structure and operating plan; present loan servicing plan; adopt corporate bylaws; elect board of directors; elect president, vice-president, secretary-treasurer; adopt management agreement; adopt budget; appoint committees; and adjourn. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Sara Mitran (512) 320-9649 at least two days before this meeting so that appropriate arrangements can be made. Please also contact Sara Mitran (512) 320-9649 if you need assistance in having English translated into Spanish.

Contact: Armando Ruiz, 410 East Fifth Street, Austin, Texas 78701, (512) 320-9575.

Filed: June 16, 1992, 9:15 a.m.

TRD-9208264

Texas Education Agency

Thursday-Friday, June 25-26, 1992, 8 a.m. The Commission on Standards for the Teaching Profession (CSTP), Committee of the Whole Work Session of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the revised agenda summary, on Thursday, the committee will review and discuss purpose of work session; sunset process for State Board of Education (SBOE) rules; middle school certification; update on plans for fall conference; dialog with commissioner of education and chairman of the SBOE; and plan of action for administrator certification. On Friday, the committee will give an overview of commissioner's advisory committees; review rules governing the CSTP to provide input to the commissioner; review of standards governing teacher preparation and administrator preparation to provide input to the commissioner; review proposed outcomes-based standards of National Association of State Directors of Teacher Education and Certification; and develop outcomes to recommend to the commissioner.

Contact: Edward Vodicka, 1701 North

Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: June 16, 1992, 8:56 a.m.

TRD-9208256

Employees Retirement System of Texas

Wednesday, June 24, 1992, 11 a.m. The ERS Audit Committee, ERS Board of Trustees of the Employees Retirement System of Texas will meet at the ERS Building, 18th and Brazos Streets, Room 407, Austin. According to the complete agenda, the board will discuss status of fiscal year 1992 ERS internal audit plan; status of fiscal year 1991 ERS internal audit recommendations; status of fiscal year 1991 state auditor recommendations; deferred compensation audit plans for fiscal year 1993; future meeting date; and adjourn.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3336.

Filed: June 16, 1992, 8:22 a.m.

TRD-9208252

Wednesday, June 24, 1992, 1:30 p.m. The Board of Trustees of the Employees Retirement System of Texas will meet at the ERS Building, 18th and Brazos Streets, Room 407, Austin. According to the agenda summary, the board will discuss approval of minutes; appeals of contested cases; consider the investment of the system's assets; agency strategic plan for the ERS for the 1992-1998 period; proposed trustee rule amendments to Sections 63.3 and 63.4 relating to trustee election process; status of uniform Group Insurance Program Strategic Plan implementation; Group Benefits Advisory Committee report; executive director's report; next trustee meeting date; and adjourn.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3336.

Filed: June 16, 1992, 8:22 a.m.

TRD-9208253

General Services Commission

Monday, June 22, 1992, 9:30 a.m. The General Services Commission will meet at the Central Services Building, 1711 San Jacinto Street, Room 402, Austin. According to the agenda summary, the commission will consider final adoption of amendments to Sections 125.1, 125.3, 125.5, 125.9, 125.11, 125.13, 125.17, 125.19, 125.21 and new 125.23 concerning Travel Management Program; consider repeal of Sections

111.11-111.46 concerning parking and security; consider proposed amendments to Sections 111.1 and 111.3 concerning executive administration and repeal of 111.2; consideration and approval of Capital Construction Project at the Hobby Complex; monthly update on Statewide Telecommunications Plan and consideration of policy concerning local call records; Monthly Construction Project and consideration of policy concerning local call records; monthly construction Project report; monthly alternative fuels activity report; monthly operating budget report; monthly division issues; meet in executive session to consider the status of purchase of real property in Houston and Austin; and receive a report from counsel concerning pending litigation.

Contact: Judith M. Porras, 1711 San Jacinto Street, Austin, Texas 78701, (512) 463-3446.

Filed: June 12, 1992, 1:25 p.m.

TRD-9208145

Texas Higher Education Coordinating Board

Friday, June 19, 1992, 10 a.m. The Universities Committee of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building 5, Room 5.200, 7745 Chevy Chase Drive, Austin. According to the agenda, the Committee will have a discussion of procedures for approval and certification of financing for new degree programs; academic administrative changes; staff report on procedures for the analysis of the cost of new programs; possible procedures for a statewide sunset review of existing baccalaureate and masters program and additional suggestions for improving information provided to committee members.

Contact: William H. Sanford, P.O. Box 12788, Austin, Texas 78711, (512) 482-6200.

Filed: June 11, 1992, 3:52 p.m.

TRD-9208095

Texas Historical Commission

Saturday, June 20, 1992, 11 a.m. The Christopher Columbus Quincentenary Texas Jubilee Committee of the Texas Historical Commission will meet at the Tribal Enterprise Office, Alabama-Coushatta Indian Reservation, U. S. Highway 190 East, 17 Miles East of Livingston. According to the agenda summary, the committee will call the meeting to order; take roll call; establish quorum; community welcome; commission response and presentation; discuss approval of minutes of May 9, 1992; hear committee

reports; action items; discussion items; discuss other business; make announcements; and adjourn.

Contact: Cindy Laguna Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: June 12, 1992, 1:29 p.m.

TRD-9208146

Texas Department of Housing and Community Affairs

Friday, June 19, 1992, 11 a.m. The Programs Committee of the Texas Department of Housing and Community Affairs will meet at 811 Barton Springs Road, Suite 300, Conference Room, Austin. According to the agenda, the Committee will consider and possibly act on public comment period and general revenue of \$9 million dollars appropriated to the Department for fiscal year 1992 contingent on the receipt of federal housing funds related to the Cranston-Gonzalez National Affordable Housing Act of 1990.

Contact: Susan J. Leigh, 811 Barton Springs, Suite 300, Austin, Texas 78704, (512) 474-2974.

Filed: June 11, 1992, 3:58 p.m.

TRD-9208096

Texas Department of Human Services

Wednesday, June 24, 1992, 10 a.m. The Sanctions and Penalties Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the committee will make opening comments; hear deputy commissioner's comments; discuss approval of minutes; review of public comments on proposed sanctions and penalties; open discussion; schedule next meeting; and adjourn.

Contact: Carolyn Howell, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3053.

Filed: June 16, 1992, 8:45 a.m.

TRD-9208255

Texas Department of Insurance

Tuesday, June 23, 1992, 9 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William

P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will consider a rate filing by American National General Insurance Company pursuant to Article 5.101, §3(e) for rates outside the flex band but within the statutory band for private passenger auto insurance; and consider authorization of an officer or employee of the Texas Department of Insurance to approve expenditure vouchers for appropriated funds.

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

Filed: June 12, 1992, 2:09 p.m.

TRD-9208150

Tuesday, June 23, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Permian Basin Holdings, Inc., Andrews, to acquire control of Financial Insurance Company of America, Houston. Docket Number 11515.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: June 15, 1992, 2:40 p.m.

TRD-9208219

Tuesday, June 23, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the proposed plan of merger of Imperial Midwest Insurance Company, Farmington Hills, Michigan, into Titan Indemnity Company, San Antonio, with Titan Indemnity Company being the survivor. Docket Number 11514.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: June 15, 1992, 2:40 p.m.

TRD-9208220

Wednesday, June 24, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Automated Benefit Services, Inc., of Houston, which holds a Certificate of Authority to transact business in the State of Texas as a Third Party Administrator. Docket Number 11489.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: June 15, 1992, 2:40 p.m.

TRD-9208221

Wednesday, June 24, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of John Mancilla Mayoral of San Antonio, for a Group II Insurance Agent's license. Docket Number 11504.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: June 15, 1992, 2:40 p.m.

TRD-9208222

Thursday, June 25, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether a cease and desist order should be issued against First Benefit, Inc., and Doug Ruedlinger, Inc. Docket Number 11498.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: June 15, 1992, 2:41 p.m.

TRD-9208223

Thursday, June 25, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the request by Sechrist-Hall Company for a hearing on calculation of experience modifiers applicable to Workers' Compensation Insurance. Docket Number 1904.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: June 15, 1992, 2:41 p.m.

TRD-9208224

Monday, June 29, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Foundation Health Corporation to acquire control of American Citizens Life Insurance Company pursuant to the provisions of Texas

Insurance Code, Article 21.49-1, §5. Docket Number 11503.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: June 15, 1992, 2:41 p.m.

TRD-9208225

Thursday, July 2, 1992, 9 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will hold a public hearing under Docket Number R-1909 to consider possible final action on new proposed rules on 28 TAC §§19.1701-19.1719 concerning health care utilization review agents. The proposed rules were published in the May 8, 1992 issue of the *Texas Register* (17 TexReg 3337). The comment period expired on June 8, 1992.

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

Filed: June 12, 1992, 12:09 p.m.

TRD-9208140

Texas Board of Irrigators

Thursday, June 25, 1992, 9 a.m. The Texas Board of Irrigators will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 513-F, Austin. According to the agenda summary, the board will consider registration by endorsement for Rex Sadoris; Hugh Rushing will address the Landscape Auditor Certification program; petition of Mohammad Hamid; consider complaint cases already referred to Attorney General's office; discuss rules and hearings; consider adoption of 31 TAC Chapters 421, 423, 425, 427, and 431 drafted in compliance with Senate Bill 544; report on meeting held with Plumbing Board; board to consider nine outstanding complaints; Bettye Urban to address status of enforcement of complaints; discuss approval of minutes; and report on various items of interest to the board.

Contact: Joyce Watson, P.O. Box 12337, Austin, Texas 78711, (512) 463-7990.

Filed: June 15, 1992, 3:48 p.m.

