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Texas Register

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Governor-Appointments, executive orders, and proclamations

Attorney General-summaries of requests for opinions, opinions, and open records decisions

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

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Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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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: "14 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 14 TexReg 3"

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Texas Administrative Code

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

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1 indicates the title under which the agency appears in the *Texas Administrative Code*;

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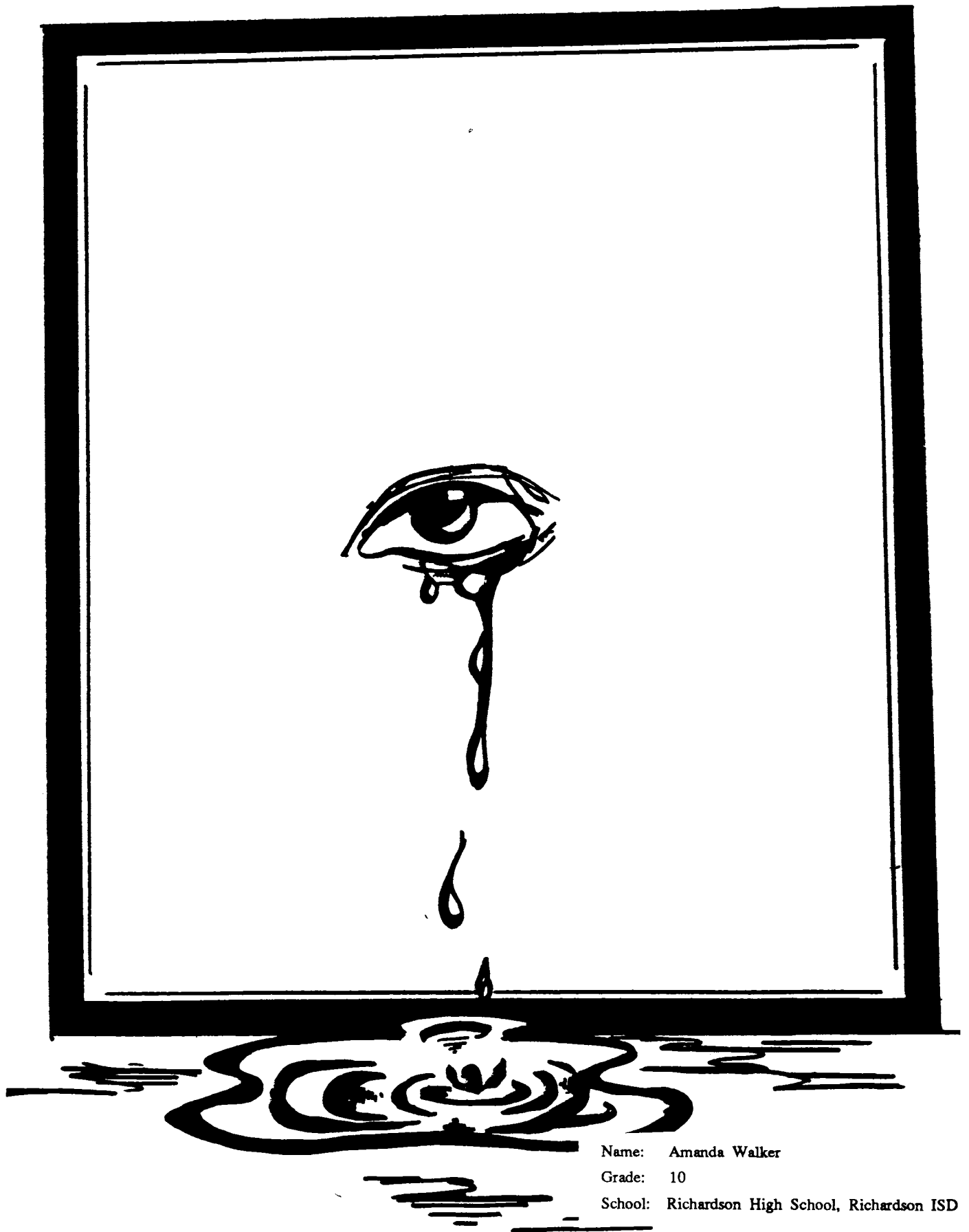
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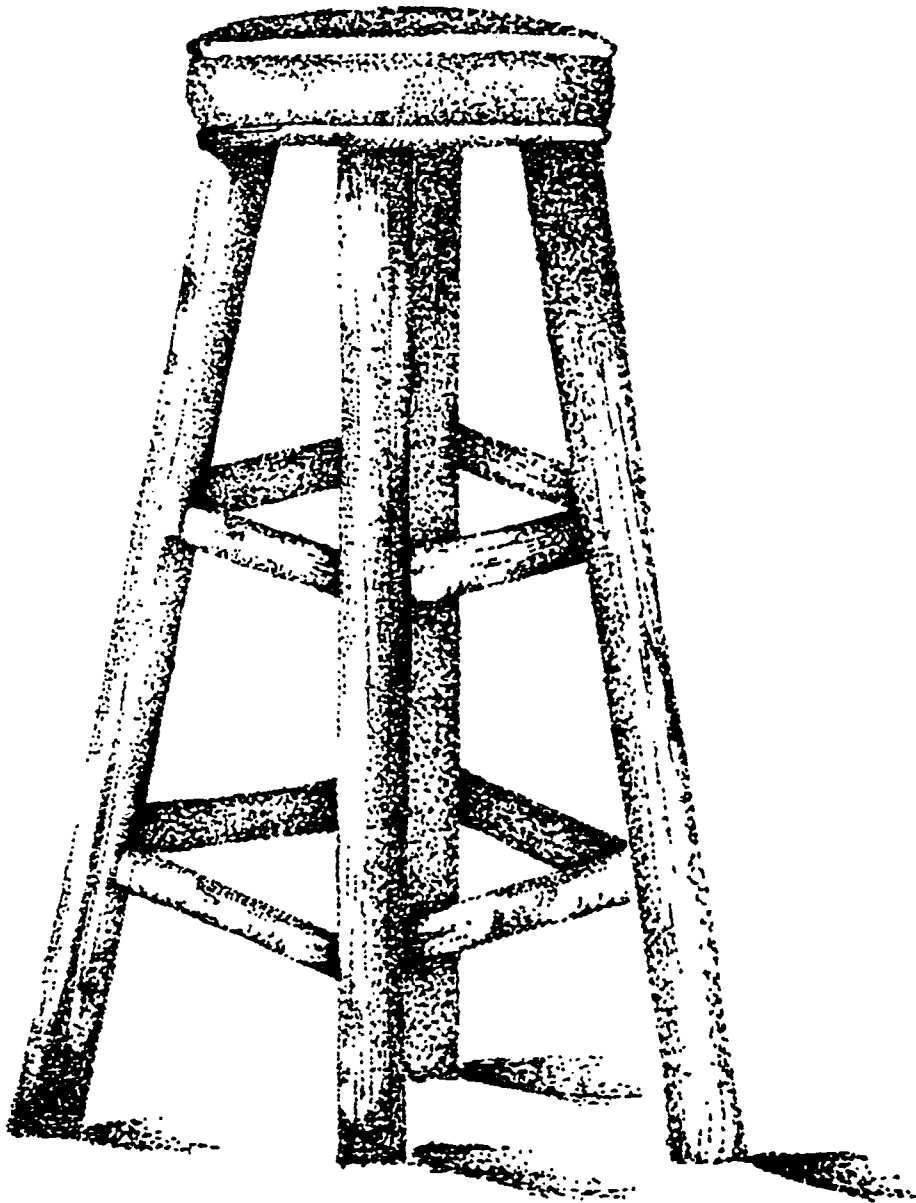
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An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon 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 19. EDUCATION Part II. Texas Education Agency

Chapter 69. Proprietary Schools and Veterans Education

Subchapter E. Minimum Standards for Operation of Texas Proprietary Schools

• 19 TAC §69.128

The Texas Education Agency adopts on an emergency basis an amendment to §69.128, concerning fees for proprietary schools. The amendment to §69.128 reduces the amount

of renewal fees to be paid by the driver education and driving safety schools (excluding truck driving schools). The amendment also increases the percentage of the school's annual renewal fee to be deposited to the tuition protection fund from 20 to 30%. The increase is necessary to ensure that \$250,000 is collected by January 1, 1992, as required by Senate Bill 417. Minor changes in terminology have been made to the section for the purpose of clarity. The amendment is adopted on an emergency basis to allow driver education and driving safety schools to benefit from a reduction in cost this year.

The amendment is adopted on an emergency basis under the Texas Education Code, §32.71, which provides the State Board of Education with the authority to adopt rules regarding certificate and registration fees for proprietary schools.

§69.128. Application Fees and Other Charges.

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

(e) Certificate and registration fees shall be collected by the administrator and deposited with the state treasurer in accordance with the following schedule:

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

(3) **except for drivers education and driving safety schools addressed in subsection (h) of this section, each subsequent annual renewal fee is based on the gross amount of annual student tuition and fees, as follows:**

Gross Amount, Student Tuition and Fees			Fee
	not more than	\$ 50,000	\$ 825
more than \$ 50,000 but not more than		100,000	975
more than 100,000 but not more than		250,000	1,125
more than 250,000 but not more than		500,000	1,275
more than 500,000 but not more than		750,000	1,425
more than 750,000 but not more than		1,000,000	1,575
more than 1,000,000			1,725;

(4)-(8) (No change.)

(9) the application fee for an additional **program** [course] is 225; except for seminar and workshop **programs** [courses] for which the fee is 35;

(10) the application fee for a **school** director, administrative staff member, or instructor is 20;

(11)-(14) (No change.)

(f) (No change.)

(g) The rate required by the Texas Education Code, §32.91, to collect funds for the proprietary school tuition protection fund is set at **30%** [20%] of the school's annual renewal fee.

(h) **Driver education and driving safety schools shall pay the statutory annual renewal fees as set forth in the Texas Education Code, §32. 71(a).**

Issued in Austin, Texas, on November 16, 1990.

TRD-9012375

W. N. Kirby
Commissioner of Education

Effective date: November 19, 1990

Expiration date: March 19, 1991

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

TITLE 28. INSURANCE Part I. State Board of Insurance

Chapter 7. Corporate and Financial Regulation

Subchapter A. Examination and Corporate Custodian and Tax

• 28 TAC §7.60

The State Board of Insurance adopts on an emergency basis new §7.60, concerning corporate and financial regulation. Section 7.60 concerns forms and instructions for the preparation and filing of tax returns for insurers and other entities required to file tax returns with the State Board of Insurance for the 1990 calendar year or required to file quarterly premium tax returns with the board during the 1991 calendar year. This new sec-

tion is necessary to provide forms and instructions which will facilitate compliance with statutory requirements for reporting and payment of taxes to the State Board of Insurance. The annual gross premium tax return is required by statute to be filed either on or before March 1, 1991, or the date the annual statement for the carrier is required to be filed with the board. Quarterly tax returns are required to be filed four times per year: the first quarter is due and payable March 1, 1991 (or the date the annual statement for such carrier is required to be filed with the State Board of Insurance); the second quarter is due and payable May 15, 1991; the third quarter is due and payable August 15, 1991; and the fourth quarter is due and payable November 15, 1991. The forms and instructions include requirements for information respecting gross premium taxes, maintenance taxes, other taxes, and certain incidental fees, and provide a form to be used in determining and reporting the amount owed. It is the board's opinion and the board finds that an imminent peril to the public welfare requires that §7.60 be adopted on an emergency basis in order to continue the proper functioning of administrative regulation of the business of insurance in Texas. An imminent peril to the public welfare requires adoption of this new section on an emergency basis in order to enable the board

to provide insurers and other entities with forms and instructions in sufficient time for affected entities to file tax returns on or before the statutory due date. Timely and accurate payment of the taxes is necessary for support of regulatory functions of the State Board of Insurance. Adoption of this section on an emergency basis includes adoption by reference of forms and instructions. The board has filed copies of these forms and instructions with the Secretary of State's Office, Texas Register Section. Persons desiring copies of the forms and instructions can obtain copies from the Tax Collection Section of the Administrative Services Division of the State Board of Insurance, Three Republic Plaza, Room 284, 333 Guadalupe Street, Austin.

The new section is adopted on an emergency basis under the Insurance Code, Articles 1.04, 1.10, §9, 1.14-1, 1.14-2, 1.35B, 4.07, 4.10, 4.11, 4.11A, 4.11B, 4.11C, 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 9.59, 21.07-6, 21.54, and 23.08; the Texas Health Maintenance Organization Act, §22 and §33; and Texas Civil Statutes, Article 6252-13a, §4, and Article 8306, §28. The Insurance Code, Article 1.04, places original jurisdiction for the adoption of rules in the State Board of Insurance. Article 1.10, §9, requires the board to furnish, to companies required to report to the board, statement blanks for the statements required. Article 4.07 specifies the charges for certain fees. The Insurance Code, Articles 4.10, 4.11, 9.59, and 21.54; Texas Civil Statutes, Article 8306, §28; and the Texas Health Maintenance Organization Act, §33, requires the payment of taxes on gross premiums by entities regulated by the board or on gross amounts of similar revenue by health maintenance organizations. The Insurance Code, Article 4.11A, requires the payment of taxes on the gross amount of administrative or service fees received by an insurance carrier. The Insurance Code, Articles 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 21.07-6, and 23.08, requires the payment of maintenance taxes by certain entities regulated by the board. The Insurance Code, Articles 4.10, 4.11, and 4.11A, gives the board rulemaking authority. The Texas Health Maintenance Organization Act, §22, gives the board rulemaking authority. Texas Civil Statutes, Article 6252-13a, §4, require and authorize the board to adopt rules of practice setting forth the nature and requirements of all procedures available.