TRD-9208236

Texas Commission on Law Enforcement Officer Standards and Education

Monday, June 29, 1992, 9 a.m. The Texas Peace Officers' Memorial Advisory Committee of the Texas Commission on Law

Enforcement Officer Standards and Education will meet at the TCLEOSE Headquarters, 1033 LaPosada, Austin. According to the complete agenda, the committee will call the meeting to order; take roll call of members; recognize visitors; discuss approval of the minutes of the March 24, 1992 meeting; introduce new committee members (if new appointments made); election of vice-chairman and secretary (if necessary); receive the director's activity report; hear public comments, discuss and adopt proposed rules, Sections 229.1-229.25, (Prospective Order 92-1-POM) concerning Peace Officers' Memorial eligibility criteria; receive reports from regional directors present; adjourn for lunch; reconvene at 1 p.m.; review of recommendations of the Design Competition Jury; hear public comments; adopt a design for the Texas Peace Officers' Memorial; and adjourn.

Contact: Edward T. Laine, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: June 12, 1992, 8:58 a.m.

TRD-9208101

Monday, June 29, 1992, 9 a.m. The Texas Peace Officers' Memorial Advisory Committee of the Texas Commission on Law Enforcement Officer Standards and Education will meet at the TCLEOSE Headquarters, 1033 LaPosada, Austin. According to the revised agenda summary, the committee will review recommendations of the Design Competition Jury; hear public comments; and adopt a resolution to select a design for the Texas Peace Officers' Memorial to be submitted to the State Preservation Board for approval; adopt a resolution to accept and name a second place and a third place design pending approval by the State Preservation Board of the first place design.

Contact: Edward T. Laine, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: June 15, 1992, 1:21 p.m.

TRD-9208203

Texas State Board of Medical Examiners

Monday, June 15, 1992, 4 p.m. The Executive Committee of the Texas State Board of Medical Examiners met at 1812 Centre Creek Drive, Suite 300, Austin. According to the emergency revised agenda summary, the committee considered and discussed respondent's ability to practice medicine with reasonable skill and safety to public regarding Dr. Bradley Bundrant. The emergency status was necessary as information had come to the attention of the agency and required prompt consideration.

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

Filed: June 12, 1992, 1:18 p.m.

TRD-9208142

Tuesday, June 16, 1992, 11:30 a.m. The Standing Orders Committee of the Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the emergency revised agenda summary, the committee changed the time from 8:30 a.m. until 11:30 a.m. Agenda items remain the same. The emergency status was necessary as information had come to the attention of the agency and required prompt consideration.

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

Filed: June 12, 1992, 1:19 p.m.

TRD-9208143

June 15-17, 1992, 9:30 a.m., and 8:30 a.m. respectively. The Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the emergency revised agenda summary, the board will delete Order of Stipulation on Dr. Robert C. Ogle; and review and discuss several more Agreed Board Orders; approval of duplicate licenses; meet in executive session to discuss pending litigation; and discuss Senate Bill 3 during the Executive Director's report. Executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s) (1) and Opinion of Attorney General 1974, Number H-484. The emergency status was necessary as information had come to the attention of the agency and required prompt consideration.

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

Filed: June 12, 1992, 1:21 p.m.

TRD-9208144

Public Utility Commission of Texas

Monday, June 22, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the Division will have a prehearing conference at the above listed date and time in Docket Number 11221, petition of Houston Lighting and Power Company to make a fuel credit and change its fuel factor.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas, 78757.

Filed: June 11, 1992, 3:45 p.m.

TRD-9208088

Tuesday, June 23, 1992, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the agenda summary, the commission will consider the following dockets: 10096, 9915, 10881, 10820, 10960, 10938, 10735, 10021, P-11132, 10706, 10339, 10614, P-9547, P-10634, P-10805, P-10893, P-11125, P-11139, and P-11199.

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

Filed: June 15, 1992, 2:56 p.m.

TRD-9208230

Tuesday, June 23, 1992, 9:05 a.m. The Administrative Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the agenda summary, the division will discuss reports; discuss and act on budget and fiscal matters including a budget amendment for additional LAN storage capacity; monthly financial statements; update on Sunset review process; approval of Code of Ethics and Conduct; discuss commission contacts with other tenants; discuss and possibly revoke personnel assessment procedure adopted May 1, 1991; presentation of Universal Service Fund audit report; approval of proposed comments on FCC rulemaking relating to Billed Party Preference, CC Docket Number 92-77; approval of reply comments to the FCC in CC Docket Number 92-90 (In the matter of the telephone consumer Protection Act of 1991); approval of PUC/CES interagency contract for FY 93; initiation of information docket on integrated resource planning (P-11250); discuss the format for the public forums in Project Number 10780; discuss rulemaking procedures; adjourn for executive session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and final adjournment.

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

Filed: June 15, 1992, 2:57 p.m.

TRD-9208231

Tuesday, June 23, 1992, 10 a.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11229-application of West Texas Utilities Company to revise tariff for experimental economic development rider.

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

Filed: June 15, 1992, 2:54 p.m.

TRD-9208227

Tuesday, June 23, 1992, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, a prehearing conference has been scheduled in Docket Number 11218-Application of Southwestern Bell Telephone Company for change in depreciation rates.

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

Filed: June 11, 1992, 3:45 p.m.

TRD-9208087

Wednesday, July 8, 1992, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 6106-petition of AT&T Communications of the Southwest, Ins. for emergency and other relief concerning access charges; and Docket Number 7205-petition of general counsel for an inquiry into a flat rate plan for access charges.

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

Filed: June 12, 1992, 2:44 p.m.

TRD-9208153

Tuesday, October 6, 1992, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 9640-complaint of Metropolitan Fiber Systems, Inc. against Southwestern Bell Telephone Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas, 78757, (512) 458-0100.

Filed: June 15, 1992, 2:55 p.m.

TRD-9208228

Texas Rehabilitation Commission

Monday, June 29, 1992, 8:30 a.m. The Complaint Review Committee of the Texas Advisory Board of Occupational Therapy of the Texas Rehabilitation Commission will meet at 4900 North Lamar Boulevard, Room 6302, Austin. According to the agenda summary, the committee will call the meeting to order; review and discuss complaints; and adjourn.

Contact: Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2316, (512) 483-4072.

Filed: June 15, 1992, 2:21 p.m.

TRD-9208217

Monday, June 29, 1992, 9 a.m. The Application Review Committee of the Texas Advisory Board of Occupational Therapy of the Texas Rehabilitation Commission will meet at 4900 North Lamar Boulevard, Room 6302, Austin. According to the agenda summary, the committee will call the meeting to order; review and discuss requests; and adjourn.

Contact: Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2316, (512) 483-4072.

Filed: June 15, 1992, 2:21 p.m.

TRD-9208216

Monday, June 29, 1992, 9:30 a.m. The Texas Advisory Board of Occupational Therapy will meet at 4900 North Lamar Boulevard, Room 6302, Austin. According to the agenda summary, the committee will call the meeting to order; discuss approval of minutes; report from Application Review Committee; report from Complaint Review Committee; report on Case 91-1; request for board order amendment; report from Texas Occupational Therapy Association; office report; and adjourn.

Contact: Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2316, (512) 483-4072.

Filed: June 15, 1992, 2:21 p.m.

TRD-9208215

Monday, June 29, 1992, 11:30 a.m. The Rules Revision Committee of the Texas Advisory Board of Occupational Therapy of the Texas Rehabilitation Commission will meet at 4900 North Lamar Boulevard, Room 6302, Austin. According to the agenda summary, the committee will call the meeting to order; review and discuss proposed rule changes; and adjourn.

Contact: Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2316, (512) 483-4072.

Filed: June 15, 1992, 2:21 p.m.

TRD-9208214

Sam Houston State University

Monday, July 20, 1992, 11:30 a.m. The Sam Houston Bicentennial Birthday Celebration State Commission of Sam Houston State University will meet at Austin Hall, Sam Houston State University, Huntsville. According to the complete agenda, the com-

mission will call the meeting to order; introduce new members and guests; discuss approval of minutes from last meeting, June 10, 1992; reports from state commission members on proposed event sites for 1993; executive director's report; schedule next meeting date; and major focus will be planning statewide events in Core Communities Representatives working with the Celebration will be invited.

Contact: Twila Kirkpatrick, P.O. Box 2419, Huntsville, Texas 77341, (409) 294-3625.

Filed: June 16, 1992, 9:26 a.m.

TRD-9208267

Stephen F. Austin State University

Tuesday, June 16, 1992, 3:30 p.m. The Board of Regents of the Stephen F. Austin State University held an emergency meeting at the Stephen F. Austin Campus, Room 307, Austin Building, Nacogdoches. According to the complete agenda, the board met in executive session to evaluate presidential finalists; and reconvened in open session to elect a president.

Contact: William J. Brophy, P.O. Box 6078 SFA, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: June 12, 1992, 2:09 p.m.

TRD-9208149

Sunset Advisory Commission

Wednesday-Thursday, June 24-25, 1992, 8:30 and 9 a.m. respectively. The Sunset Advisory Commission will meet at the John H. Reagan Building (Wednesday) Room 101, and the Capitol Building, House Chamber (Thursday), Austin. According to the complete agenda, on Wednesday, the commission will call the meeting to order; discuss approval of minutes; presentation of staff report for the Public Utility Commission of Texas and Office of Public Utility Counsel; and on Thursday, presentation of staff report for the Texas Alcoholic Beverage Commission, next meeting date is proposed July 16-17.

Contact: Susan Kinney, 105 West 15th, Reagan Building, Austin, Texas 78701, (512) 463-1300.

Filed: June 15, 1992, 9:14 a.m.

TRD-9208174

The Texas A&M University System, Board of Regents

Thursday, June 18, 1992, 9:30 a.m. The Board of Regents of the Texas A&M University System met at the Board of Regents Meeting Room, College Station. According to the complete agenda, the board authorized the issuance of PUF Subordinate Lien Variable Rate Notes; and amended the Board's resolution permitting such issuance.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: June 12, 1992, 9:25 a.m.

TRD-9208107

Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association

Tuesday, June 16, 1992, 9 a.m. The Board of Directors of the Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association met at the William P. Hobby Building, Tower I, 12th Floor, 333 Guadalupe Street, Austin. According to the emergency revised agenda summary, the board met in executive session to discuss personnel matters including hiring of executive director; and discuss and possibly act on pending and contemplated litigation; considered and possibly acted on pending litigation. The emergency status was necessary as urgent public necessity requiring consideration of pending or contemplated litigation regarding an unexpected claim that had just come to the attention of this association in the nature of a demand for payment; and time was of the essence due to a time limit for response to the demand.

Contact: Sandy Autry, 333 Guadalupe Street, Mail Code 305-1A, Austin, Texas 78701, (512) 322-0223.

Filed: June 15, 1992, 1:08 p.m.

TRD-9208202

Texas Department of Transportation

Wednesday, June 24, 1992, 1 p.m. The Texas Transportation Commission of the Texas Department of Transportation will meet at the Dewitt C. Greer Building, 125 East 11th Street, First Floor, Austin. According to the agenda summary, the commission will hold a public hearing on aviation project; discuss approval of minutes; execute contract awards/rejections/defaults and routing minute orders; authorize: contract claim resolution; eminent domain pro-

ceedings; right-of-way leasing; IH, US, SH and FM Road projects; environmental projects; consider: project overrun; public transportation funds/awards; aviation projects; appointment to transportation corporation; 1993 10-year project development plan; issuance of oversize permit to Gifford-Hill America, Inc. and Builders Transport, Inc.; meet in executive session with legal counsel on litigation including Save Barton Creek case, and for realty matters; staff reports; and discuss rulemaking: 43 TAC Part 1, Chapter 2 and 25.

Contact: Myrna Klipple, 125 East 11th Street, Austin, Texas 78701, (512) 463-8576.

Filed: June 15, 1992, 2:47 p.m.

TRD-9208226

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University of North Texas/Texas College of Osteopathic Medicine

Thursday, June 18, 1992, 1:30 p.m. The Role and Scope Committee, Board of Regents of the Texas College of Osteopathic Medicine of the University of North Texas met at the University of North Texas, 201 Administration Building, Denton. According to the complete agenda, the board of TCOM made an advisory board appointment; holiday schedule; promotion recommendations; reviewed and discussed alcohol and drug testing policy; University of North Texas Health Science Center; and student admissions. UNT discussed routine academic reports; faculty development leaves; administrative change; University of North Texas Regents professorships; personnel transactions; tenure and/or promotion recommendations for 1992-1993; holiday schedule; revision of UNT Policy on the Use of Alcoholic Beverages; athletic update; and fraternity housing.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: June 12, 1992, 9:23 a.m.

TRD-9208103

Thursday, June 18, 1992, 1:30 p.m. The Advancement Committee, Board of Regents of the Texas College of Osteopathic Medicine of the University of North Texas met at the Board Room, Administration Building, University of North Texas, Denton. According to the complete agenda, the board will discuss development update of TCOM; UNT: annual fundraising report; capital campaign; telefund; UNT Foundation; annual fund plans; policy manual; search for Associate Vice President for Development; personnel introductions; constituent fund raisers; strategic planning for Phase II of Capital Campaign (Coordination with Uni-

versity and Academic Planning; use of consultant); and orchestra's tour of Spain.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: June 12, 1992, 9:23 a.m.

TRD-9208104

Thursday, June 18, 1992, 3 p.m. The Budget and Finance Committee, Board of Regents of the Texas College of Osteopathic Medicine of the University of North Texas will meet at the Board Room, Administration Building, University of North Texas, Denton. According to the complete agenda, the board will discuss TCOM: fee for late payment of tuition; 1992-1993 budget recommendation; gift report; report on interest earnings; internal audit update; and at UNT: miscellaneous fee increases; general use fee; increases in graduate tuition, fees, resident hall and room rates; internal building networks project; 1992-1993 budget recommendations; gift report; report on interest earnings; and internal audit update.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: June 12, 1992, 9:24 a.m.

TRD-9208106

Thursday, June 18, 1992, 4 p.m. The Facilities Committee, Board of Regents of the Texas College of Osteopathic Medicine of the University of North Texas will meet at the Conference Room, Administrative Building, University of North Texas, Denton. According to the complete agenda, the board will discuss TCOM: renovation for Department of Obstetrics and Gynecology; project status report; and at UNT: upgrade classrooms; renovation, auditorium building; install fire sprinkler system, Kerr Hall; project status report; men's gym project; and general use fee.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: June 12, 1992, 9:24 a.m.

TRD-9208105

Friday, June 19, 1992, 8 a.m. The Board of Regents of the Texas College of Osteopathic Medicine of the University of North Texas, Diamond Eagle Suite, University Union, University of North Texas, Denton. According to the complete agenda, the board will discuss TCOM: approval of minutes; meet in executive session (Legislative update; financial planning, FY 94 and 95; affiliations; lawsuits update); advisory council appointments; holiday schedule; promotion recommendations; alcohol and drug testing policy; fee for late payment of tuition; 1992-1993 budget recommendation; gift report; renovation for Department of Obstetrics and Gynecology; project status report; UNT Health Science Center; student issues; other noteworthy items; and at UNT:

discuss approval of minutes; meet in executive session (Legislative update; financial planning, FY 1994 and 1995; accounting department issues; English and Marketing Department issues; status of North Texas Research Institute; fraternity housing; physical plant status report; lawsuits update); routine academic reports; faculty development leaves; administrative change; regents professorships; personnel transactions; tenure and/or promotion recommendations; holiday schedule; revision of policy on use of alcohol; miscellaneous fee increases; general use fee; increases in graduate tuition, fees, residence hall and room rates; internal building networks project; 1992-1993 budget recommendation; gift report; upgrade classrooms; renovate auditorium building; install fire sprinkler system-Kerr Hall; project status report; and professional development center in Dallas.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: June 12, 1992, 9:23 a.m.

TRD-9208102

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University of Texas System, M.D. Anderson Cancer Center

Tuesday, June 16, 1992, 9 a.m. The Institutional Animal Care and Use Committee met at the M.D. Anderson Cancer Center, conference Room AW7.707, 7th Floor, 1515 Holcombe Boulevard, Houston. According to the agenda summary, the Committee will have a review of protocols for animal care and use of modification thereof.

Contact: Anthony Mastromarino, 1515 Holcombe Boulevard, Houston, Texas 77030, (713) 792-3991.

Filed: June 11, 1992, 4:10 p.m.

TRD-9208097

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Texas Water Commission

Tuesday, June 16, 1992, 9:30 a.m. The Texas Water Well Drillers Board held an emergency meeting at the Stouffer Hotel, 9721 Arboretum Boulevard, Austin. According to the agenda summary, the board considered approval of the minutes of the May 14, 1992 meeting; considered whether to set the following complaints for a formal public hearing before the board to take appropriate legal action: Alan Rutherford, Keith Bristow, Ed Brown, Dale Faught, Jr., Charles Garrard, David Hancock, Ronald Maxey, Cory Miller, Herbert Norrell, Danny Murchison, Morris and Tim Robinson and Tom Whitaker; considered the certification of applicants for registration; considered the applications for driller-trainee

registration and considered staff reports. The emergency status was necessary as the commission needed to give public sufficient notice because there would be 1,000 plus applicants testing for licensure.

Contact: Larry Persky, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: June 11, 1992, 12:05 p.m.

TRD-9208058

Wednesday, June 24, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the revised agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

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

Filed: June 12, 1992, 2:34 p.m.

TRD-9208151

Wednesday, June 24, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the revised agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission, including specifically the adoption of new or amended agency regulations. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in the entirety or for particular action at a future date or time.

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

Filed: June 12, 1992, 2:34 p.m.

TRD-9208152

Texas Water Conservation Association Risk Management Fund

Friday, June 19, 1992, 10 a.m. The Board of Trustees will meet at the JI Speciality Services, Inc., Conference Room, 9420 Research Boulevard, Echelon III, Suite 300, Austin. According to the agenda summary, the board chairperson will call the meeting to order; roll call by secretary; review and

act on requests for excused absence; chairperson rule on a quorum; discuss other business; executive committee report and recommendations; underwriting committee report and recommendations; meet in executive session; administrator's report; fix or reaffirm date of next meeting; and adjourn.

Contact: Leroy Goodson, 206 San Jacinto Bulding, Ninth and San Jacinto Streets, Austin, Texas 78701, (512) 472-7216.

Filed: June 16, 1992, 8:28 a.m.

TRD-9208254

Texas Workers' Compensation Research Center

Friday, June 26, 1992, 9 a.m. The Board of Directors of the Texas Workers' Compensation Research Center will meet at the Senate Committee Room Two, One Capitol Square, 300 West 15th Street, Austin. According to the complete agenda, the board will discuss and act on the following items: call the meeting to order; discuss approval of minutes of May 29, 1992; announcements; revised FY 1992 budget; Article V, Section 66-Research Policy; Projects in strategic plan for FY 1992 and 1993; insurance deductibles and Vocational Rehabilitation; confirm schedule for future meeting; and adjourn.

Contact: Annette Gula, 3636 Executive Center Drive, Suite G-22, Austin, Texas 78731, (512) 346-6197.

Filed: June 15, 1992, 5:01 p.m.

TRD-9208251

Regional Meetings

Meetings Filed June 11, 1992

The Harris County Appraisal District Board of Directors met at 2800 North Loop West, Eighth Floor, Houston, June 17, 1992, at 9:30 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292, (713) 957-5291. TRD-9208059.

The Heart of Texas Council of Governments Private Industry Council met at 300 Franklin Avenue, HOTCOG Board Room, Waco, June 18, 1992, at 5:30 p.m. Information may be obtained from Mary McDow, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9208099.

The Heart of Texas Council of Governments Executive Committee will meet at 300 Franklin Avenue, HOTCOG Board Room, Waco, June 25, 1992, at 10 a.m. Information may be obtained from Mary McDow, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9208098.