§7.60. Preparation of 1990 Tax Returns. Forms and instructions for the preparation of tax returns and certain fees for insurance companies and other principals for the 1990 calendar year are adopted by reference. These instructions and forms are published by the State Board of Insurance and may be obtained from the Tax Collection Section of the Administrative Services Division of the State Board of Insurance, Three Republic Plaza, Room 284, 333 Guadalupe, Austin, Texas 78701. Each insurer or other entity shall follow such instructions and use and report on such forms as appropriate to its operation. The instructions and forms are more particularly identified as follows:

(1) a form identified as the 1990 General Instructions for Filing the

1990 Texas Annual Tax Return for All Texas Licensed Insurance Carriers;

(2) a form identified as the Specific Instructions for Completing the 1990 Texas Annual Tax Return for Domestic, Foreign, and Alien Carriers Transacting Life, Health, and Accident Business;

(3) a form identified as the 1990 Texas Annual Tax Return for Domestic, Foreign, and Alien Carriers Transacting Life, Health, and Accident Business;

(4) a form identified as the Specific Instructions for Completing the 1990 Texas Annual Tax Return for Domestic, Foreign, and Alien Carriers transacting Property and Casualty Business;

(5) a form identified as the 1990 Texas Annual Tax Return for Domestic, Foreign, and Alien Carriers, Lloyds, Reciprocal, and Miscellaneous Organizations Transacting Property and Casualty Business;

(6) a form identified as the Specific Instructions for Completing the 1990 Texas Annual Tax Return for Health Maintenance Organizations;

(7) a form identified as the 1990 Texas Annual Tax Return for Health Maintenance Organizations;

(8) a form identified as the 1990 Texas Annual Tax Return, including instructions, for Nonprofit Prepaid Legal Services Organizations;

(9) a form identified as the 1990 Texas Annual Tax Return, including instructions, for local mutual aid associations;

(10) a form identified as the Specific Instructions for Preparing and Filing the 1991 Texas Quarterly Premium Tax Return for Domestic, Foreign, and Alien Carriers Transacting Life, Health, and Accident Business;

(11) a form identified as the 1991 Texas Quarterly Premium Tax Return for Life, Health, and Accident Insurance Carriers;

(12) a form identified as the Specific Instructions for Preparing and Filing the 1991 Texas Quarterly Premium Tax Return for Domestic, Foreign, and Alien Carriers Transacting Property and Casualty Business;

(13) a form identified as the 1991 Texas Quarterly Premium Tax Return for Property and Casualty Insurance Carriers;

(14) a form identified as the Specific Instructions for Preparing and Filing the 1991 Texas Quarterly Premium Tax Return for Health Maintenance Organizations;

(15) a form identified as the 1991 Texas Quarterly Premium Tax Return for Health Maintenance Organizations;

(16) a form identified as the Specific Instructions for Preparing and Filing the 1991 Texas Quarterly Premium Tax Return for Domestic, Foreign, and

(17) a form identified as the 1991 Texas Quarterly Premium Tax Return for Title Insurance Carriers;

(18) a form identified as the Instructions for Completing the 1990 Texas Annual Tax Return, for carriers operating under the Insurance Code, Articles 3.25 and 3.59;

(19) a form identified as the 1990 Texas Annual Tax Return, for carriers operating under the Insurance Code, Articles 3.25 and 3.59;

(20) a form identified as the 1990 Texas Maintenance Tax Return, including instructions, for Third Party Administrators;

(21) a form identified as the 1991 Specific Instructions for Preparing and Filing the Texas Quarterly Administrative Services Tax Return;

(22) a form identified as the 1991 Texas Quarterly Tax Return for Administrative Services;

(23) a form identified as the General Instructions and Specific Instructions for Completing the 1990 Texas Annual Tax Return for Administrative Services;

(24) a form identified as the 1990 Texas Annual Tax Return for Administrative Services;

(25) a form identified as the Specific Instructions for Completing the 1990 Texas Annual Tax Return for Title Business;

(26) a form identified as the 1990 Texas Annual Tax Return for Domestic and Foreign Title Carriers;

(27) a form identified as the 1990 Instructions for Filing the Annual Tax Report of Insured Applicable to Independently Procured Insurance (FT-1);

(28) a form identified as the 1990 Texas Annual Tax Report of Insured Applicable to Independently Procured Insurance;

(29) a form identified as the 1990 Instructions for Filing the Annual Purchasing Group Premium Tax Report;

(30) a form identified as the 1990 Texas Annual Purchasing Group Premium Tax Report; and

(31) a form identified as the 1990 Specific Instructions for Filing the 1990 Texas Annual and 1991 Texas Quarterly Tax Returns for Registered Risk Retention Groups.

Issued in Austin, Texas, on November 20, 1990.

Effective date: November 20, 1990

Expiration date: March 20, 1991

For further information, please call: (512) 463-6327

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part V. Veterans Land Board

Chapter 175. General Rules

• 40 TAC §175.7

The Veterans Land Board adopts on an emergency basis an amendment to §175. 7, concerning title examination. This amendment will authorize the chairman of the Veterans Land Board, chief clerk, executive secretary, and assistant executive secretary to review, on a case-by-case basis, requests for use of special warrant deeds. This amendment will also provide for group disability insurance coverage. The emergency status is necessary to provide added flexibility to the

staff of the board in reviewing requests to purchase foreclosed property from the Resolution Trust Corporation, Federal Deposit Insurance Corporation, and other financial institutions. It will also allow account holders to take steps to protect their interest in their contract of sale, through the acquisition of disability insurance.

The amendment is adopted under the Natural Resources Code, §161.061 and §161.063, which provides the Veterans Land Board with the authority to adopt rules that its considers necessary or advisable to ensure the proper administration of the Veterans Land Program.

§175.7. Title Examination.

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

(e) The staff of the board will prepare a deed sufficient to convey title to the land from the seller to the board. If the seller wishes to have a deed prepared and furnishes it to the board, this deed must:

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

(5) contain a general warranty; special warranty deeds are not acceptable, **except where specifically authorized by the chairman of the board, chief clerk, executive secretary, or assistant executive secretary.**

(f)-(i) (No change.)

(j) The board has obtained a group credit life insurance policy and a group disability policy for the benefit of both veterans and non-veterans who are purchasing land through the program. If the contract holder obtains the group credit life insurance and dies while it is in force, the principal balance [(exclusive of any delinquencies)] of the veteran's account as of the date of death will be paid in full **in accordance with the terms of the policy of insurance. If the contract holder obtains the group disability insurance and becomes disabled, the account holders regularly scheduled payments will be made in accordance with the terms of the policy of insurance.** The policy or policies will be terminated when the contract holder does or pays the account in full.

Issued in Austin, Texas, on November 19, 1990.

TRD-9012521

Garry Mauro
Chairman
Veterans Land Board

Effective date: November 21, 1990

Expiration date: March 21, 1991

For further information, please call: (512) 463-5235

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Name: Albert Hernandez

Grade: 11

School: Richardson High School, Richardson ISD

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 7. BANKING AND SECURITIES

Part II. Banking

Department of Texas

Chapter 25. Prepaid Funeral Contracts

Subchapter B. Regulation of Licenses

• 7 TAC §25.11

The Texas Department of Banking proposes an amendment to §25.11, concerning record keeping requirements for permit holders under the Sale of Prepaid Funeral Services or Funeral Merchandise Act, Texas Civil Statutes, Article 548b. Section 25.11(c)(1)(D) now requires the permit holder to maintain an individual ledger for each permit holder. Instead, an individual ledger for each contract purchaser should be maintained by the permit holder.

Cynthia N. Milne, 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 section will have no local employment impact.

Ms. Milne 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 clarification of an existing rule to give proper guidance for maintenance of records by permit holders who sell preneed funeral services contracts. 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 Cynthia N. Milne, Assistant General Counsel, Texas Department of Banking, 2801 North Lamar Boulevard, Austin, Texas 78705-4294.

The new section is proposed under Texas Civil Statutes, Article 548b, §2, which provide that the State Banking Department is authorized to prescribe reasonable rules and regulations concerning the keeping and inspection of records by permit holders.

§25.11. Record Keeping Requirements.

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

(c) Other records.

(1) Each permit holder shall maintain currently the following records:

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

(D) individual ledgers for each contract purchaser [permit holder] which reflect the contract purchaser's name, contract number, amount of contract, total amounts paid on the contract, any retentions, deposits to trust, the total payments to trust, earnings on deposits (if applicable), and the total amount of the trust;

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

(2)-(4) (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 November 20, 1990.

TRD-9012490

Ann Graham
General Counsel
Texas Department of
Banking

Earliest proposed date of adoption: December 31, 1990

For further information, please call: (512) 479-1200

TITLE 13. CULTURAL RESOURCES

Part I. Texas State Library and Archives Commission

Chapter 9. Program for the Blind and Physically Handicapped

• 13 TAC §§9.1-9.14

The Texas State Library and Archives Commission proposes new §§9.1-9.14, concerning initial and continued eligibility for library service for blind, physically disabled, and reading disabled Texans.

Dale Propp, director of the Program for the Blind and Physically Handicapped 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 sec-

tions.

Mr. Propp 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 an improvement in the efficiency of the operations of the Program for the Blind and Physically Handicapped because books, magazines, and equipment will be returned more promptly and will be available on a more consistent basis to others. 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 Kay Nichols, Manager of Program Development, Program for the Blind and Physically Handicapped, Texas State Library, Box 12927, Austin, Texas 78711.

The new sections are proposed under the Government Code, Chapter 441, §441.006, which provides the Texas State Library and Archives Commission with the authority to govern the Texas State Library.

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

Active user—A person who has borrowed at least one book in the most recent 12-month period beginning September 1, or who is currently subscribing to a magazine produced by the Texas State Library or by the National Library Service for the Blind and Physically Handicapped.

Books—Braille, disc, cassette, and large print publications.

Borrower—A person who currently receives service.

Commission—The Texas State Library and Archives Commission.

Competent authority—In cases of blindness, visual disability, or physical limitation, includes doctors of medicine, doctors of osteopathy, ophthalmologists, optometrists, registered nurses, therapists, professional staff of hospitals, institutions, and public or welfare agencies (e. g., social workers, case workers, counselors, rehabilitation teachers, and superintendents). In the absence of any of these, certification may be made by professional librarians or by other persons whose competence is acceptable to the Library of Congress. In the case of reading disability from organic dysfunction, includes only doctors of medicine or osteopathy.

Loan period—The period of time be-

ginning with the day the Texas State Library mails a book or magazine to a borrower and ending with the day the Texas State Library receives the returned book or magazine.

Magazines—Periodical publications in disc, cassette, braille, or large print format.

National Library Service for the Blind and Physically Handicapped (National Library Service)—A division of the Library of Congress which operates a free national library service that produces recorded and braille materials and distributes them to a cooperating network of regional and subregional libraries, to be circulated by postage-free mail to blind and physically disabled borrowers.

Texas State Library—The staff, collections, archives, and property of the Texas State Library and Archives Commission organized to carry out the commission's responsibilities.

§9.2. Administration. A free, statewide program of library service for Texas residents who are blind, reading disabled, or physically handicapped is operated and administered by the Texas State Library, Program for the Blind and Physically Handicapped. The National Library Service for the blind and physically handicapped provides the Texas State Library with books in braille and audio format under regulations established by the Library of Congress. The National Library Service also provides the Texas State Library with playback equipment for reading materials in audio format.

§9.3. Eligibility. The following persons are eligible for service:

- (1) persons whose visual acuity, as determined by competent authority, is 20/200 or less in the better eye with correcting glasses, or whose widest diameter of visual field is no greater than 20 degrees;
- (2) persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material;
- (3) persons certified by competent authority as unable to read or unable to use standard printed materials as a result of physical limitations;
- (4) persons certified by competent authority as having a reading dysfunction resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner.

§9.4. Status Changes. Registered borrowers of the Texas State Library, Program for the Blind and Physically Handicapped should notify the library if any of the following circumstances occur:

- (1) the borrower moves to a dif-

ferent address or gets a different telephone number;

- (2) the borrower desires to cancel service permanently or to place service on temporary hold for vacation, illness, or other reasons;

- (3) the borrower moves temporarily or permanently to a location outside the State of Texas;

- (4) the borrower ceases to be eligible for service.

§9.5. Playback Equipment.

- (a) Loan period. A cassette player, a talking book machine, and accessories may be borrowed indefinitely, without charge, by borrowers who check out a cassette or talking book through the Texas State Library at least once each year.

- (b) Equipment availability. At any given time, a borrower may have on loan a maximum of one cassette player and one talking book machine.