The Johnson County Rural Water Supply Corporation Board held an emergency meeting at the JCRWSC Office, Highway 171 South, Cleburne, June 12, 1992, at 1 p.m. The emergency status was necessary as the deadline of June 15, 1992 established by BRA for inputs from JCFWD #1 which we had to supply. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9208070.

The Region One Education Service Center Board of Directors met at 1900 West Schunior, Edinburg, June 16, 1992, at 7 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas 78539, (512) 383-5611. TRD-9208061.

The Region 12 Education Service Center Administrative-Board of Directors will meet at 401 Franklin Avenue, Waco, June 28, 1992, at 10 a.m. Information may be obtained from Harry J. Beavers, P.O. Box 1249, Waco, Texas 76701, (817) 756-7494. TRD-9208068.

The Tarrant Appraisal District Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, June 27, 1992, at 8:15 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9208069.

The TML Group Benefits Risk Pool Board of Trustees met at the Barton Creek Conference Resort and Country Club, Austin, June 18, 1992, at 9 a.m. Information may be obtained from Penny McIntosh, 211 East Seventh Street, Suite 1100, Austin, Texas 78701, (512) 320-7861. TRD-9208066.

The Trinity River Authority of Texas Central Regional Wastewater System Right-of-Way Committee met at 5300 South Collins Street, Tarrant County, Arlington, June 18, 1992, at 10:30 a.m. Information may be obtained from J. Sam Scott, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9208060.

The West Central Texas Municipal Water District met at 410 Hickory Street, Abilene, June 18, 1992, at 9:30 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254. TRD-9208094.

The West Central Texas Municipal Water District (Revised agenda). met at 410 Hickory Street, Abilene, June 18, 1992, at 9:30 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254. TRD-9208100.

Meetings Filed June 12, 1992

The Atascosa County Appraisal District Appraisal Review Board met at the Atascosa County Appraisal District Office, Fourth and Avenue J, Poteet, June 17, 1992, at 8 a.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (512) 742-3591. TRD-9208139.

The Blanco County Appraisal District 1992 Appraisal Review Board met at the Courthouse Annex, Avenue G and Seventh Street, Johnson City, June 16, 1992, at 9 a.m. Information may be obtained from Hollis Boatright, P.O. Box 338, Johnson City, Texas 78636, (512) 868-4013. TRD-9208114.

The Bastrop Central Appraisal District Board of Directors met at the Bastrop Central Appraisal District, 1200 Cedar Street, Bastrop, June 18, 1992, at 7:30 p.m. Information may be obtained from Dana Ripley, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9208167.

The Burnet County Appraisal District Board of Directors met at 223 South Pierce, Burnet, June 18, 1992, at 6:30 p.m. Information may be obtained from Barbara Ratliff, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291. TRD-9208122.

The Central Appraisal District of Taylor County Appraisal Review Board met at 1534 South Treadaway, Abilene, June 18, 1992, at noon. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9208138.

The Central Texas Council of Governments Executive Committee will meet at 302 East Central, Belton, June 25, 1992, at 12:45 p.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9208109.

The Coastal Bend Quality Workforce Planning Association will meet at the Holiday Inn-Airport, 5549 Leopard Street, Corpus Christi, June 25, 1992, at 11:45 a.m. Information may be obtained from Baldomero Garcia, 5110 Wilkinson Drive, Corpus Christi, Texas 78415, (512) 855-0322. TRD-9208118.

The Comal Appraisal District Appraisal Review Board will meet at 430 West Mill Street, New Braunfels, June 24-25, 1992, at 9 a.m. Information may be obtained from Lynn Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9208113.

The Comal Appraisal District Appraisal Review Board will meet at 430 West Mill Street, New Braunfels, July 8-9, 1992, at 9 a.m. Information may be obtained from Lynn Rodgers, P.O. Box 311222, New

Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9208111.

The Coryell County Appraisal District Appraisal Review Board met at the Coryell County Appraisal District Office, 113 North Seventh Street, Gatesville, June 17, 1992, at 9:30 a.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593. TRD-9208116.

The Coryell City Water Supply District Board of Directors met at the Coryell City Water Supply District Office, 12 Miles Outside of Gatesville on FM 929, Gatesville, June 18, 1992, at 7:30 p.m. Information may be obtained from Helen Swift, Route 2, P.O. Box 93, Gatesville, Texas 76528, (817) 865-6089. TRD-9208168.

The Dallas Area Rapid Transit Revenue Forecasting Subcommittee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, June 16, 1992, at 10 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9208162.

The Dallas Area Rapid Transit Financial Standards Subcommittee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, June 16, 1992, at 11 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9208163.

The Dallas Area Rapid Transit Budget and Finance Committee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, June 16, 1992, at 12:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9208165.

The Dallas Area Rapid Transit Bus Planning, Development and Operations and CBD Transit Master Plan Subcommittee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, June 16, 1992, at 2:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9208164.

The Dallas Area Rapid Transit Bus Planning, Development and Operations Committee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, June 16, 1992, at 3 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9208160.

The Dallas Area Rapid Transit Rail Planning and Development Committee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, June 16, 1992, at 4:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dal-

las, Texas 75202, (214) 658-6237. TRD-9208161.

The Dewitt County Appraisal District Appraisal Review Board will meet at the Dewitt County Appraisal District Office, 103 Bailey Street, Cuero, June 23-24, 1992, at 9 a.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9208148.

The East Texas Council of Governments Private Industry Council met at the ETCOG Office, Kilgore, June 18, 1992, at 9:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9208123.

The Education Service Center, Region 20 Board of Directors will meet at 1314 Hines Avenue, San Antonio, June 24, 1992, at 2 p.m. Information may be obtained from Dr. Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208, (512) 299-2400. TRD-9208117.

The Erath County Appraisal District Appraisal Review Board met at the Board Room, 1390 Harbin Drive, Stephenville, June 18, 1992, at 9 a.m. Information may be obtained from Nicolle Minder, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9208112.

The Jack County Education District Board of Directors met at 819 West Belknap, Jacksboro ISD Agriculture Building, Jacksboro, June 16, 1992, at 7 p.m. Information may be obtained from Gary Zeitler, 812 West Belknap, Jacksboro, Texas 76458, (817) 567-5544. TRD-9208120.

The Johnson County Rural Water Supply Corporation Board met at the JCRWSC Office, Highway 171 South, Cleburne, June 15, 1992, at 1 p.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9208141.

The Johnson County Rural Water Supply Corporation Board met at the JCRWSC Office, Highway 171 South, Cleburne, June 16, 1992, at 6 p.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9208121.

The Nueces River Authority Board of Directors met at the University of Texas Marine Science Institute, Port Aransas, June 15, 1992, at 2 p.m. Information may be obtained from Con Mims, P.O. Box 349, Uvalde, Texas 78802, (512) 278-6810. TRD-9208115.

The North Central Texas Council of Governments Executive Board met at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, June 18, 1992, at 12:45 p.m. Information may be obtained from Edwina Shires, P.O. Box 5888, Ar-

lington, Texas 76005-5888, (817) 640-3300. TRD-9208108.

The Texas Panhandle Mental Health Authority Children's Community Management Team met at 1200 Wallace Boulevard, Amarillo, June 17, 1992, at 8 a. m. Information may be obtained from Mellisa Talley, P.O. Box 3250, Amarillo, Texas 79116, (806) 353-3699. TRD-9208119.

The Tarrant Appraisal District Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, June 26, 1992, at 8:15 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9208137.

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Meetings Filed June 15, 1992

The Alamo Area Council of Governments Management Committee will meet at 118 Broadway Street, Suite 420, San Antonio, June 19, 1992, at 10 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9208235.

The Atascosa County Appraisal District Appraisal Review Board met at the Atascosa County Appraisal District Office, Fourth and Avenue J, Poteet, June 18, 1992, at 8 a.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (512) 742-3591. TRD-9208195.

The Bexar Appraisal District Appraisal Review Board will meet at 535 South Main, San Antonio, June 19, 1992, at 9 a.m. Information may be obtained from Walter Stoneham, 535 South Main, San Antonio, Texas 78204, (512) 224-8511. TRD-9208192.

The Bosque Central Appraisal District Board of Directors met at the Bosque Central Appraisal District Office, 104 West Morgan Street, Meridian, June 18, 1992, at 1:30 p.m. Information may be obtained from Don Whitney, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9208201.

The Coastal Bend Council of Governments Executive Board will meet at the Corpus Christi Holiday Inn (Airport), Naples Room, 5549 Leopard Street, Corpus Christi, June 26, 1992, at noon. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9208189.

The Coastal Bend Council of Governments will meet at the Corpus Christi Holiday Inn (Airport), Palermo Room, 5549 Leopard Street, Corpus Christi, June 26, 1992, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9208188.

The Comal Appraisal District Appraisal Review Board will meet at 430 West Mill Street, New Braunfels, July 16, 1992, at 9 a.m. Information may be obtained from Lynn Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597.

The Deep East Texas Council of Governments Budget Committee will meet at 272 East Lamar, Municipal Building, Jasper, June 22, 1992, at 10 a.m. Information may be obtained from Joan Draper, 274 East Lamar, Jasper, Texas 75951, (409) 384-5704. TRD-9208187.

The Erath County Appraisal District Appraisal Review Board will meet at 1390 Harbin Drive, Board Room, Stephenville, June 23-25, 1992, at 9 a. m. Information may be obtained from Nicolle Minder, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9208185.

The Garza County Appraisal District Appraisal Review Board held an emergency meeting at the Appraisal District Office, 124 East Main, Post, June 15, 1992, at 2 p.m. The emergency status was necessary due to the first submission form being voided by error per telephone call. Information may be obtained from Billie Y. Windham, P.O. Drawer F, Post, Texas 79356, (806) 495-3518. TRD-9208205.

The Golden Crescent Service Delivery Area Private Industry Council, Inc. Executive Committee met at 2401 Houston Highway, Victoria, June 15, 1992, at 5 p.m. (Revised agenda). Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9208207.

The Golden Crescent Service Delivery Area Private Industry Council, Inc. met at 2401 Houston Highway, Victoria, June 17, 1992, at 6:30 p. m. (Revised agenda). Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9208206.

The Gray County Appraisal District Appraisal Review Board held an emergency meeting at 815 North Sumner, Pampa, June 17, 1992, at 9 a.m. The emergency status was necessary as taxpayers had already been notified that their protests could be scheduled for this date. Information may be obtained from Sherri Schaible, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791. TRD-9208191.

The Gray County Appraisal District Appraisal Review Board met at 815 North Sumner, Pampa, June 18, 1992, at 9 a.m. Information may be obtained from Sherri Schaible, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791. TRD-9208194.

The Grayson Appraisal District Board of Directors will meet at 205 North Travis, Sherman, June 24, 1992, at 7:15 a.m. (Revised agenda rescheduled from June 17, 1992). Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090, (903) 893-9673. TRD-9208190.

The Hunt County Appraisal District Appraisal Review Board will meet at the Hunt County Appraisal District, Board Room, 4801 King Street, Greenville, June 22, 1992, at 8:30 a.m. Information may be obtained from Shirley Gregory, P.O. Box 1339, Greenville, Texas 75401, (903) 454-3510. TRD-9208204.

The Hunt County Appraisal District Appraisal Review Board will meet at the Hunt County Appraisal District, Board Room, 4801 King Street, Greenville, June 23-26, 1992, at 8:30 a.m. Information may be obtained from Shirley Gregory, P.O. Box 1339, Greenville, Texas 75401, (903) 454-3510. TRD-9208249.

The Kendall County Education District Board of Trustees will meet at 121 South Main Street, Boerne, June 22, 1992, at 5 p.m. Information may be obtained from J. P. Davis, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9208233.

The Nolan County Central Appraisal District Board of Review met at the Nolan County Courthouse, Third Floor, Sweetwater, June 18-19, 1992, at 9 a.m. Information may be obtained from Lane Compton, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9208232.

The Northeast Texas Municipal Water District Board of Directors will meet at Highway 250 South, Hughes Springs, June 22, 1992, at 10 a.m. Information may be obtained from J. W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (214) 639-7538. TRD-9208186.

The Nortex Regional Planning Commission North Texas Private Industry Council will meet at the Wichita Falls Activity Center, Room 215, 10th and Indiana Streets, Wichita Falls, June 24, 1992, at 12:15 p.m. Information may be obtained from Mona Williams Statser, P.O. Box 5144, Wichita Falls, Texas 76307, (817) 322-5281. TRD-9208176.

The Nortex Regional Planning Commission North Texas Private Industry Council will meet at the Wichita Falls Activity Center, Room 215, 10th and Indiana Streets, Wichita Falls, June 24, 1992, at 12:30 p.m. Information may be obtained from Mona Williams Statser, P.O. Box 5144, Wichita Falls, Texas 76307, (817) 322-5281. TRD-9208178.

The Nortex Regional Planning Commission General Membership Committee will

meet at the Wichita Falls Activity Center, Room 216, 10th and Indiana Streets, Wichita Falls, June 25, 1992, at noon. Information may be obtained from Dennis Wilde, 2101 Kemp Boulevard, Wichita Falls, Texas 76307, (817) 322-5281. TRD-9208175.

The Nortex Regional Planning Commission North Texas State Planning Region Consortium Private Industry Council will meet at the Wichita Falls Activity Center, Room 215, 10th and Indiana Streets, Wichita Falls, June 25, 1992, at 12:15 p.m. Information may be obtained from Mona Williams Statser, P.O. Box 5144, Wichita Falls, Texas 76307, (817) 322-5281. TRD-9208177.

The Region IX Education Service Center Board of Directors will meet at the Region IX Education Service Center, 301 Loop 11, Wichita Falls, June 29, 1992, at 12:30 p.m. Information may be obtained from Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928. TRD-9208193.

The Southwest Milam Water Supply Corporation Board will meet at 114 East Cameron, Rockdale, June 22, 1992, at 7 p.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9208169.

The Tarrant Appraisal District Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, June 27, 1992, at 8:15 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9208184.

The Upshur County Appraisal District Appraisal Review Board will meet at the Upshur County Appraisal District Office, Warren and Trinity Streets, Gilmer, June 22, 1992, at 8:30 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280. TRD-9208213.

The Wood County Appraisal District Appraisal Review Board met at 217 North Main, Conference Room, Wood County Appraisal District, Quitman, June 19, 1992, at 10 a.m. Information may be obtained from W. Carson Wages or Becky Anderson, P.O. Box 951, Quitman, Texas 75783-0951, (903) 763-4891. TRD-9208200.

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Meetings Filed June 16, 1992

The Comal Appraisal District Board of Directors will meet at 430 West Mill Street, New Braunfels, June 22, 1992, at 5:30 p.m. Information may be obtained from Lynn Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9208270.

The Deep East Texas Council of Governments Solid Waste Technical Review Committee met at the DETCOG Administrative Office, 274 East Lamar Street, Jasper, June 17, 1992, at 3 p.m. Information may be obtained from Katie Bayliss, 274 East Lamar, Jasper, Texas, 75951 (409) 384-5704. TRD-9208266.

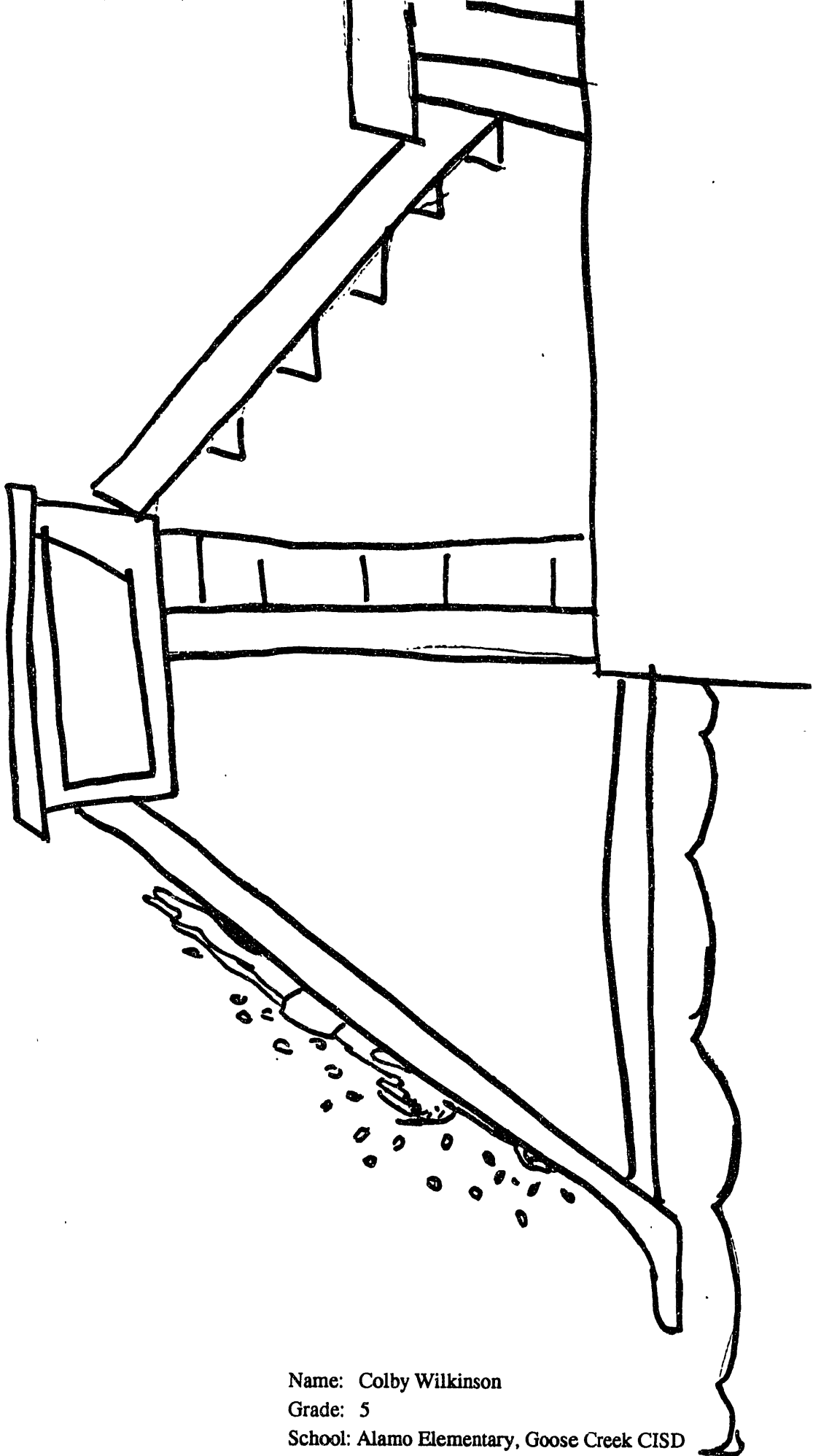
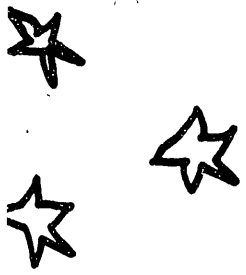
The Deep East Texas Council of Governments Grants Application Review Committee will meet at the DETCOG Administrative Office, 274 East Lamar Street, Jasper, June 25, 1992, at 11 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar, Jasper, Texas 75951, (409) 384-5704. TRD-9208268.

The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, June 24, 1992, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9208269.

The San Jacinto River Authority Board of Directors will meet at the Lake Conroe Office Building, Conference Room, Highway 105 West, Conroe, June 22, 1992, at 10:30 a.m. Information may be obtained from James R. Adams, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111. TRD-9208263.

The West Central Texas Tech-Prep Consortium Tech-Prep Steering Committee will meet at the TSTC Campus, 650 East Highway 80, Abilene, June 29, 1992, at 1:30 p.m. Information may be obtained from Bill Daugherty, 300 College Drive, Sweetwater, Texas 79556, (915) 235-7485. TRD 9208265.