- (c) Ownership of equipment and accessories. Playback equipment, amplifiers, headphones, and remote controls distributed by the Texas State Library or the National Library Service are the property of the federal government.

- (d) Repair of playback equipment. Only the Texas State Library is authorized to make repairs of playback equipment on loan to Texas borrowers, or to make the determination that a machine is damaged beyond repair. A machine that needs repair must be returned to the Texas State Library, which will provide a replacement machine. Under no circumstances should a borrower or any other person attempt to repair the playback equipment or accessories.

- (e) Repair of accessories. The National Library Service loans amplifiers and remote controls. An amplifier or remote control that needs repair must be returned to the National Library Service.

- (f) Nontransferability. Borrowers must not lend playback equipment to other persons.

- (g) Return of equipment. Playback equipment and accessories must be returned to the lending agency if the borrower ceases to actively use the service.

§9.6. Books and Magazines.

- (a) Loan period. The loan period for books is 45 days for individuals, 90 days for schools, and 120 days for other institutions. The loan period for magazines is 15 days for individuals and 45 days for schools and other institutions. No fines for overdue books or magazines will be levied.

- (b) Ownership. Books and magazines in all formats are the property of the federal government, with the following exceptions.

- (1) Books or magazines identified as "TSL" are the property of the Texas State Library.

- (2) Disc magazines distributed by the National Library Service are disposable unless clearly marked "Property of TSL".

- (c) Nontransferability. Borrowers must not lend library books or magazines to other persons.

- (d) Return of books and magazines. Except for disposable materials, all books and magazines must be returned to the Texas State Library at the end of their loan period. If the borrower becomes ineligible or cancels service, all books and magazines must be returned to the Texas State Library regardless of whether the loan period has ended.

§9.7. Use of Mail Service. No postage is required to return materials. When returning books, magazines, or equipment, the borrower must deliver the materials or equipment to the United States Postal Service by placing the items in a mailbox or taking them to a post office. Placing them on a doorstep for the mail carrier to pick up does not constitute delivery to the postal service and, if problems arise by use of this method, the borrower is responsible for the lost or damaged books.

§9.8. Misuse of Service. The following actions may result in suspension of borrowing privileges:

- (1) repeated requests for replacement of equipment that has been damaged through negligence, maliciousness, or unauthorized repair;
- (2) excessive numbers of overdue books or magazines;
- (3) repeated loss or damage of books or magazines;
- (4) repeated obscene, harassing, or threatening behavior to Texas State Library staff;
- (5) repeated loan of books or playback equipment to other persons;
- (6) repeated violations of other policies described in this chapter.

§9.9. Notification of Potential Suspension. If it appears that a borrower has misused service, the Texas State Library will first discuss the problem with the borrower by telephone or in person, then will send a letter that states the problem and provides an opportunity for the borrower to respond by a certain date.

§9.10. Correction of Problem. If the borrower's response resolves the apparent problem or the borrower ceases the misuse of service by the designated date, and the

borrower agrees to abide by Texas State Library policies in the future, no further action will take place at that time.

§9.11. Suspension.

(a) If misuse of service continues or recurs, Texas State Library staff will send a notice suspending service.

(b) The suspension period will not exceed six months.

(c) To avoid suspension, the borrower must contact the Texas State Library before the scheduled suspension date and show cause why suspension should not take place.

(d) Suspension will relate only to the portion of service being misused. For example, if the misuse relates to cassette books, then cassette service would be suspended, but circulation of magazines would continue. If the recurring offense is verbal abuse of Texas State Library staff, the borrower would lose telephone privileges and would be limited to written or third-person communication with the library.

§9.12. Reinstatement of Service. When the suspension ends, Texas State Library staff will send the borrower a notification that service is resuming.

§9.13. Termination of Service. Service to eligible borrowers will not be permanently cancelled, although suspensions may be applied repeatedly. Service will end only in the following circumstances:

- (1) a borrower ceases to meet eligibility requirements;
- (2) a borrower requests that service be terminated;
- (3) a borrower ceases to be an active user. Upon request service may be reinstated at any time that eligibility requirements are met.

§9.14. Transfer of Service. A borrower who has lived or will live outside the State of Texas for six months or longer will no longer be eligible to receive service through the Texas State Library, and must return all books and magazines to the Texas State Library. At the borrower's request, the Texas State Library will make arrangements to have service transferred to the new state of residence.

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 November 19, 1990.

TRD-9012441

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Earliest possible date of adoption: December 31, 1990

For further information, please call: (512) 463-5440

• 13 TAC §§9.21-9.31

The Texas State Library and Archives Commission proposes new §§9.21-9.31, concerning the operation and administration of a reading machine program, in public and academic libraries. The proposed sections established procedures for public and academic libraries to participate and identify criteria for libraries to claim exemption from the program.

Dale Propp, director of the Program for the Blind and Physically Handicapped, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. The effect on state government for the first five year period the sections are in effect will be an estimated additional cost of \$55,089 for fiscal years (fy) 1990-1994. The effect on state government will depend on the choices made by the library involved. In the event that all participating libraries purchased a service contract, the total cost would be \$55,089 per year, for 24 participating state institutions. The effect on local government for the first five-year period the sections are in effect will be an estimated additional cost of \$105,587 for fiscal year 1990-1994. In the event that all participating libraries purchased a service contract, the total cost would be \$105,587 per year, for 46 participating institutions.

Mr. Propp 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 rule as proposed will be that visually impaired persons attending participating colleges or visiting participating public libraries will be able independently to read books that may be not available to them in any other accessible format such as braille or audio tape. 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 Kay Nichols, Manager of Program development, Program for the Blind and Physically Handicapped, Texas State Library, P.O. Box 12927, Austin, Texas 78711.

The new sections are proposed under the Government Code Chapter 441, §441.006, general powers and duties, and §§441.111-441.116, reading devices for visually handicapped persons, which provides the Texas State Library and to develop guidelines for the use and maintenance of reading devices.

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

Primary trainer—A Texas Reading Machine Program (TRMP) library employee who has primary responsibility for training the public in the use of a reading machine.

Program coordinator—A TRMP library employee designated as local administrator of the library's Reading Machine Program.

Reading machine—An optical scanner that converts printed words into synthetic speech.

Reading machine user card—An identification card given to persons who successfully complete training in the use of a reading machine.

TRMP library—A library designated as a recipient of a reading machine under the provisions of the Government Code, Chapter 441, §§441.111-441.116, reading devices for visually handicapped persons.

Texas State Library—The staff, collections, archives, and property of the Texas State Library and Archives Commission organized to carry out the commission's responsibilities.

§9.22. Texas Reading Machine Program Library Responsibilities. Each Texas Reading Machine Program library must:

(1) maintain on staff at least one person who have been fully trained to operate the reading machine, and to teach blind and visually handicapped persons to operate the reading machine;

(2) publicize the availability of the reading machine to the general public, local agencies, schools, and organizations serving visually impaired or learning disabled people within its community;

(3) on request, provide reading machine training to the public;

(4) report reading machine activity to the Texas State Library on a quarterly basis;

(5) place the reading machine in an area of the library that is accessible to blind and visually handicapped persons, in an environment consistent with the manufacturer's recommended specification;

(6) make the reading machine available during all hours the library is open to any individual who can demonstrate competency in reading machine operation or who presents a reading machine user card, giving highest priority in the use of the reading machine to blind or visually handicapped persons;

(7) make available, on loan, copies of the reading machine training manual in print, braille, and cassette formats to persons interested in using or learning to use the reading machine

(8) Ensure that the reading machine is maintained in proper working order at all times;

(9) designate a program coordinator who will:

(A) serve as liaison to the Texas State Library for matters concerning the Reading Machine Program;

(B) provide information concerning the Reading Machine Program to community agencies, schools, and other institutions and organizations; and

(C) coordinate service and maintenance for the reading machine with the equipment manufacturer;

(10) designate a primary trainer who will:

(A) attend reading machine workshops provided by the Texas State Library; and

(B) provide reading machine training, upon request by the public, during normal working hours;

(11) notify the Texas State Library of staff changes affecting the reading machine program; and

(12) notify the Texas State Library, by telephone or in writing, before moving the reading machine to any other building or to any other location within the building where it was originally housed.

§9.23. Texas State Library Responsibilities. The Texas State Library shall:

(1) make arrangements for delivery and installation of reading machines in libraries;

(2) notify, in writing, the director of each library prior to delivery and installation of his or her reading machine;

(3) provide each library with forms and schedules for reporting all activity;

(4) conduct a statewide public awareness campaign;

(5) coordinate reading machine site changes; and

(6) provide primary trainers and program coordinators with training, at the Texas State Library, in the use of the reading machine.

§9.24. Repair of Reading Machines. Each Texas Reading Machine Program library must:

(1) report to the equipment manufacturer, immediately upon detection, any reading machine malfunction which affects the use of the reading machine;

(2) notify the Texas State Library of any problems encountered in using the reading machine, and send copies of any field maintenance reports to the Texas State Library; and

(3) notify the Texas State Library, by telephone, whenever the equipment manufacturer fails to respond to a

service call within three working days.

§9.25. Reading Machine Maintenance.

(a) Libraries are responsible for all costs incurred in maintaining and repairing a reading machine. A maintenance contract is not mandatory; a library may pay for repairs as needed.

(b) If a Texas Reading Machine Program library determines that it is financially unable to maintain the reading machine in operable condition, it may apply to the Texas State Library for an exemption.

§9.26. Financial Exemption Requests. To apply for an exemption from the provisions of Government Code, §441.112 or §441.113, a library must write the Texas State Library and state that it is financially unable to maintain the reading machine in proper working order and request that the machine be relocated. The following documentation must be included:

(1) evidence that the library requested reading machine maintenance funds from its funding authority;

(2) evidence that the library's funding authority did not provide the funds requested;

(3) evidence that the library requested funds from at least one outside funding agency or foundation; and

(4) evidence that the outside funding agency or foundation did not grant the request.

§9.27. Financial Exemption Restrictions.

(a) No exemptions will be granted, and no reading machines will be transferred until an alternate site has been identified.

(b) The library must continue to make the reading machine accessible to potential users during the time between the request and completion of a transfer, unless the machine is not in working order.

(c) The reading machine will not be relocated until current and potential users have been notified, as follows.

(1) Academic libraries. The library should make arrangements with the campus office coordinating services to disabled students to notify the college's blind, learning disabled, and visually impaired students.

(2) Public libraries. The Texas State Library's Program for the Blind and Physically Handicapped will notify its borrowers living in the library's service area.

(d) If the machine is not in working order at the time of an exemption request, the library must return it to working order before the request will be granted, with the following exceptions:

(1) the library receiving the re-

located machine agrees to pay the repair costs; or

(2) the machine is damaged beyond repair, as described in §9.30 of this title (relating to Retirement of Reading Machines).

§9.28. Placement of Reading Machines. The Texas State Library will determine eligible recipients of reading machines purchased through appropriated funds.

(1) All placements are contingent upon adequate appropriations to the Texas State Library for the purchase of the devices.

(2) Public libraries in cities with 50,000 or greater population must provide a reading machine for use by blind or visually handicapped persons, with the following exceptions:

(A) the city reached a population of 50,000 at a time when legislative appropriations for reading machines were not provided, and no subsequent appropriations have been made available; or

(B) the city has demonstrated, as described in §9.26 of this chapter (relating to Financial Exemption Requests), financial inability to maintain the machine in proper working order.

(3) Institutions of higher education in which at least two blind or visually impaired students are enrolled must provide a reading machine for use of their students, with the following exceptions:

(A) the institution reached an enrollment of two blind students at a time when legislative appropriations for reading machines were not provided, and no subsequent appropriation have been made available; or

(B) the institution has demonstrated, as described in §9.26 of this title (relating to Financial Exemption Requests), financial inability to maintain the machine in proper working order.

(4) A public library in a city of any population, or a library in an institution of higher learning may request a transferred reading machine, in a written proposal which includes the following elements:

(A) an estimate of the number of potential reading machine users in the community;

(B) one or more letters of support from potential users or from organizations that are in contact with potential users or, in the case of academic libraries, from the office serving disabled students;

(C) description of administrative support, including the following elements:

(i) description of the program's proposed staffing;

(ii) description of how the reading machine would be publicized;

(iii) agreement to send the designated primary trainer to a reading machine workshop at the Texas State Library;

(iv) description of the proposed physical location of the machine;

(v) agreement to maintain regular communication with the Texas State Library regarding the program; and

(vi) agreement to purchase a maintenance contract for the reading machine; or documentation of financial ability to cover the cost of repairs.

(5) The Texas State Library will locate transferred reading machines based on the following criteria:

(A) extent of need and administrative support, as documented by the requesting institution; and

(B) availability of reading machine in a given geographic area.

§9.29. Purchase of Reading Machine with Local Funds. A library which purchases a reading machine with local funds may request removal of a reading machine provided by the Texas State Library.

§9.30. Retirement of Reading Machines. At the request of a library, the Texas State Library may arrange to remove a reading machine from the site and dispose of the machine as surplus state property under any of the following circumstances:

(1) the equipment manufacturer or a qualified service technician determines that a reading machine has been damaged beyond repair, or that the total cost of repair will exceed the fair market value of an identical model reading machine in proper working order;

(2) parts to repair the machine are no longer available;

(3) the equipment manufacturer ceases to make service contracts available.

§9.31. Cost to Transfer Reading Machines. When a reading machine is removed from a library, whether due to exemption, relocation, replacement, or retirement, the Texas Reading Machine Program library requesting the removal is responsible for any labor or transportation cost of relocating it.

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 November 19, 1990.

TRD-9012440

Raymond Hitt
Assistant State Librarian
Texas State Library and
Archives Commission

Earliest proposed date of adoption: December 31, 1990

For further information, please call: (512) 463-5440

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 21. Student Services

Subchapter P. Professional Nurses' Student Loan Repayment Program

• 19 TAC §21.512

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

Texas Higher Education Coordinating Board proposes repeal of §21.512, concerning the Professional Nurses' Student Loan Repayment Program. The section is being repealed and rewritten to incorporate a new section regarding expanded the Professional Nurses' Student Loan Repayment Program. The repeal is necessary based upon recommendations of the mandated advisory committee to the board for this program. The new section will specify additional entities who may be eligible leaders or holders of education loans of registered nurses whose education loans are to be repaid by the program, clarify language related to eligible nurses so that the rules work properly, and clarify language related to qualifications and conditions for student loan repayment.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Adams also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be reduced confusion for the beneficiaries of the program. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin,

Texas 78711.

The repeal is proposed under the Texas Education Code, §51.810 and §61.656, Texas Civil Statutes, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Professional Nurses; Student Loan Repayment Program.

§21.512. Dissemination of Information.

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 November 21, 1990.

TRD-9012528

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest proposed date of adoption: December 31, 1990

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

• 19 TAC §21.512, §21.513

The Texas Higher Education Coordinating Board proposes new §21.512 and §21.513, concerning the Professional Nurses' Student Loan Repayment Program. The new sections are necessary based upon recommendation of the mandated advisory committee to the board for this program. The new section specify additional entities who may be eligible lenders or holders of education loans of registered nurses whose education loans are to be repaid by the program, clarifies language related to eligible nurses to that the rules work properly, and clarifies language related to qualifications and conditions for student loan repayment.

Mack Adams, assistant commissioner for student services, 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. Adams 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 reduced confusion for the beneficiaries of the program. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, §51.810 and §61.656, Texas Civil Statutes, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Professional Nurses; Student Loan Repayment Program.

§21.512. Expanded Professional Nurses' Student Loan Repayment Program. The Expanded Professional Nurses' Student Loan Repayment Program is limited to federally-funded repayments on education loans on behalf of eligible professional nurses whose service period ended on October 1, 1990, or later. Payments in the expanded program must be matched with an equivalent amount of state funds. The commissioner may authorize repayment of eligible education loans made to an eligible professional nurse who first qualifies for a state-funded repayment and additionally qualifies for a federal repayment under federal guidelines.

§21.513. Dissemination of Information. The board shall publish and disseminate, with the assistance of the advisory committee, information about the Professional Nurses' Student Loan Repayment Program to postsecondary institutions which offer professional nursing programs. In addition, information shall be provided to appropriate state agencies and any interested professional associations of professional nurses, employers of professional nurses, and associations of employers of professional nurses.

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 November 21, 1990.

TRD-9012529

James McWhorter
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Administration
Kenneth H. Ashworth,
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Texas Higher Education
Coordinating Board

Earliest proposed date of adoption: December 31, 1990

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

Subchapter Q. Licensed Vocational Nurses' Student Loan Repayment Program

• 19 TAC §21.539, §21.542

The Texas Higher Education Coordinating Board proposes amendments to §21.539 and §21.542, concerning the Licensed Vocational Nurses' Student Loan Repayment Program. The amendments are necessary based upon recommendations of the mandated advisory committee to the board for this program. The amendments specify additional entities who may be eligible leaders or holders of education loans of registered nurses whose education loans are to be repaid by the program, clarifies the nurse's role in providing data to the board to determine eligibility, and improves the priority system for making education loan repayments.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the sections are in effect there will not be fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Adams, 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 reduced confusion for the beneficiaries and assurance that competent nurses are rewarded for their efforts to become licensed vocational nurses. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §51.810 and §61.656, Texas Civil Statutes, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Licensed Vocational Nurses' Student Loan Repayment Program.

§21.539. Priorities of Application Approval. The advisory committee shall advise the board on priorities of application approval based upon the following criteria (not in priority order):

(1)-(9) (No change.)

(10) whether the eligible nurse has had a complaint filed against his/her nursing license [a formal complaint pending which has not yet been resolved].

§21.542. Dissemination of Information. The board shall publish and disseminate, with the assistance of advisory committee, information about the Licensed Vocational Nurses' Student Loan Repayment Program to facilities [postsecondary institutions] which offer approval [accredited] programs in vocational nursing. In addition, information shall be provided to appropriate state agencies and any interested professional associations of licensed vocational nurses (LVN), employers of LVNs, and associations of employers of LVNs.

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 November 21, 1990.

TRD-9012525

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Agency

Earliest proposed date of adoption: December 31, 1990

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

Subchapter S. Vocational Nursing Student Scholarship Programs

• 19 TAC §21.600

The Texas Higher Education Coordinating Board proposes an amendment to §21.600, concerning the Vocational Nursing Student Scholarship Program. The change is made to incorporate suggestions made by the Advisory Committee on vocational nursing financial aid programs at its June 5, 1990, meeting. The section is amended primarily to clarify the board's responsibilities regarding the dissemination of information regarding the scholarship programs.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the section is in effect there will not be fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Adams, 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 better function of programs in keeping with the enabling legislation. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, §51.810 and §61.656, Texas Civil Statutes which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the vocational nursing student scholarship programs.

§21.600. Certification and Disbursement Procedures.

(a) Application submission. Eligible institutions may be asked to submit scholarship applications to the board for eligible students. The number of applications which may be submitted by each school will be determined by the board in keeping with the size of each school's vocational nursing student enrollment. The institution will need to specify a priority on each application submitted [, and applications will be serviced to the extent possible in priority number order until all funds are exhausted].

(b)-(c) (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.

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TRD-9012426

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

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

Chapter U. Matching Fund Employment Program for Vocational Nursing Students

• 19 TAC §§21.661, 21.662, 21.664, 21.665, 21.667

The Texas Higher Education Coordinating Board proposes amendments to §§21.661, 21.664, 21.665, and 21.667, concerning matching fund employment program for vocational nursing students. The amendments were necessary based upon recommendations from the mandated advisory committee to the board for this program. The amendments clarify what happens when noncompliance with program rules occurs. The amendments also clarify sources for monetary awards, establish a disbursement schedule, broaden school participation, and establishes minimum and maximum work hours enabling flexible work hours for nurses.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the sections are in effect there will not be fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Adams 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 more fiscal control of public funds awarded and a program which is more responsive to schools and award recipients. 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.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §51.810 and §61.656, Texas Civil Statutes which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Matching Fund Employment Program for Vocational Nursing Students.

§21.661. Allocation of State Funds among Eligible Institutions. State funds made available for employment awards will be annually allocated to participating institutions, based on the number of students enrolled in their vocational nursing program during the fall term of the previous academic year. Institutions will have until November 15 [February 1] of any program year to acquire contracts and provide for matching funds from eligible employers. Any state funds not matched and awarded as of November 15 [February 1] will be

reallocated by the board to other participating institutions.

§21.662. Matching Fund Employment Program Awards. Students participating in the program will receive employment program awards to help meet their cost of education while enrolled in a vocational nursing program.

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

(3) The institution will indicate the amounts and dates for disbursements. At least one disbursement must be made each semester covered by the award.

(4)-(5) (No change.)

§21.664. Disbursements to Students.

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

(f) In any semester, should a student withdraw from classes or transfer out of the agreed-upon health field prior to the end of the term, funds disbursed to the student from the employment program that semester or term shall be returned to the program in accordance with the following schedule:

(1) prior to the first class day—100%;

(2) during the first five days of class—80%;

(3) during the second five days of class—70%;

(4) during the third five days of class—50%;

(5) during the fourth five days of class—25%; and

(6) after the fourth five days of class—0%

§21.665. The Employment Program Contract. Each participating student must enter into a contract with his or her sponsoring employer.

(1) In the contract, an eligible student or nurse must agree to:

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

(D) sit for and pass the first board examination for which the student is eligible upon completion of his or her program of study [, and if licensure is delayed because of failure to pass the test, agree to retake it the next consecutive time it is offered];

(E)-(H) (No change.)

§21.667. Noncompliance.

(a) Noncompliance of program contract. Should either the recipient [student] or the employer fail to fulfill any

obligation outlined in the employment program contract, noncompliance will exist. Repayment of the employment program award by the recipient [student] or forfeiture of the recipient's [student's] work obligation to the employer are among the penalties which may be required. The assessment of such penalties shall be the responsibility solely of the grievance subcommittee.

(b) Failure to pass licensing exam. If the nurse does not pass the first licensing exam offered, the employer may allow the nurse to sit for the exam a second time before declaring noncompliance. After passing the exam the nurse must work a total of 12 months as a licensed vocational nurse for the employer.

(c)[(b)] Penalties for noncompliance due to death or disability. No penalty shall be assessed the student if his or her employment contract is canceled due to death or a properly documented disability which would preclude the recipient's [student/nurse's] fulfillment of the contract.

(d)[(c)] Maximum penalties for the employer. The maximum penalties which may be assessed by the grievance subcommittee for the employer are:

(1) loss of all claim to the funds forwarded to the recipient [student] as employment program awards;

(2) cancellation of the recipient's [student's] obligation to work for the employer after completing his or her educational program; and

(3) continued support for the recipient [student/nurse] until such time another eligible employer enters into a contract with the recipient [student/nurse].

(e)[(d)] Maximum penalties for the recipient [student]. The maximum penalties which may be assessed by the grievance subcommittee for the recipient are:

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

(f)[(e)] Treatment of an employment program award as a loan. If the grievance subcommittee determines the student is no longer in compliance with the contract and repayment of the award is appropriate, the employment program award will be treated as a loan as stated in the promissory note. The board shall function as the collector for funds repaid by the recipient. Once a Year the board shall forward to the appropriate employer its share of the payments collected from each recipient in repayment.

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

(5) Based upon specified evidence, the [The] commissioner may delay the repayment requirements for recipients enrolled on at least a half-time basis at an eligible institution or for recipients suffering extreme financial hardship [postpone required periodic installments of

principal and any accrued interest during any repayment period]. **Postponements** [These deferment periods] are not included when calculating the maximum repayment period. The commissioner may require payments in the interest being accrued during the time of a postponement.

(6)-(7) (No change.)

(g)[(f)] **Enforcement of collection.** When any person who has received a loan authorized by this law shall have failed or refused to make as many as six monthly payments due in accordance with a promissory note (s), then the full amount of remaining principal, interest, and/or late charges shall immediately become due and payable. The person's name and last known address and other information as determined by the commissioner shall be reported to the attorney general. Suit for the remaining sum shall be instituted by the attorney general or any county or district attorney acting for him in the county, person's residence or in Travis County, unless the attorney general shall find reasonable justification for delaying suit and shall so advise the commissioner in writing.

(1)-(2) (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 November 21, 1990.

TRD-9012527 James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest proposed date of adoption: December 31, 1990

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

Part II. Texas Education Agency

Chapter 69. Proprietary Schools and Veterans Education

Subchapter B. Commercial Driver Training Schools

• 19 TAC §§69.11-69.16, 69.18-69.23

The Texas Education Agency (TEA) proposes amendments to §§69.11-69.16, 69.18-69.23, 69.101, 69.121, 69.122, 69.124-69.127, and 69.129, concerning proprietary schools and veterans education. Senate Bill 417 of the 71st Texas Legislature transferred the regulation of commercial driving schools from the Texas Department of Public Safety to TEA effective September 1, 1989. These amendments include changes associated with a review of the initial adoption of rules governing these schools as well as

the operation of Texas proprietary schools. The amendments include establishment of standards for minimum and maximum course lengths for occupational training; requirements that schools offering teenage driver education classes provide uniform beginning and ending dates and provide instruction in a sequence approved by the agency; revisions to provide relief from regulation for the smaller schools, including driver education and driving safety schools; the deletion of rules that were considered to either over-regulate the sector or go beyond the authority of the agency; implementation of rules proposed by the task force established through a memorandum of understanding with the State Board of Insurance to improve the program quality in the driving safety program; revisions to commercial driving school rules; revisions to the proprietary school rules regarding the owner definition, instructor qualifications, enrollment agreements, and tuition determination; revision of the rules regulating the new degree programs; and clarifications to more readily provide information to the reader.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or as a result of enforcing or administering the sections.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also have determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be the clarification of the requirements associated with commercial driving and Texas proprietary schools. 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 Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §32.21, which provides the Central Education Agency with the authority to adopt rules regarding the policies and procedures governing proprietary schools.

§69.11. Branch Schools.

(a) (No change.)

[(b)] The branch school shall be properly identified as a branch by a permanent sign which indicates the location of the main school and which is visible to the general public.]

[(b)][(c)] Schools approved to instruct 14- [14-year-old] to 18-year-old students may provide driver education

instruction through the use of simulators specifically designed for that purpose without the location of the simulator being licensed as a branch school.