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Name: Colby Wilkinson
Grade: 5
School: Alamo Elementary, Goose Creek CISD

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

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

State Aircraft Pooling Board

Notification of Rates for Aircraft Use

The following rates, indicated in bold type, are now in effect for the various types of aircraft operated by the State Aircraft Pooling Board. These rates have been established in accordance with procedures developed by the Legislative Budget Board.

Also listed are approximate charges for a round trip flight to various cities in Texas. The charges have been calculated based on estimated flying times, and may differ from actual flight times due to weather conditions or alternate routing by traffic controllers.

Round trip:

Austin to and return	Waco	Hunts- ville	Del Rio	Wichita Falls	Amarillo
Type of Aircraft					
Rate*	190	260	408	518	824
Capacity**	Miles	Miles	Miles	Miles	Miles
King Air 200 \$525/hr. 7 to 10	\$593	\$683	\$1,013	\$1,155	\$1,733
King Air 90 \$475/hr. 5 to 8	\$618	\$665	\$983	\$1,154	\$1,758
Cessna 425 \$415/hr. 5 to 7	\$486	\$569	\$830	\$996	\$1,465
Cessna 402 \$265/hr. 4 to 5	\$363	\$432	\$655	\$734	\$1,105
Cessna 310 \$195/hr. 3 to 4	\$267	\$318	\$482	\$540	\$813

* Rates may change without notice due to increased fuel prices.

** The higher capacity for passengers allows minimal luggage and requires the use of the copilot's seat and/or jump seat(s).

Issued in Austin, Texas, on June 11, 1992.

TRD-9208065 Bob DuLaney
Executive Director
State Aircraft Pooling Board

Filed: June 11, 1992

For further information, please call: (512) 477-8900



Texas Department of Banking
Notice of Hearing

The hearings officer of the Texas Department of Banking will conduct a hearing at 9 a.m. on Thursday, July 9, 1992, at 2601 North Lamar Boulevard, Austin, on the application for Mills County State Bank, Goldthwaite, to establish a branch to be located at 3711 Austin Avenue, Brownwood, Brown County.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1317.

Issued in Austin, Texas, on June 10, 1992.

TRD-9208064 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: June 11, 1992

For further information, please call: (512) 475-1317



Texas State Board of Registration for
Professional Engineers
Correction of Error

The Texas State Board of Registration for Professional Engineers proposed amendments to 22 TAC §131.92, con-

cerning Foreign Degrees. The rule was published in the May 29, 1992, *Texas Register* (17 TexReg 3892).

Due to a typographical error by the *Texas Register* the reference to "the Act §12" in paragraph (a)(3) is incorrect. The section should read "§21".

The Board proposed amendments to 22 TAC §131.102, concerning Examination for Record Purposes, which appeared in the June 2, 1992, *Texas Register* (17 TexReg 3955).

Due to proofreading error, text was omitted from proposed new subsection (d). The subsection should read as follows.

(d)[(f)] The principles and practice of engineering examination may not be taken for record purposes unless an individual is registered as a professional engineer or has been given permission by the board to take the examination for registration purposes.

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Governor's Energy Office

Contract Award Notice

In compliance with the provisions of Texas Civil Statutes, Article 6252-11c, the Governor's Energy Office furnishes this notice of contract award.

Publication Data. The Governor's Energy Office furnishes this notice of contract awards to three local governments. The request for proposals was published in the May 5, 1989, issue of the *Texas Register* (14 TexReg 2170-2171).

Description of Services. The contractors will provide demonstration of energy conservation practices, energy efficiency, and renewable energy technology for the local government sector.

Effective Date and Value of Contracts. The effective date and value for the City of Austin is March 1, 1992-June 1, 1993, \$349,019. The effective date and value for the Panhandle Regional Planning Commission is March 1, 1992-February 28, 1993, \$70,208. The effective date and value for the Brownsville Navigation District is February 1, 1992-December 31, 1993, \$81,500.

Name of Contractors. The contracts were awarded to the following organizations: City of Austin, Transportation and Public Works Department, P.O. Box 1088, Austin, Texas 78767; Panhandle Regional Planning Commission, P.O. Box 9257, Amarillo, Texas 79105-9257; and Brownsville Navigation District, Port of Brownsville, P.O. Box 3070, Brownsville, Texas 78523-3070.

Issued in Austin, Texas, on June 10, 1992.

TRD-9208045 Harris E. Worcester
Acting Director
Governor's Energy Office

Filed: June 11, 1992

For further information, please call: (512) 463-1931

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Texas Department of Health

HIV Health and Social Service Projects Request for Proposals

Purpose. The HIV Division of the Texas Department of

Health (department) is requesting new and continuation proposals from Human Immunodeficiency Virus (HIV) Care Consortia to conduct HIV health and social services projects. Senate Bill 959, 71st Texas Legislature, 1989, authorizes the department to award grants to develop or expand projects which demonstrate comprehensive, cost effective, collaborative, coordinated ambulatory, and community-based health care and support systems for persons infected with HIV and other conditions often described as Acquired Immune Deficiency Syndrome (AIDS). This announcement is being made for the fiscal year (FY) 1993 funds. The department intends to make \$6 million available to fund these projects for the period September 1, 1992-August 31, 1993.

Eligible applicants. Lead agencies may include, but are not limited to, health care and community-based organizations; city or county health departments or districts; and public or private non-profit hospitals which can develop or have developed comprehensive, ambulatory community and home-based HIV support programs offering appropriate and compassionate care at reduced costs. Individuals are not eligible to apply. New proposals will be accepted from the following, previously unfunded HIV service delivery areas (HSDAs) in the funding amounts provided: Sherman-Denison HSDA-\$31,360; and Uvalde HSDA-\$48,181.

The following HSDAs currently receive state services funding and are eligible to apply for funding in the stated amounts: Abilene HSDA-\$78,690; Amarillo HSDA-\$84,789; Austin HSDA-\$369,832; Beaumont-Port Arthur HSDA-\$105,889; Brownsville HSDA-\$222,927; Bryan College HSDA-\$56,528; Concho Plateau HSDA-\$31,555; Corpus Christi HSDA-\$178,001; Dallas HSDA-\$966,009; El Paso HSDA-\$188,871; Fort Worth HSDA-\$422,042; Galveston HSDA-\$142,083; Houston HSDA-\$1,775,280; Laredo HSDA-\$69,383; Lubbock HSDA-\$106,176; Lufkin HSDA-\$80,992; Permian Basin HSDA-\$96,130; San Antonio HSDA-\$517,812; Temple-Killeen HSDA-\$66,245; Texarkana HSDA-\$64,543; Tyler HSDA-\$137,721; Victoria HSDA-\$40,503; Waco HSDA-\$67,435; and Wichita Falls HSDA-\$51,021.

The department HIV Division has required the establishment of local consortia in order to develop a continuum of care for HIV infected individuals which will maximize use of available funds whether local, state, federal, or private. Established consortia previously funded for state services in FY 1992 and/or Ryan White C.A.R.E. Act, Title II/HIV Care Consortia activities, must submit the application for funding under this announcement. The HIV Division will not fund multiple consortia within a HSDA.

Under the HIV Services Act, Texas Health and Safety Code, §85.015, any entity or community-based organization that advocates or promotes conduct that violates Texas law is ineligible to receive funds. This does not prohibit the award of a grant to an entity or community-based organization that provides accurate information about ways to reduce the risk of exposures to or transmission of HIV. This provision extends to the entities who may participate as subcontractors to the primary contract holder.

Department review criteria. Proposals for funding under this announcement must demonstrate the applicant's ability to: assess and address the HIV service needs of the entire HSDA; work with and form coalitions among appropriate agencies and programs located in cities and counties within the HSDA; develop a cooperative system

of care within the HSDA in order to avoid duplication of services; identify gaps in service needs and develop a comprehensive continuum of service to meet those needs; ensure continuity of services through effective case management; and provide services which are equitably available and accessible to all HIV infected individuals needing services/care in the HSDA.

Particular attention should be focused on strategies to respond to the service needs of all populations affected by HIV infection, for example, women, children, families, persons from ethnic/racial minorities, drug users, and homeless individuals. Proposed services must insure that cultural and language differences do not constitute a barrier to services. Applicants must develop an activity plan which includes a time line showing the phase-in of each component of the proposed service delivery system and expected completion dates of the project objectives over the course of the 12 month grant period.

Application procedure. The department's contact person is Betty R. Cooper, HIV Services Program Director, HIV Division, Texas Department of Health, Room G-308, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7207. All requests for forms, application packets, technical, or program information, etc., should be directed to Ms. Cooper. The signed original and two copies of grant applications must be received by Ms. Cooper by 5 p.m. (CST), July 17, 1992 in order to be considered by the department. An additional copy of the completed application must be mailed directly to the appropriate department HIV regional coordinator.

Applicants from either of the two previously unfunded HSDAs whose proposals are in excess of \$25,000 will be required to appear at a public hearing conducted by the department and held in the public health region in which the applicant's organization is located. A representative from the organization will be expected to provide a brief oral description of the proposed project at the hearing.

Issued in Austin, Texas, on June 15, 1992.

TRD-9208197 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: June 15, 1992

For further information, please call: (512) 458-7207

◆ ◆ ◆ Notice of Intent to Revoke Certificates of Registration

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: J.D. Smith, D.D.S., Waco, R04063; Kirbyville Community Hospital, Kirbyville, R04825; Permian Emergency Center, Midland, R13426; Matthews Chiropractic Clinic, Fort Worth, R16142; Donald Eaves, D.C., Houston, R16854; James B. Duffey, D.D.S., Dallas, R16888.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not

issue an order.

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificates of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, the Exchange Building, 8407 Wall Street, Austin, Texas, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on June 11, 1992.