§69.12. Driving Safety Course-Extension Locations.

(a) (No change.)

(b) The school desiring to conduct extension locations shall:

(1) submit dates of course offerings, locations, class schedules, and scheduled instructor's name and license number at least 30 days before [prior to] teaching a course; [and]

(2) certify that the extension location meets all legal requirements pertaining to classroom facilities; and [.]

(3) certify that the advertisements for the extension location are in compliance with §69.13 of this title (relating to Names and Advertising) and §69.127(b)(7) of this title (relating to Minimum Standards for Operation of Proprietary Schools).

§69.13. Names and Advertising.

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

(c) No school, including all extension locations, shall advertise a course without including the school name exactly as it appears on the certificate of approval. [the following:]

[(1)] school name as it appears on the certificate of approval; and

[(2)] the phrase "State Approved Driving Safety Course" in those schools offering driving safety courses; and

[(3)] the school's telephone number.]

§69.14. Facilities and Educational Materials.

[(a)] No commercial driver training school offering driver education or driving safety courses will be approved if the main school, branch school, or extension location thereof is within 600 feet of any Department of Public Safety or other law enforcement office or a court of law.]

[(a)][(b)] Each commercial driver training school approved by the administrator shall display, in a prominent place in each location, a sign or notice indicating the following:

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

(b) [(c)] No classroom facility will be located in a private residence. Truck driving and driver education schools shall have a permanent facility. The classroom facilities, when used for instruction, shall contain at least the following:

(1) adequate seating facilities and tables or desks for all students being trained [(16 square feet per student is recommended); tables or desks are not required for driving safety course classes];

(2) a chalkboard, a dry-erase board, or felt display board for the driver education [driving safety] classroom, which is visible from all seating positions;

(3) (No change.)

(4) any materials that have been approved as a part of the course approval [a copy of these rules and legal requirements displayed so as to be accessible to all students].

(c) All schools offering teenage driver education shall maintain an office in a place other than a private residence.

§69.15. Programs of Instruction.

(a) This subchapter contains requirements for driving safety, driver education, and truck driving. For each program, the following curriculum documents and materials are required to [syllabus, lesson plans, training curriculum, training program for instructors, and a listing of instructional materials shall] be submitted as part of the application for approval. In addition, these programs shall meet all requirements [outlined] in Subchapter E of this chapter (relating to Minimum Standards for Operation of Texas Proprietary Schools), as well as the following.

(1) Driving safety courses.

[Topic	Minimum Time
Course introduction	20 minutes
Factors influencing driver behavior, attitudes, and feelings	50 minutes
Traffic laws and railroad grade crossing safety	50 minutes
Driver environment	30 minutes
Physical forces affecting vehicle	30 minutes
Perceptual skills	70 minutes
Defensive driving strategies	100 minutes
Mental preparation and driver impairments	30 minutes
Course summation	20 minutes
Total	400 minutes]

(A) Educational objectives.

The educational objectives of driving safety courses shall include, but not be limited to, promoting respect for[,] and encouraging observance of[,] traffic laws[,] and traffic safety responsibilities of drivers and citizens, reducing traffic violations, reducing traffic-related injuries, deaths, and economic losses, and motivating continuing development of traffic-related competencies.

(B) Minimum course content. A driving safety course shall include, as a minimum, materials adequate to address the following topics and to comply with the minimum time requirements for each topic and the course as a whole [A driving safety course shall contain, but is not limited to, the following topic matter:

(i) Course introduction—minimum of 10 minutes (instructional objective—to orient students to the class):

(I) purpose and benefits of the course;

(II) course and facilities orientation;

(III) requirements for receiving course credit; and

(IV) student course evaluation procedures.

(ii) The traffic safety problem—minimum of 15 minutes (in-

structional objectives—to develop an understanding of the nature of the traffic safety problem and to instill in each student a sense of responsibility for its solution):

(I) identification of the overall traffic problem in the United States, Texas, and the locale where the course is being taught;

(II) death, injuries, and economic losses resulting from motor vehicle crashes in Texas; and

(III) five leading causes of motor vehicle crashes in Texas as identified by the Department of Public Safety.

(iii) Factors influencing driver performance—minimum of 30 minutes (instructional objective—to identify the characteristics and behaviors of drivers and how they affect driving performance):

(I) attitudes habits, feelings and emotions;

(II) alcohol and other drugs;

(III) physical condition;

(IV) knowledge of driving laws and procedures; and

(V) understanding the driving task.

(iv) Traffic laws and procedures—minimum of 30 minutes (Instructional objectives—to identify the requirements of and the rationale for applicable driving laws and procedures and to influence drivers to comply with the laws on a voluntary basis):

(I) passing;

(II) right-of-way;

(III) turns;

(IV) stops;

(V) speed limits;

(VI) railroad crossings;

(VII) categories of traffic signs, signals, and highway markings;

(VIII) pedestrians;

(IX) improved shoulders;

(X) intersections;

(XI) occupant restraints;

(XII) law enforcement and emergency vehicles; (This category will be temporary until the need is substantiated by documentation from the Department of Public Safety on the number of deaths or injuries involved because of improper procedures used by a citizen when stopped by a law enforcement officer); and

(XIII) other laws as applicable (i.e., financial responsibility/compulsory insurance).

(v) Special skills for difficult driving environments—minimum of 30 minutes (Instructional objectives—to identify how special conditions affect driver and vehicle performance and to identify techniques for management of these conditions):

(I) inclement weather;

(II) traffic congestion;

tion;

(III) city, urban, rural, and expressway environments;

(IV) reduced visibility conditions—hills, fog, curves, light conditions (darkness, glare, etc.), etc.; and

(V) roadway conditions.

(vi) Physical forces that influence driver control—minimum of 15 minutes (Instructional objective—to identify the physical forces that affect driver control and vehicle performance):

(I) speed control (acceleration, deceleration, etc.);

(II) traction (friction hydroplaning, stopping distances centrifugal force, etc.); and

(III) force of impact (momentum, kinetic energy, inertia, etc.)

(vii) Perceptual skills needed for driving—minimum of 30 minutes (Instructional objective—to identify the factors of perception and how the factors affect driver performance):

(I) visual interpretations;

(II) hearing;

(III) touch;

(IV) smell;

(V) reaction abilities (simple and complex); and

(VI) judging speed and distance.

(viii) Defensive driving strategies—minimum of 50 minutes (Instructional objective—to identify the concepts of defensive driving and demonstrate how they can be employed by drivers to reduce the likelihood of crashes, deaths, injuries, and economic losses):

(I) trip planning;

(II) evaluating the traffic environment;

(III) anticipating the actions of others;

(IV) decision making;

(V) implementing necessary maneuvers;

(VI) compensating for the mistakes of other drivers;

(VII) avoiding common driving errors; and

(VIII) interaction with other road users (motorcycles, bicycles, trucks, pedestrians, etc.)

(ix) Driving emergencies—minimum of 50 minutes (Instructional objective—to identify common driving emergencies and their countermeasures):

(I) collision traps (front, rear, and sides);

(II) off-road recovery, paths of least resistance; and

(III) mechanical malfunctions (tires, brakes, steering, power, lights, etc.).

(x) Occupant restraints and protective equipment—minimum of 20 minutes (Instructional objective—to identify the rationale for having and using occupant restraints and protective equipment):

(I) legal aspects;

(II) vehicle control;

(III) crash protection;

(IV) operational principles (active and passive); and

(V) helmets and other protective equipment.

(xi) Alcohol and traffic safety—minimum of 50 minutes (Instructional objective—to identify the effects of alcohol on roadway users):

(I) physiological;

(II) psychological;

(III) legal aspects;

(IV) synergistic; and

(V) countermeasures.

(xii) Comprehensive examination and summation—minimum of 15 minutes (this shall be the last unit of instruction). The remaining required 55 minutes of instruction shall be allocated to topics, excluding clauses (I) and (XI) of this subparagraph, or to additional driving safety topics included in the approved curriculum guide.

(C) Course management [structure]. Approved driving safety courses shall be presented in compliance with the following.

(i) The total length of the course shall consist of a minimum of 480 minutes [A minimum of 400 minutes of instruction is required].

(ii) A minimum of 400 minutes of instruction is required [In no event shall the course be completed in less than eight clock hours exclusive of lunch].

(iii) Eighty minutes of time exclusive of the 400 minutes of instruction shall be dedicated to break periods. All break periods shall be provided prior to the comprehensive exam and course summary [The exam shall be given within the allotted eight clock hours, exclusive of the 400 minutes of instruction time].

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

(vi) Courses taught over a period longer than one day shall provide breaks on a schedule equitable to those prescribed for one-day courses. However, all breaks shall be provided prior to the last unit of the instructional day or the comprehensive exam, whichever is appropriate [Relevant motion picture films, slides, videos, or tape recordings shall be used for at least 80 minutes but cannot be used in excess of 200 minutes of a 400-minute course].

(D) Driver safety course guides. A course guide is a description of the content of the course and the techniques of instruction that will be used to present the course. To be approved for licensing each course owner or primary consignee shall submit as part of the application a course guide that includes the following:

(i) a statement of the course's traffic safety goal and philosophy;

(ii) a statement of policies and administrative provisions related to instructor conduct, standards, and performance;

(iii) a statement of policies and administrative provisions related to student conduct and attendance;

(iv) a statement of policy

addressing entrance requirements and special conditions of students such as the inability to read, language barriers, and other handicaps;

(v) a list of relevant instructional resources such as textbooks, audio and visual media and other instructional materials, and equipment that will be used in the course. A variety of relevant motion picture films, slides, videos, and/or tape recordings shall be used for at least 80 minutes but cannot be used in excess of 200 minutes of a 400-minute course. The list of resources may be included in a single list, or they may appear at the end of each instructional unit;

(vi) a clear identification of the order in which the units of instruction will be presented, and for each student the course shall be taught in the order identified in the approved application;

(vii) a description of the plan(s) under which the course will be presented;

(viii) units of instruction sufficient to present the topics identified in subparagraph (B) of this paragraph and any additional topics unique to the course. Each instructional unit shall include the following:

(I) the subject of the unit;

(II) the instructional objective(s) of the unit;

(III) time to be dedicated to the unit;

(IV) an outline of major concepts to be presented;

(V) instructional activities to be used to present the material (lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions, etc.). When small-group discussions are planned, the course guide shall identify the questions that will be assigned to the groups;

(VI) instructional resources for each unit; and

(VII) techniques for evaluation of the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the instructional unit's description. The evaluative technique may be used throughout the unit or at the end;

(ix) the guide, which shall be bound into one unit or contained in a hole-punched notebook with a cover and a table of contents; and

(x) a completed form cross-referencing the instructional units to the topics identified in subparagraph (B) of this paragraph. A form to cross reference the instructional units to the required topics and topics unique to the course will be provided by the Division of Proprietary Schools and Veterans Education.

(E) Instructor training guides. An instructor training guide contains a description of the plan, training techniques, and curriculum to be used to train instructors to present the concepts of the approved driving safety course described in the applicant's driving safety course guide. To be approved, each course owner or primary consignee shall submit as part of the application an instructor training guide that is bound or hole-punched and placed in a binder and that has a cover and a table of contents. The guide shall include the following:

(i) a statement of the training program's instructional goal and philosophy;

(ii) a description of the plan to be followed in training instructors. The plan shall include, as a minimum provisions for the following:

(I) instruction of the trainee in the course curriculum;

(II) training the trainee in the techniques of instruction that will be used in the course;

(III) demonstration of desirable techniques of instruction by the instructor trainer;

(IV) a minimum of 15 minutes' instruction of the course curriculum by the trainee under the observation of the instructor trainer as part of the basic training program;

(V) time to be dedicated to each training lesson; and

(VI) a minimum of 1,200 minutes of instruction of the course in a regular approved course under the observation of a licensed instructor trainer;

(iii) instructional units sufficient to address the provisions identified in clause (ii)(I)-(V) of this subparagraph. The total time of the units shall contain a minimum of 24 instruc-

tional hours. Each instructional unit shall include the following:

(I) the subject of the unit;

(II) the instructional objective(s) of the unit;

(III) time to be dedicated to the unit;

(IV) an outline of major concepts to be presented;

(V) instructional activities to be used to present the material, i.e., lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions. When small-group discussions are planned, the course guide shall identify the questions that will be assigned to the groups;

(VI) instructional resources for each unit; and

(VII) techniques for evaluation of the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the instructional unit's description. The evaluative technique may be used throughout the unit or at the end.

(F) **Examinations.** To be approved, each course owner or primary consignee shall submit as part of the application tests designed to measure the comprehension level of students at the completion of the driving safety course and the instructor training course. Instructors may not be certified or students given credit for the driving safety course unless they score 70% or more on the final test. The course guide shall identify alternative testing techniques to be used for students with reading, hearing, or learning handicaps and policies for re-testing students who score less than 70 on the final exam. The applicant may choose not to provide alternative testing techniques; however, students shall be advised of courses providing alternative testing prior to enrollment in the course. Test questions may be short answer, multiple choice, essay, or a combination of these forms.

(G) **Enrollment agreement.** Each student who enrolls in a driving safety course shall be required to sign an enrollment agreement. The agreement statement may be included at the top of

the sign-in roster or on an individual form and shall include the items listed in §69.127(b)(14)(D) of this title (relating to Minimum Standards for Operation of Proprietary Schools).

(H) **Student course evaluation.** Each student instructed in a driving safety course shall be given an opportunity to evaluate the course and the instructor on an official evaluation form. A master copy of the evaluation form will be provided by the agency. The evaluation forms must be collected at the conclusion of each class and for a period of one year kept on file at the location of the school.

(I) **Instructor performance.** Driving safety course owners or primary consignees with more than one instructor shall submit a written plan describing how monitoring of instructor performance will be accomplished. The plan shall identify the criteria upon which the instructors will be evaluated, the procedure for evaluation, the frequency of evaluation, and the corrective action to be taken when instructors do not meet criteria established by the owner or primary consignee.

(J) **Instructor inservice training.** Schools shall submit a written plan for providing their instructors with inservice education. The plan shall identify techniques to be used to provide inservice training as needed to keep the instructors current in curriculum changes, course procedures, and State Board of Education rules. Instructors shall attend a minimum of six hours of inservice provided by the course owner or primary consignee every two years.

(K) **state-level evaluation of driving safety courses.** Each course owner or primary consignee shall collect adequate student data to enable the agency to evaluate the overall effectiveness of a course in reducing the number of violations and accidents of persons who successfully complete the course. For each student, each course owner or primary consignee shall collect and upon request provide to the agency the following data:

(i) complete legal name;

(ii) driver's license number;

(iii) date of birth; and

(iv) date of course completion. Information derived from the study of the data will be used by the agency to evaluate the state's overall driving safety course program and as a part of the total evaluation of individual courses. The data, as prescribed by the

agency, shall be provided within a 30-day period 24 months subsequent to approval. The agency shall within 12 months of receiving the data conduct an evaluation of the driving safety courses in general and of each approved course. The evaluation shall be conducted relative to the pre-course and post-course driving records of the graduates.

(2) **Teenage driver education.**

(A) (No change.)

(B) **Commercial driver training schools instructing [teaching] 14- [15-year-old] to 18-year-old students** shall meet the requirements promulgated in the state-approved [approved] curriculum guide for driver education, the "Standards for an Approved Course in Driver Education for Texas Schools," and this chapter.

(C) **Commercial driver training schools, who desire to instruct persons [between the] ages [of] 14 to [and] 18 years, shall provide classes with uniform beginning and ending dates. Students shall be enrolled prior to the 7th hour of classroom instruction. [place a student in a driver education course at the first unit of instruction, and then to proceed in the sequence of lessons as set out in the approved curriculum guide. Workbook practice and lecture shall be synchronized. This does not prohibit concurrent instruction in the classroom phase and behind the wheel phases.]**

(i) **Students shall proceed in a sequence approved by the director. The units of instruction shall meet the requirements of the approved curriculum guide.**

(ii) **Students shall receive classroom instruction directly from an agency-licensed and certified instructor who shall be in the classroom and available to students during the entire 32 hours of instruction including self-study assignments. Instructors shall not have other teaching assignments or administrative duties during the 32 hours of classroom instruction.**

(iii) **Films and other media that present concepts outlined in the curriculum guide may be used as part of the required clock hours of instruction not to exceed 120 minutes. Units scheduled to be instructed may be conducted by guest speakers as part of the required clock hours of instruction but shall not exceed 120 minutes of the total 32 clock hours.**

(iv) **Self-study assignments that present units outlined in the curriculum guide shall not exceed 15 minutes per clock hour of instruction and shall be presented to the entire class simultaneously.**

(D)-(E) (No change.)

(F) The school director is responsible for ensuring that each driver education instructor is providing instruction as outlined in the most recent edition of the "Standards for an Approved Course in Driver Education for Texas Schools" and the current state-approved curriculum guide. In addition, the school director is responsible for providing each driver education classroom with a current copy of the "Standards for an Approved Course in Driver Education for Texas Schools" and a current state-approved curriculum guide appropriate for the phase of instruction. [Standards for an approved program in driver education.

(i) School directors. The director is responsible for providing each driver education instructor with a copy of the "Standards for an Approved Course in Driver Education in Texas" and a state-approved curriculum guide, appropriate for the phase of instruction.

(ii) Instructors. Commercial school instructors engaged in this program shall hold a current Texas teacher's certificate issued by the agency and shall have completed a driver and safety education program at a college or university which has been approved for this specific area of specialization. In addition, the driver education teacher shall possess a valid Texas driver's license and for at least the past 24 months, immediately prior to certification, have a personal driving record showing that the person has not been the subject of driver improvement or corrective action, and that such action is not needed to protect the motoring public. A fully certified teacher of driver education may be designated as a supervising teacher of driver education by completing six additional semester hours of university instruction, that include the administration of driver education programs that include classroom and in-car instruction, techniques of simulation and multicar driving range instruction, supervision, and administration in traffic safety education. The instruction for supervising teachers shall be given at a university approved to train driver education supervising teachers. Certificates of completion of training will be provided by the Drivers Education Division of the agency. An instructor shall also be properly licensed as a commercial driver training instructor by the director.

(iii) Teaching assistants. A teaching assistant in driver education shall have completed high school or submit a high school equivalency certificate. The individual shall have been a licensed driver for a minimum of five years and possess a valid license for the type vehicle used in instruction. The teaching assistant shall have a personal driving record showing that the person has not been the subject of driver improvement or corrective action, and that

such action is not needed to protect the motoring public. Teaching assistants may be approved to assist certified teachers but not to instruct in the classroom phase of driver education and to conduct behind-the-wheel, multicar range, and simulator training, provided they have satisfactorily completed the six semester hours of driver education teacher certification, plus three additional hours in advanced techniques of traffic safety in an approved college or university. Teaching assistants may be qualified to conduct only in-car training by completing the six semester hours of driver and traffic safety education required for driver education certification. Commercial driver training schools employing teaching assistants shall maintain a ratio of no more than six teaching assistants for each supervising teacher. A teaching assistant shall receive a minimum of one hour each month of supervision and evaluation while the teaching assistant is giving actual instruction by a supervising teacher of driver education. A teaching assistant shall also be properly licensed as a commercial driver training instructor by the director.]

(G)(iv) Exceptions.] Proprietary schools are authorized exceptions to the standards for an approved course in driver education and the state-approved curriculum guide (driver education classroom and in-car instruction) as follows.

(i)(I) The maximum amount of in-car instruction time permissible for a commercial driver training school instructor to teach minors shall not exceed eight hours per day.

(ii) [(II)] A student may receive two 30-minute sessions of behind-the-wheel in-car instruction per day, provided that the two 30-minute sessions are separated by at least 30 minutes of non-driving time. This does not remove the minimum requirement for seven hours of observation time or alter the 20-day minimum time frame for concurrent programs or the 14-day minimum time frame for in-car training programs as currently outlined in the agency-approved curriculum guide and the standards for an approved course in driver education.

(iii) [(III)] In-car instruction may be provided for only one student in those instances where it is not practical to instruct more than one student or a hardship would result if scheduled instruction is not provided. Documentation shall be maintained to support the in-car instruction for one student.

(H)(v) Contracts with other schools.] The driver education program shall be eligible for the exception under Texas Civil Statutes, Article 4413(29c), §2, when the commercial driver training school contracts with public, private, or parochial schools to provide instruction in compliance

with the following.

(i)(I) Classroom instruction shall be at public, private, or parochial schools and all behind-the-wheel instruction shall originate from the public school or at the driving school.

(ii) [(II)] Commercial schools shall contract with the public, private, or parochial schools and not with the individual students.

(iii) [(III)] The public, private, or parochial school shall collect fees for the course from the students and pay the commercial school in accordance with terms of the contract. Commercial schools shall not collect any monies from the students.

(iv) [(IV)] The driver education affidavit which verifies that an approved driver education course has been satisfactorily completed shall be signed by the commercial driver training school instructor on the line designated as "Signature of Driver Education Instructor." The chief school official or service center director of the public, private, or parochial school that has contracted the instruction to the commercial driver training school shall sign or cause a stamped signature to be affixed to the driver education affidavit.

(3) (No change.)

(b) (No change.)

§69.16. Supervisory Instructors and Instructors.

(a) Approval.

(1) Pursuant to Texas Civil Statutes, Article 4413(29c), a person applying for a supervisory or driver training instructor's license shall submit to the Texas Education Agency, Division of Proprietary Schools and Veterans Education, 1701 North Congress Avenue, Austin, Texas 78701, the following:

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

(C) an original [a] statement or physical exam report signed by [from] a licensed physician or his/her representative, made within six months prior to application, specifically stating that the applicant "has no [does not have] any contagious diseases." A truck-driver instructor providing instruction to students behind-the-wheel in truck driving programs shall meet the Department of Transportation's minimum standards for drivers pertaining to physical well-being;

[(D) one set of fingerprints;]

(D) [(E)] documentation showing that all applicable educational requirements have been met. Original docu-

mentation shall be provided upon the request of the director; and

(E)[(F)] any other information necessary to show compliance with applicable state and federal requirements.

(2) (No change.)

(3) The statute (Texas Civil Statutes, Article 4413(29c), §6 and §7) requires supervisory [supervising] instructors to complete successfully course(s) in safety education and driver education totaling six semester hours and/or their equivalent. The equivalency criteria shall not apply to teenage driver education supervisory instructors. For accreditation of equivalency training under Texas Civil Statutes, Article 4413(29c), §6, the following criteria will apply.

(A) (No change.)

(B) Verifiable experience as a licensed instructor in the following areas shall be required [Six months experience as a driver training or driver education instructor or instructor's aide shall equal one hour semester credit].

(i) Driving safety. Ninety six hours of verifiable experience as a driving safety instructor shall equal one semester hour.

(ii) Adult driver education. Ninety six hours of verifiable experience as an adult driver education instructor shall equal one semester hour.

(iii) Truck driving.

(I) Behind-the-wheel. Six months of full-time verifiable experience as a behind-the-wheel truck driving instructor shall equal one semester hour.

(II) Classroom. Six months of full-time verifiable experience as a classroom truck driving instructor shall equal one semester hour.

(III) Full. Eighteen months of full-time verifiable experience as a classroom truck driving instructor shall equal three semester hours and 18 months of full-time verifiable experience as a behind-the-wheel truck driving instructor shall equal three semester hours. This combination allows the applicant to receive supervisory status in both phases of instruction.

(C) (No change.)

(b) Instructor license endorsements. An instructor shall be properly licensed as a commercial driver training instructor by the director.

(1) Driver education.

(A) Supervising teacher.

An instructor may be designated as a supervising teacher if that individual holds a valid supervising teacher certificate issued by the appropriate division of the agency. Responsibilities include the supervision, administration, and instruction of multiphase driver education to teens and adults; instruction of the 40-clock-hour adult instructor development course; and the agency-approved Teaching Assistant Study Program at an education service center. Supervising teachers are responsible for the supervision of teaching assistants as outlined in the "Standards for an Approved Course in Driver Education for Texas Schools."

(B) Driver education instructor. An instructor shall hold a current Texas teacher's certificate with a driver education endorsement issued by the agency. Responsibilities include instruction and administration of multiphase driver education to teens and adults; instruction of the 40-clock-hour adult instructor development course; and the agency-approved teaching assistant study program at an education service center.

(C) Teaching assistant. A teaching assistant in driver education shall hold a valid teaching assistant certificate issued by the appropriate division of the Texas Education Agency. The duties assigned the teaching assistant are determined by the classification indicated on the certificate. Teaching assistants classified to assist certified teachers in the driver education classroom may grade papers, operate audio-visual equipment and conduct small-group discussions in the presence of the certified teacher. A teaching assistant may not deliver direct instruction. Commercial driver training schools employing teaching assistants shall maintain a ratio of no more than six teaching assistants for each supervision teacher as set forth in subparagraph (A) of this paragraph. A teaching assistant shall receive a minimum of one hour each month of supervision and evaluation by a supervising teacher of driver education while the teaching assistant is giving actual behind-the-wheel instruction. The school director may provide the supervision if that director has completed nine semester hours of driver education and driving safety courses and six semester hours of the education required for supervising teachers of driver education.

(i) Teaching assistant (full). Responsibilities include teaching in-car, simulation, and multicar range instruction to teens; assisting in the classroom (duties shall be as stated in subparagraph (C) of this paragraph; and

instructing adult driver education and the adult instructor development course.

(ii) Teaching assistant (in-car only). Responsibilities include instructing in-car instruction only to teens, adult driver education, and the adult instructor development course.

(D) Adult instructor trainer. Responsibilities include administering and instructing an agency-approved 40-clock-hour adult instructor development course to instructor trainees.

(E) Adult driver education instructor. Responsibilities include instructing all phases of adult driver education.

(2) Driving safety.

(A) Driving safety instructor trainer. Responsibilities include administering and instructing an agency-approved 40-clock-hour driving safety instructor development course to instructor trainees specific to the curriculum in which the individual is trained.

(B) Driving safety instructor. Responsibilities include instructing an agency-approved eight-hour driving safety course specific to the curriculum in which the individual is trained.

(3) Truck driver education.