TRD-9208062 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: June 11, 1992

For further information, please call: (512) 834-6688

◆ ◆ ◆ Texas Department of Housing and Community Affairs

Notice of Fund Availability Housing Trust Fund

The Texas Department of Housing and Community Affairs (TDHCA) through its housing trust fund is pleased to announce that it will make approximately \$900,000 available as loans and grants to finance, acquire, rehabilitate, and develop affordable, decent, safe, and sanitary housing for low- and very low-income persons and families. Funds will be made available for multi-family and single family homes. Additional funds may be available up to \$6 million where sufficient interest and eligible projects are identified. To be eligible applicants must come within one of the following categories: local unit of governments; TDHCA; public housing authorities; community housing development organizations; non-profit organizations; and income eligible persons and families.

The housing trust fund will seek to select a diverse group of projects that will serve various populations in need of low- and very low-income housing.

Although the housing trust fund is an ongoing program, a letter of intent for the first funding cycle must be post-marked no later than 5 p.m. on July 24, 1992, followed by the final application postmarked no later than 5 p.m. on August 28, 1992.

A separate notice of fund availability covering capacity building, will be published later this year.

All interested parties are encouraged to participate in this program. Applications will be available on June 30th. Questions or request for program guidelines and application package may be directed to Housing Trust Fund, TDHCA, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974 or 1-800-792-1119.

Issued in Austin, Texas, on June 12, 1992.

TRD-9208196 Anne Paddock
Assistant General Counsel
Texas Department of Housing and
Community Affairs

Filed: June 15, 1992

For further information, please call: (512) 474-2974

◆ ◆ ◆
**Public Notice-Texas Interagency Council
for Services for the Homeless**

The Texas Interagency Council for Services for the Homeless announces the availability of funds for a homeless information and technical assistance center and seeks proposals from parties interested in operating the center, which will be located in Austin. A total of \$50,000 plus various in-kind contributions are available for a twelve month period beginning September 1, 1992 and ending August 31, 1993.

The center will create and maintain a comprehensive mailing list, publish a newsletter, provide information on funding availability, provide written and on-site technical assistance, and operate a toll-free referral hotline. The center may publish information regarding low-cost or donated properties, conduct technical assistance workshops, create information packets, and sponsor training and education events.

The Interagency Council for Services for the Homeless will award funds to one organization on a competitive basis. There are no restrictions on the type of eligible applicant. The selected applicant must demonstrate sufficient organizational capability and experience to perform the program activities.

To obtain a request for proposal packet, contact the Texas Department of Housing and Community Affairs, Community Services Section, at (512) 475-3899 or request a copy in writing from: Texas Department of Housing and Community Affairs, Community Services Section, P.O. Box 13941, Austin, Texas 78711-3941, Attn: Eddie Fariss. The deadline for receipt and consideration of a proposal is the close of business, 5 p.m., Monday, July 20, 1992.

A proposal workshop will be held on July 8, 1992, from 1 p.m. until 3 p.m. in the auditorium of the Texas Department of Mental Health and Mental Retardation located at 909 West 45th Street in Austin. The Interagency Council for Services for the Homeless anticipates that the selection will be made no later than August 14, 1992.

Issued in Austin, Texas, on June 12, 1992.

TRD-9208188 Larry Crumpton
Assistant Deputy for Community Affairs and
Economic Development
Texas Department of Housing and
Community Affairs

Filed: June 15, 1992

For further information, please call: (512) 475-3802

◆ ◆ ◆
**Texas Department of Insurance
Company Licensing**

The following applications have been filed with the Texas Department of Insurance and are under consideration.

1. Application for incorporation in Texas for First National Reciprocal Exchange, a domestic reciprocal insurance company. The home office is in Austin, Texas.
2. Application for admission to do business in Texas for

Tongue, Brooks and Company, Inc. (assumed name for Health Plan Administrators, Inc.), a foreign third party administrator. The home office is in Baltimore, Maryland.

3. Application for admission to do business in Texas for Markel/Rhulen Underwriters & Brokers (assumed name for Markel Service, Incorporated), a foreign third party administrator. The home office is in Monticello, New York.

4. Application for admission to do business in Texas for Superior Insurance Company, a foreign fire insurance company. The home office is in Tampa, Florida.

5. Application for admission to do business in Texas for ZNAT Insurance Company, a foreign fire insurance company. The home office is in Woodland Hills, California.

Issued in Austin, Texas, on June 12, 1992.

TRD-9208182 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: June 15, 1992

For further information, please call: (512) 463-6327

◆ ◆ ◆
**Texas Department of Public Safety
Correction of Error**

The Texas Department of Public Safety proposed new 37 TAC §1.241, concerning electronic Funds Transfer for Payments. The rule was published in the June 9, 1992, *Texas Register* (17 TexReg 4160).

Due to an error in the agency's submission the dollar amount \$25,000 in the first sentence was incorrect. The amount should be \$250,000.

◆ ◆ ◆
**Public Utility Commission of Texas
Correction of Error**

The Public Utility Commission of Texas submitted a Notice of Intent to File Pursuant to P.U.C. Substantive Rule 23.27, which was published in the June 5, 1992, *Texas Register* (17 TexReg 4137).

Due to a typographical error by the *Texas Register* in the notice for U.S. Voice Mail, Inc., the Tariff Control Number 11061 was incorrect. It should be 11187.

◆ ◆ ◆
**Notices of Intent to File Pursuant to
Public Utility Commission Substantive
Rules 23.27**

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Lubbock Regional Mental Health and Mental Retardation Center (Lubbock MHMR), Lubbock.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Lubbock MHMR pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 11239.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Lubbock MHMR. The geographic service market for this specific service is the Lubbock area.

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

Issued in Austin, Texas, on June 10, 1992.

TRD-9208089 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: June 11, 1992

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



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Shell Oil, Deer Park.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Shell Oil pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 11240.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Shell Oil. The geographic service market for this specific service is the Deer Park area.

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

Issued in Austin, Texas, on June 10, 1992.

TRD-9208083 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: June 11, 1992

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



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Shell Oil, Houston.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Shell Oil pursuant to Public Utility Commission Substantive Rule 23.27(k). Tariff Control Number 11237.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Shell Oil. The geographic service market for this specific service is the Houston area.

Persons who wish to comment upon the action sought

should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on June 10, 1992.

TRD-9208092 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: June 11, 1992

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



Notice of Waiver Request Regarding Public Utility Commission Substantive Rule 23.14

Notice is given to the public that Southwestern Bell Telephone Company has filed an application with the Public Utility Commission of Texas requesting authority to maintain and locate certain of its accounting records in centralized locations outside the State of Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for authority and locate certain records outside the State of Texas. Docket Number 11145.

The Application. Southwestern Bell Telephone Company is requesting to maintain and locate certain of its accounting records in centralized locations outside the State of Texas.

Persons who wish to request to intervene or comment upon the action should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for the telecommunications devise for the deaf. The deadline for intervention in this proceeding in June 26, 1992.

Issued in Austin, Texas, on June 8, 1992.

TRD-9208023 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: June 11, 1992

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



Railroad Commission of Texas Invitation for Bids

The Railroad Commission of Texas, Surface Mining and Reclamation Division (hereinafter referred to as the commission), is soliciting bids for revegetation and erosion control of Alcoa AML Areas 4, 5, 6, 9, 11, and 12. The site is located in Milam county, 9.5 miles southwest of Rockdale.

As the designated state agency for implementation of the Surface Mining Control and Reclamation Act of 1977 (30 United State Code Annotated, §§1201 et seq), the commission will award a unit price contract to the lowest qualified bidder for completion of this work. Sealed bids will be received until 2 p.m., July 24, 1992, at which time the bids will be publicly opened and read at the address given following. A mandatory pre-bid conference will be held at

the Alcoa Lake Training Center on July 10, 1992, at 10 a.m. Work shall include: seedbed preparation and fertilization; seeding-temporary and permanent vegetation; mulch, insecticide, herbicide, and lime application; erosion control and repair.

Copies of the specifications, drawings, and other contract documents are on file in Austin at the address shown following. The complete bid package may be obtained for \$15 from the following mailing address: Alcoa AML Revegetation and Erosion Control Project; Surface Mining and Reclamation Division; Railroad Commission of Texas; 1701 North Congress Avenue; Austin, Texas 78701; Attention: Melvin B. Hodgkiss, P.E., Director. All questions concerning the work or bid document must be received in writing by July 17, 1992.

Issued in Austin, Texas, on June 15, 1992.

TRD-9208132 Nolan Ward
 Hearings Examiner, Legal Division-General
 Law
 Railroad Commission of Texas

Filed: June 12, 1992

For further information, please call: (512) 463-8901



Texas Department of Transportation Correction of Error

The Texas Department of Transportation proposed new 43 TAC §25.404, concerning the Specific Information Logo Sign Program. The rule was published in the June 9, 1992, *Texas Register* (17 TexReg 4160).

In paragraph (b)(2) one line of a formula was inadvertently omitted. The formula should read as follows.

$B = IF + [5 \times (ARF_1 + ARF_r)]$ where:

B = Contractor's bid

IF = Installation fee

ARF₁ = Annual rental fee for one business logo sign space

ARF_r = Annual rental fee for one ramp business logo sign

space



Public Hearing Notice

Pursuant to Texas Civil Statutes, Article 46c-6, Subdivision 10, and Title 43, Texas Administrative Code, §65.9, the Texas Transportation Commission filed a public hearing notice to receive comments from interested parties concerning the following aviation facilities development project and financial assistance: Proposed addition to second year of current capital improvement project, TSTC/Waco Airport. Sponsor: Texas State Technical Col-

lege.

The notice appeared in the June 12, 1992, issue of the *Texas Register* and specified that the hearing was scheduled for Thursday, June 25, 1992, at 9:30 a.m., in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin. The public hearing has now been rescheduled for Wednesday, June 24, 1992, at 11 a.m. Any interested person may appear and offer comments or testimony, either orally or in writing, however, questioning of witnesses will be reserved exclusively to the commission or its staff as may be necessary to ensure a complete record. While any person with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the commis-

sion reserves the right to restrict testimony in terms of time or repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible.