(A) Truck driver instructor trainer. Responsibilities include administering and instructing an agency-approved 40-clock-hour truck driving instructor development course to instructor trainees.

(B) Truck driver instructor. Responsibilities include instructing the multiphase truck driving course.

(C) Commercial driver's license instructor trainer. Responsibilities include administering and instructing an agency-approved instructor development course to instructor trainees specific to the curriculum in which the individual is trained.

(D) Commercial driver's license instructor. Responsibilities include instructing an agency-approved preparation course to prepare drivers for the commercial driver's license written examination specific to the curriculum in which the individual is trained.

(4) Commercial driver's license written test preparation.

(A) Commercial driver's li-

cense instructor trainer. Responsibilities include administering and instructing an agency-approved instructor development course to instructor trainees specific to the curriculum in which the individual is trained.

(B) Commercial driver's license instructor. Responsibilities include instructing an agency-approved preparation course to prepare drivers for the commercial driver's license written examination specific to the curriculum in which the individual is trained.

(c)[(b)] Renewal.

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

(d)[(c)] Refusal, suspension, revocation. The administrator may suspend, revoke, or refuse to renew a license to any commercial driver training supervisory instructor or driver training instructor, upon determining that:

(1) the applicant or licensee has been convicted under the laws of this state, another state, or the United States of any felony, or an offense involving moral turpitude, or an offense of criminally negligent homicide committed as a result of the person's operation of a motor vehicle, an offense involving driving while intoxicated or driving under the influence of drugs, or an offense involving tampering with a governmental record.

(A) These particular crimes relate to the licensing of instructors because such persons and entities, as licensees of the agency, are required to be of good moral character, and to deal honestly with courts and members of the public. Driver training instruction involves supervision of inexperienced drivers on public highways, and accurate recordkeeping and reporting for purposes of driver licensing, court docu-

mentation, and other purposes. In determining the present fitness of a person who has been convicted of a crime and in determining whether a criminal conviction directly relates to an occupation, the agency shall consider those factors stated in Texas Civil Statutes, Articles 6252-13c and 13d.

(B) In the event that an instructor is convicted of such an offense, the instructor's license will be subject to revocation or refusal. A conviction for an offense, other than a felony, shall not be considered by the agency, under this paragraph, if a period of more than 10 years has elapsed since the date of the conviction or of the release of the person from the confinement or suspension imposed for that conviction, whichever is the later date.

(C) For the purposes of this paragraph, a person is convicted of an offense when an adjudication of guilt on an offense is entered against the person by a court of competent jurisdiction, whether or not:

(i) [(A)] the sentence is subsequently probated and the person is discharged from probation;

(ii) [(B)] the accusation, complaint, information, or indictment against the person is dismissed and the person is released from all penalties and disabilities resulting from the offense; or

(iii) [(C)] the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.

(2)-(9) (No change.)

(e)[(d)] Training program for qualifying commercial driver training instructors except teenage driver education.

(1) The law, relating to the licensing of commercial driver training schools and instructors, Texas Civil Stat-

utes, Article 4413(29c), in establishing qualifications for instructors, §7(6) requires successful completion of 40 clock hours in safety education and driver training under the supervision of a supervisory driver training instructor. [The following is an outline of a minimum 40-clock-hour course to be followed by licensed supervisory instructors in teaching instructor-trainees. Supervisory instructors that teach instructors shall be affiliated with a licensed commercial driver training school. Under the authority of Texas Civil Statutes, Article 4413(29c), §7, the agency has written examinations covering each subject area listed on this outline. An appropriate examination for the type license applied for will be administered by the agency.]

(A) Supervision is considered to have occurred when the supervisory instructor is present and personally provides the 40 clock hours of training excluding those clock hours approved by agency staff which may be presented by a guest speaker or using films and other media that pertain directly to the concepts being taught.

(B) The following is an outline of a minimum 40-clock-hour course to be followed by licensed supervisory instructors in teaching instructor-trainees. Supervisory instructors that teach instructors shall be affiliated with a licensed commercial driver training school. Under the authority of Texas Civil Statutes, Article 4413(29c), §7, the agency has written examinations covering each subject area listed on this outline. An appropriate examination for the type license applied for will be administered by the agency.

(2) (No change.)

(3) Minimum course content for adult driver education and truck driving instructors is as follows.

(A)-(J) (No change.)

2 hours

(K) Specialized training

(i) students with physical, mental, or emotional handicaps [handicapped students];

[(ii) emotional or nervous students;]

(ii)[(iii)] [retarded or near] illiterate students;

(iii)[(iv)] non-English-speaking students; and

(iv)[(v)] habitual violators and problem drivers.

Total hours

40 hours

(4) Minimum course content for driving safety instructors. The applicant shall complete 24 [16] hours of training, covering techniques of instruction and in-depth familiarization with material contained in the driving safety curriculum that shall be taught and 16 [24] hours of practical teaching. The 24 [16] hours of familiarization and the 16 [24] hours of practical teaching shall be under the direction of a supervisory driver training instructor and shall be verified by a letter to that effect.

Teaching course content-24 [16];

Practical teaching-16 [24];

Total Hours-40.

(5) Instructor development course for instructor trainers. All student instruction records submitted for the agency-approved instructor development course shall be signed by the course owner or primary consignee. Original documents shall be submitted.

§69.18. Contracts-Students.

(a) No person shall be instructed, either theoretically or practically, or both, to operate or drive motor vehicles unless and until a written legal contract has been executed. The contract shall be specific as to the course provided, the schedule of classes, and beginning and ending dates.

(1) With the exception of truck driver training, commercial driver training school contracts shall contain at least the following:

(A)-(M) (No change.)

[(N) the minimum number of hours of actual driving time while the vehicle is in motion for truck driving program instruction.]

(2) The student contract or school catalog for schools offering truck driving programs shall show the minimum number of hours of actual driving time while the vehicle is in motion.

(3)[(2)] Contract for group instruction under driver education and truck driving program licenses may be made, provided elements of paragraph (1)(A)-(M)[(N)] and paragraph (2) of this subsection are included in the contract and a roster of students is attached thereto. The roster of students shall contain the name, address, and driver's license number of each enrolled student. Contracts for group instruction shall be issued in the name of the sponsoring group. Driving safety license schools may negotiate group training contracts showing lower rates with businesses, industrial, or governmental agencies. However, the student who successfully completes a driving safety course shall be furnished a certificate evidencing completion of course and the type of training received.

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

§69.19. Student Records. All commercial driver training schools licensed by the agency shall maintain a permanent record of instructions given to each student.

(1) Individual students.

(A) The record for individual contract students shall contain at least the information requested on the sample student instruction record form as provided by the director. It shall contain the name of the school, the name of the student, the type of all licenses or permits held by the student, the type and date of instruction given (whether classroom or behind-the-wheel), and the signature of the instructor.

(B) Each commercial driver training school shall, upon request, furnish each individually contracted student a duplicate of his or her instruction record when all of the courses contracted for are completed or the student otherwise ceases taking instruction at or with the school.

(C) Students who change schools before completing the classroom or laboratory instruction for driver education shall receive credit for the hours completed provided they enter within 90 days and complete courses at least comparable to those in which they were first enrolled. The teacher of the course in which the student was originally enrolled shall execute the driver education certificate (Texas driver education certificate), attaching thereto a statement showing the number of hours completed; the teacher shall mail the certificate to the chief school official in the school to which the student is transferring.

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

§69.20. Make-Up Policy [Attendance].

(a) Any period of absence for any portion of scheduled instruction [for a

driver education course or driving safety course] will require that the student complete [repeat] that portion of scheduled instruction [at a later date]. A certificate of completion shall be issued only to a student who has received all instruction as identified in the course description.

(b) Schools shall submit a make-up policy for approval. All make-up lessons shall be documented on attendance records and evidence of coursework performed shall be placed in the student file. Make-up lessons may be presented in any sequence.

(1) Teenage driver education and driving safety. For a policy that allows students to attend a missed lesson at a later date during a regularly scheduled class, the class shall be engaged in the same lesson the student missed previously.

(2) Teenage driver education only. For a policy that allows students to perform a self-study or individual make-up session, a synopsis of each lesson shall be submitted as part of the application for approval. A sample of each make-up lesson, clearly labelled as "make-up for the driver education program," shall be available for the review by the agency at the school. Each lesson shall be clearly identified as a make-up lesson and shall be identified as to the units of instruction to be covered. A licensed instructor shall be available without other teaching assignments to provide assistance directly to students during the self-study lesson.

§69.21. Commercial Driver Training School Responsibility for Employees.

(a) All instruction in a driving safety course shall be performed by agency-licensed instructors except a student instructor may teach the 24 hours necessary for licensing under the direction and in the presence of a licensed supervisory driver training instructor trained in the curriculum being instructed. If a licensed supervisory instructor or instructor enters or leaves the employment of any commercial driver training school, branch, or extension, the appropriate official shall within five days notify the agency on forms furnished by the agency indicating the name, address, and license number of the school or branch and the instructor, the date of employment or the termination date, and the reason for termination.

(b) No commercial driver training school owner-operator or manager shall permit any individual to give classroom instruction or behind-the-wheel instruction at the school, branch or any extension location unless the individual has a valid current commercial driver training instructor's or supervisory driver training instructor's license issued by the agency, except as provided in subsection (a) of this section.

(c) (No change.)

§69.22. Prohibited Activities. Including, but not limited to the following, a person shall not:

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

(3) wear or permit to be worn any uniform resembling the uniform worn by Department of Public Safety or other law enforcement employees, unless the person is performing a direct duty of the agency authorizing the individual to wear the uniform;

(4)-(10) (No change.)

(11) permit more than a ratio of four students per vehicle and three vehicles per instructor on truck driving ranges;

(12) permit more than four students per vehicle per instructor during street instruction for truck driver training; or

[(12) design, manufacture, or supply to any court of this state any forms, certificates, or other written materials for the purpose of referral of any person to a specific driving safety course; or]

(13) (No change.)

§69.23. Uniform Certificates of Course Completion for Driving [Driver] Safety Programs.

(a) The owner or primary consignee of a driver safety course may request to purchase serially numbered uniform certificates of course completion by submitting an order form provided by [writing] the director stating the number of certificates to be purchased and including payment of the fee authorized by the Uniform Act Regulating Traffic on Highways, §143A.

(b) The owner or primary consignee shall maintain an ascending [a] numerical accounting record approved by the director of the individuals receiving the certificates. The owner or primary consignee shall make available upon request copies of the issued certificates. [and provide] The owner or primary consignee shall also maintain a policy which effectively ensures protective measures are implemented by the course owner or primary consignee to ensure that unissued certificates are secure at every location issuing certificates. The records and unissued certificates shall be available for review by representatives of the agency.

(c) (No change.)

(d) Lost or stolen unissued certificates shall be reported to the director within two days of the discovery of the incident. In addition, the course owner or primary consignee shall be responsible for conducting an investigation to determine how and why the certificates were lost or stolen. A report of the findings of

the investigation, including preventative measures for recurrence, shall be submitted to the agency. The administrator shall review the report, and if an unsatisfactory response is received, may suspend the right of the course owner or primary consignee to purchase certificates of course completion.

(e) A list of every instructor providing the course shall be submitted to the agency and updated quarterly reflecting any additions or deletions of instructors by the owner or primary consignee. Procedures shall be implemented by the owner or primary consignee to ensure that all persons instructing the course are properly licensed instructors.

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 October 25, 1990.

TRD-9012378

W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: December 31, 1990

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

Subchapter D. Veterans Approval for Proprietary Schools

• 19 TAC §69.101

The amendment is proposed under the Texas Education Code, §32.21, which provides the Central Education Agency with the authority to adopt rules regarding the policies and procedures governing proprietary schools.

§69.101. Accredited and Nonaccredited Programs [Courses]. Proprietary schools desiring approval of a program [course] or programs [courses] to train veterans and other eligible persons under the provisions of 38 United States Code Chapter 34 or 38 United States Code Chapter 35 may make application for such approval as follows.

(1) Approval of nonaccredited programs [courses]. Nonaccredited programs [courses] may be approved under the provisions of 38 United States Code §1776.

(2) Approval of accredited programs [courses]. Programs [Courses] which are accredited by a nationally recognized accrediting agency or association as defined in 38 United States Code §1775(a) may be approved under the provisions of 38 United States Code §1775, provided that the criteria set forth in 38 United States Code §1776 are also met.

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

Earliest proposed date of adoption: December 31, 1990

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

◆ ◆ ◆
Subchapter E. Minimum Standards for Operation of Texas Proprietary Schools

- 19 TAC §§69.121, 69.122, 69.124-69.127, 69.129

The amendments are proposed under the Texas Education Code, §32.21, which provides the Central Education Agency with the authority to adopt rules regarding the policies and procedures governing proprietary schools.

§69.121. General Information.

(a) The Texas Education Agency will evaluate each school according to the standards of practice [as] set forth in this section, **appropriate laws, and State Board of Education rules.** The complete picture presented by the entire educational, promotional, and ethical **character** [structure] of the school will receive consideration in its evaluation. [The quality of educational programs offered by each school will be judged in terms of the announced policies as set forth in the bulletins, school literature, and application for certificate of approval.]