For additional information please contact Karon Wiedemann, Division of Aviation, 125 East 11th Street, Austin, Texas 78701, (512) 476-9262.

Issued in Austin, Texas, on June 12 1992.

TRD-9208166 Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: June 12, 1992

For further information, please call: (512) 463-8630



Texas Water Commission Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Pete Bell doing business as Crowley Two Acre Water System (Docket Number 9121-E) on June 1, 1992, assessing \$1,500 in administrative penalties with \$500 deferred and foregone pending compliance.

Information concerning any aspect of this order may be obtained by contacting Glenn Hall, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on June 11, 1992.

TRD-9208110 Gloria A. Vasquez
Chief Clerk
Texas Water Commission

Filed: June 12, 1992

For further information, please call: (512) 463-7898



Texas Water Development Board Application Received

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the board:

City of Bowie, 304 Lindsey Street, Bowie, Texas 76230, received June 3, 1992, application for an increase in financial assistance on the amount of \$1 million from the Water Supply Account of the Texas Water Development Fund;

City of Snyder, P.O. Drawer GG, Snyder, Texas 79549, received May 22, 1992, application for an increase in financial assistance in the amount of \$375,000 from the State Water Pollution Control Revolving Fund;

City of Mercedes, P.O. Box 837, Mercedes, Texas 78509, received June 1, 1992, facility planning application is an amount not to exceed \$45,750 from the Research and Planning Fund;

Zavala County, Zavala County Courthouse, Crystal City, Texas 78839, received April 27, 1992, in an amount not to exceed \$23,625 from the Research and Planning Fund.

Additional information concerning this matter may be obtained from Craig D. Pedersen, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

Issued in Austin, Texas, on June 10, 1992.

TRD-9208026 Craig D. Pedersen
Executive Administrator
Texas Water Development Board

Filed: June 10, 1992

For further information, please call: (512) 463-7981



1992 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1992 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on February 28, November 6, December 1, and December 29. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 *Friday, January 3	Friday, December 27	Tuesday, December 31
2 *Tuesday, January 7	Tuesday, December 31	Thursday, January 2
3 Friday, January 10	Monday, January 6	Tuesday, January 7
4 Tuesday, January 14	Wednesday, January 8	Thursday, January 9
5 Friday, January 17	Monday, January 13	Tuesday, January 14
6 Tuesday, January 21	Wednesday, January 15	Thursday, January 16
Friday, January 24	1991 ANNUAL INDEX	
7 Tuesday, January 28	Wednesday, January 22	Thursday, January 23
8 Friday, January 31	Monday, January 27	Tuesday, January 28
9 Tuesday, February 4	Wednesday, January 29	Thursday, January 30
10 Friday, February 7	Monday, February 3	Tuesday, February 4
11 Tuesday, February 11	Wednesday, February 5	Thursday, February 6
12 Friday, February 14	Monday, February 10	Tuesday, February 11
13 Tuesday, February 18	Wednesday, February 12	Thursday, February 13
14 *Friday, February 21	Friday, February 14	Tuesday, February 18
15 Tuesday, February 25	Wednesday, February 19	Thursday, February 20
Friday, February 28	NO ISSUE PUBLISHED	
16 Tuesday, March 3	Wednesday, February 26	Thursday, February 27
17 Friday, March 6	Monday, March 2	Tuesday, March 3
18 Tuesday, March 10	Wednesday, March 4	Thursday, March 5
19 Friday, March 13	Monday, March 9	Tuesday, March 10
20 Tuesday, March 17	Wednesday, March 11	Thursday, March 12
21 Friday, March 20	Monday, March 16	Tuesday, March 17
22 Tuesday, March 24	Wednesday, March 18	Thursday, March 19
23 Friday, March 27	Monday, March 23	Tuesday, March 24
24 Tuesday, March 31	Wednesday, March 25	Thursday, March 26
25 Friday, April 3	Monday, March 30	Tuesday, March 31
26 Tuesday, April 7	Wednesday, April 1	Thursday, April 2
27 Friday, April 10	Monday, April 6	Tuesday, April 7
Tuesday, April 14	FIRST QUARTERLY INDEX	
28 Friday, April 17	Monday, April 13	Tuesday, April 14
29 Tuesday, April 21	Wednesday, April 15	Thursday, April 16

30 Friday, April 24	Monday, April 20	Tuesday, April 21
31 Tuesday, April 28	Wednesday, April 22	Thursday, April 23
32 Friday, May 1	Monday, April 27	Tuesday, April 28
33 Tuesday, May 5	Wednesday, April 29	Thursday, April 30
34 Friday, May 8	Monday, May 4	Tuesday, May 5
35 Tuesday, May 12	Wednesday, May 6	Thursday, May 7
36 Friday, May 15	Monday, May 11	Tuesday, May 12
37 Tuesday, May 19	Wednesday, May 13	Thursday, May 14
38 Friday, May 22	Monday, May 18	Tuesday, May 19
39 Tuesday, May 26	Wednesday, May 20	Thursday, May 21
40 *Friday, May 29	Friday, May 22	Tuesday, May 26
41 Tuesday, June 2	Wednesday, May 27	Thursday, May 28
42 Friday, June 5	Monday, June 1	Tuesday, June 2
43 Tuesday, June 9	Wednesday, June 3	Thursday, June 4
44 Friday, June 12	Monday, June 8	Tuesday, June 9
45 Tuesday, June 16	Wednesday, June 10	Thursday, June 11
46 Friday, June 19	Monday, June 15	Tuesday, June 16
47 Tuesday, June 23	Wednesday, June 17	Thursday, June 18
48 Friday, June 26	Monday, June 22	Tuesday, June 23
49 Tuesday, June 30	Wednesday, June 24	Thursday, June 25
50 Friday, July 3	Monday, June 29	Tuesday, June 30
51 Tuesday, July 7	Wednesday, July 1	Thursday, July 2
52 Friday, July 10	Monday, July 6	Tuesday, July 7
Tuesday, July 14	SECOND QUARTERLY INDEX	
53 Friday, July 17	Monday, July 13	Tuesday, July 14
54 Tuesday, July 21	Wednesday, July 15	Thursday, July 16
55 Friday, July 24	Monday, July 20	Tuesday, July 21
56 Tuesday, July 28	Wednesday, July 22	Thursday, July 23
57 Friday, July 31	Monday, July 27	Tuesday, July 28
58 Tuesday, August 4	Wednesday, July 29	Thursday, July 30
59 Friday, August 7	Monday, August 3	Tuesday, August 4
60 Tuesday, August 11	Wednesday, August 5	Thursday, August 6
61 Friday, August 14	Monday, August 10	Tuesday, August 11
62 Tuesday, August 18	Wednesday, August 12	Thursday, August 13
63 Friday, August 21	Monday, August 17	Tuesday, August 18
64 Tuesday, August 25	Wednesday, August 19	Thursday, August 20
65 Friday, August 28	Monday, August 24	Tuesday, August 25
66 Tuesday, September 1	Wednesday, August 26	Thursday, August 27
67 Friday, September 4	Monday, August 31	Tuesday, September 1
68 Tuesday, September 8	Wednesday, September 2	Thursday, September 3
69 *Friday, September 11	Friday, September 4	Tuesday, September 8

70 Tuesday, September 15	Wednesday, September 9	Thursday, September 10
71 Friday, September 18	Monday, September 14	Tuesday, September 15
72 Tuesday, September 22	Wednesday, September 16	Thursday, September 17
73 Friday, September 25	Monday, September 21	Tuesday, September 22
74 Tuesday, September 29	Wednesday, September 23	Thursday, September 24
75 Friday, October 2	Monday, September 28	Tuesday, September 29
76 Tuesday, October 6	Wednesday, September 30	Thursday, October 1
77 Friday, October 9	Monday, October 5	Tuesday, October 6
Tuesday, October 13	THIRD QUARTERLY INDEX	
78 Friday, October 16	Monday, October 12	Tuesday, October 13
79 Tuesday, October 20	Wednesday, October 14	Thursday, October 15
80 Friday, October 23	Monday, October 19	Tuesday, October 20
81 Tuesday, October 27	Wednesday, October 21	Thursday, October 22
82 Friday, October 30	Monday, October 26	Tuesday, October 27
83 Tuesday, November 3	Wednesday, October 28	Thursday, October 29
Friday, November 6	NO ISSUE PUBLISHED	
84 Tuesday, November 10	Wednesday, November 4	Thursday, November 5
85 Friday, November 13	Monday, November 9	Tuesday, November 10
*86 Tuesday, November 17	Tuesday, November 10	Thursday, November 12
87 Friday, November 20	Monday, November 16	Tuesday, November 17
88 Tuesday, November 24	Wednesday, November 18	Thursday, November 19
89 Friday, November 27	Monday, November 23	Tuesday, November 24
Tuesday, December 1	NO ISSUE PUBLISHED	
90 Friday, December 4	Monday, November 30	Tuesday, December 1
91 Tuesday, December 8	Wednesday, December 2	Thursday, December 3
92 Friday, December 11	Monday, December 7	Tuesday, December 8
93 Tuesday, December 15	Wednesday, December 9	Thursday, December 10
94 Friday, December 18	Monday, December 14	Tuesday, December 15
95 Tuesday, December 22	Wednesday, December 16	Thursday, December 17
96 Friday, December 25	Monday, December 21	Tuesday, December 22
Tuesday, December 29	NO ISSUE PUBLISHED	
1 (1993) Friday, January 1	Monday, December 28	Tuesday, December 29

Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues requested. Each copy of a back issue is \$5 including postage. You may use your Mastercard or Visa to purchase back issues or subscription services. To order by credit card, please call the *Texas Register* at (512) 463-5561. All purchases made by credit card will be subject to an additional 1.9% service charge. For more information, please write to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824 or call (512) 463-5561.

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