(b) Every effort will be made to evaluate fairly and impartially each school **and representative** application for approval [and each representative permit] to solicit students in Texas for the purpose of selling courses of instruction. The Texas Education Agency will endeavor to provide an effective and constructive application of the law and standards of practice adopted for regulating proprietary schools.

(c) The Texas Education Agency will assist all schools and the [their] school directors under its jurisdiction, whenever possible, in complying with the provisions of the law and standards of practice. Inquiries or requests for information should be directed to the Division of Proprietary Schools and Veterans Education, Texas Education Agency, Austin[, Texas, 78701].

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

Advertising—Any affirmative act, whether written or oral, designed to call public attention to a school and/or program in order to arouse a desire to patronize that school and/or program.

Agency—The Central Education Agency also known as the Texas Education Agency.

Change of ownership of a school—A change in the control of the school. Any agreement to transfer the control of a school is considered to be a change of ownership. The control of a school is considered to have changed:

(A)-(C) (No change.)
Educational providers—Include, but are not limited to:

(A) public vocational schools;

(B) community colleges;

(C) federal state and local governments; and

(D) proprietary schools.

Employment—A graduating student's employment in the same or substantially similar recognized occupation for which trained [on the date of the survey of employment data in a related area of training whether placed by the school or the student].

Good reputation—A person is considered to be of good reputation if:

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

(D) the person does not own [or direct] a school currently in violation of the legal requirements; has never owned [or directed] a school with habitual violations; or has never owned [or directed] a school which closed with violations including, but not limited to, unpaid refunds; or

(E) the person has not knowingly falsified or withheld information from representatives of the agency.

Instructor trainer—A supervisory driver training instructor that has been trained to prepare instructors to give instruction in a specific curriculum.

Job employment rate—The percentage of graduating students who have obtained employment in the same or substantially similar recognized occupation for which they have been trained.

Job placement—An affirmative effort by the school to assist the student in obtaining a job in the same or substantially similar recognized occupation for which the student was trained [Placement by the school of the student to employment in a related area of training].

Main or branch school—A commercial driving school that meets the requirements of a proprietary school as cited in §69.11 of this title (relating to Branch Schools).

New program/course—[Where the

terms "course" and "program" are used, the meaning is the same.] A program [program/course] is considered to be new when:

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

(C) the total hours, content, or lessons of the approved program [program/course] change 25% or more within a 12-month period (examples: from 1,000-hour to 750; 20 lessons to 30; 600 hours to 900).

Program—A set of approved subjects offered by the applicant which when taken as a whole prepare a student for employment in a recognized occupation.

Proprietary school referred to as school—Any business enterprise operated for a profit, or on a nonprofit basis, which maintains a place of business within the State of Texas, or solicits business within the State of Texas, and which is not specifically exempt by statutes and includes those schools which offer or maintain a program or programs [course or courses] of instruction or study; or at which place of business such a program or programs [course or courses] of instruction or study is available through classroom instruction or by correspondence or both to a person or persons for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, or industrial occupation, or for a vocational or personal improvement, except as excluded by the provisions of this subchapter.

Recognized occupation—An occupation by any one of the following: the Dictionary of Occupational Titles; the United States Department of Labor; the Texas Employment Commission; state or federal law; or a public or private entity recognized by the United States Department of Labor or the Texas Employment Commission as having particular expertise in occupational classifications.

Seminars and workshops—Continuing education programs [courses] of 40 clock hours or less in duration which serve to enhance a student's career as opposed to programs [courses] offered to develop basic skills and fundamental knowledge required for entry into a particular field of endeavor. This includes continuing professional education, a review for examination, driver education, and driving safety.

Subject—A component of the program which constitutes specific subject matter designed to advance the practical skills and knowledge necessary to prepare a student for employment in a recognized occupation.

Suspension of enrollments—If the administrator suspends enrollments, the school may not advertise, solicit, or in any way advise prospective students, either directly or indirectly, of the program/course offerings. Further, reenrollments are also prohibited.

Teen and teenage—Eligible students of driver education who are at least

14 years of age when the classroom phase begins and who will be at least 15 years of age at the time the classroom phase ends.

§69.124. *Representatives.*

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

(e) Including, but not limited to, the following, a representative is prohibited from:

(1)-(8) (No change.)

(9) representing that a program [program/course] has sponsorship, approval, characteristics, uses, benefits, or qualities which it does not have;

(10) disparaging the [course or] program of another school by the false or misleading representation of facts;

(11)-(12) (No change.)

(13) soliciting enrollments in a program [program/course] which has not been approved by the administrator.

(f)-(g) (No change.)

§69.125. *Approvals.*

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

(d) Application procedures for additional programs [courses]. Schools making application for approval of additional programs [courses] after the original approval has been granted shall submit the necessary documents as designated by the director with the appropriate fee. Programs [Programs/courses] shall be approved prior to solicitation of students, advertising, or conducting classes. An approval for an additional program [program/course] will not be granted if the school's compliance is in question at the time of application.

(e)-(g) (No change.)

(h) Certificate of approval. A proprietary school shall obtain a certificate of approval for each location where a program or programs [course or courses] of instruction will be offered, unless the school meets one of the exceptions in this subsection. Schools which held a certificate of approval on May 13, 1978, are not required to apply for an additional certificate for any facilities in which they are conducting continuous programs [courses] of instruction, provided that those facilities were approved as part of the school's application for its certificate of approval. The exceptions are as follows:

(1) schools which offer short-term programs [courses] not to exceed 200 hours at locations other than their main campuses provided there is a 90-day interval between program [course] offerings;

(2) schools which offer review programs [courses], the purpose of which is to assist students in reviewing for required examinations for licensing or for en-

tering academic institutions and reading improvement schools;

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

(i)-(j) (No change.)

(k) Notification of legal action. All schools shall notify the director in writing [with the details] of any legal action which may concern the operation of or filed against the school, its officers, or any owner within five working days after the school, its officers, or any owner has commenced the legal action or has been served with legal process. Included with the written notification, the school shall submit a file-marked copy of the petition or complaint that has been filed with the court [30 days of such action].

§69.126. *Applications from Small Businesses.*

(a) Time periods. Applications from small businesses for certificates of approval, representatives, school directors, and instructional staff shall be processed in accordance with the following time periods.

(1) The first period is a time from the receipt of an application to the date of issuance of a written notice approving the application or outlining the reasons why the application is unacceptable. The time periods for each application are:

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

(F) school directors and instructional staff—20 days.

(2) The second period is a time from receipt of the last item necessary to complete the application to the date of issuance of written notice approving or denying approval of the application. The time periods for each application are:

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

(G) school directors and instructional staff—(approval contingent on issuance of school's approval)—21 days; and

(H) school directors and instructional staff—(approval not contingent on issuance of school's approval)—20 days.

(b) Reimbursement of fees.

(1) (No change.)

(2) Good cause for exceeding the period established is considered to exist if:

(A) the number of applications for certificates of approval, representatives, school directors, or instructional staff as appropriate to be processed exceeds by 15% or more the number processed in the same calendar quarter the preceding

year;

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

(c) (No change.)

§69.127. *Minimum Standards for Operation of Proprietary Schools.*

(a) (No change.)

(b) Schools desiring issuance and renewal of certificates of approval shall adhere to the following standards.

(1) Personnel.

(A) School director [Director] and administrative staff members.

(i) Each school shall designate one person as the school director of the school. The school director is responsible for the school program, the organization of classes, the maintenance of the school plant, and the maintenance of proper administrative records and all other procedures related to the administration of the school.

(ii) The school director shall be a graduate of an accredited institution of higher learning (college or university) with one year of experience in administration, institutional management, or the total years of administrative/management experience and/or higher education shall equal five years. An exception is permitted for schools that qualify for a \$5,000 bond as allowed by the Texas Education Code, §32.38(a). In that event, the school director shall have sufficient background and training in the area for which the school director will be responsible. If the school employs a director of education, that director shall meet the same requirements as an instructor and shall also have one of the following:

(I)-(II) (No change.)

(iii) The school director or staff member must be a person of good reputation and character.

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

(vi) An individual shall be approved as a school director before employment as such. A school director and assistant school director shall attend an agency-sponsored workshop within three months of application for approval and demonstrate proficiency of knowledge of the requirements of operating a proprietary school before final approval as a director of a school. The workshops will be scheduled when the workshop enrollment reaches 15, or quarterly, whichever occurs first. A school director may be required to attend additional workshops in order to maintain skills and continue to be approved as a school director. An acting school director may be designated for a period not to exceed three months. Violations at the school may result in revocation of the approval.

(B) Instructors.

(i) An application for approval of an instructor on forms provided by the agency, shall be filed in accordance with the following criteria.

(I) The application shall be postmarked within five calendar days of employment subject to the conditions outlined in subclause (IV) of this clause.

(II) The application shall include a legible copy of the post secondary transcript if required. In lieu of the transcript proof of a current occupational license may be submitted if that license indicates the applicant's attainment of the educational requirements as verified by agency staff.

(III) Approvals of instructional staff by other state agencies responsible for approval and regulation of the program shall be accepted by agency staff. This does not remove the requirement that the instructor file an application on agency forms.

(IV) A school may employ an instructor prior to approval unless the school has had three applications for instructors disapproved for failure to meet the minimum requirements within the previous 24 months. After the third disapproval, for the next 12-month period instructors shall be approved in advance.

(ii)[(i)] Instructors shall have specific qualifications as set forth in any of the subclauses (I)-(V) of this clause. In such cases where the practical experience is gained on a seasonal basis as an industry standard, such as tax preparation, the season of at least three months of experience shall be considered as one year of experience. [to be documented by official transcripts and/or letters of reference as follows:] The director may approve a variance from these specific qualifications with sufficient justification and an assurance that the program quality will not be lessened.

(I) An instructor shall hold a baccalaureate or higher degree from an accredited college or university and either: [Each instructor shall hold a baccalaureate or higher degree from an accredited college or university having satisfactorily completed appropriate course(s) in the field to be taught.]

(-a-) the baccalaureate or higher degree includes satisfactory completion of nine semester hours or 12 quarter hours in subjects related to

the subject area to be taught: or

(-b-) the instructor has had a minimum of two years of practical experience within the last 10 years in the subject area to be taught.

(II) An instructor shall hold an associate degree from an accredited college, university, or recognized post secondary institution and either: [Each instructor shall hold an associate degree from an accredited college or university and a minimum of three years of practical experience within the last 10 years in the field to be taught (two years, if the associate degree includes satisfactory completion of appropriate course(s) in the field to be taught).]

(-a-) the instructor has a minimum of two years of practical experience within the last 10 years in the subject area to be taught and the associate degree includes satisfactory completion of nine semester hours or 12 quarter credit hours in subjects related to the subject area to be taught: or

(-b-) the instructor has a minimum of three years of practical experience within the last 10 years in the subject area to be taught.

(III) An instructor shall hold a high school diploma or GED and a certificate of completion from a recognized post secondary institution for at least a 900-clock-hour program in a relevant subject area and a minimum of four years of practical experience within the last 10 years in the subject area to be taught. [Each instructor shall hold a high school diploma, GED, or satisfactory completion of the relevant course(s) from a recognized post secondary institution and practical experience in the appropriate field shall total not less than five calendar years. The experience shall be within the last 10 years.]

(IV) An instructor shall hold a high school diploma GED or proof of satisfactory completion of relevant subject(s) from a recognized post-secondary institution, and practical experience in the appropriate subject area of a minimum of five years within the last 10 years.

(V) Court reporting speedbuilding instructors shall hold a high school diploma or GED and have completed all court reporting theory requirements in a licensed court reporting school that requires at least 300 clock hours of court reporting theory. The instructor shall also provide evidence of a minimum of one year of experience related to the court reporting field in the last 10 years. Related experience may in-

clude, but is not necessarily limited to, actual court reporting teaching coping and/or note reading.

(iii)[(ii)] The instructor shall be of good reputation and character.

(iv)[(iii)] Each instructor shall be evaluated annually. The report of the evaluation shall be available for review by representatives of the agency.

(v)[(iv)] As determined by the director, an appropriate number of the faculty shall have the relevant license or certificate required for the job objective. The holder of the license or certificate shall actively participate in curriculum development and/or curriculum revision.

(vi)[(v)] The school shall ensure continuity of instruction through the reasonable retention of the instructional staff.

(vii)[(vi)] The school shall maintain and update annually a written plan for staff development which includes at a minimum: continuing education, staff meetings, and attendance at trade and professional meetings. Documentation of implementation shall also be maintained.

(viii) The number of court reporting speedbuilding instructors who do not hold a court reporting certificate issued by a state qualified under clause (II)(V) of this subparagraph, concerning instructor qualifications, shall not exceed 20% of the instructional staff.

(ix) The school shall publish as a part of its catalog a list of the instructors including qualifications and the field to be taught.

(x) Upon written notification to the director postmarked no later than the first day in the classroom, a person who has not been approved or disapproved as an instructor may serve as an instructor for no more than two weeks'. This person shall have practical experience or education in the subject area to be taught. There shall be no more than one such person per grading period in an individual subject. It is the school's responsibility to ensure that students continue to receive a quality education.

(2) Admission requirements.

(A) With the exception of driving safety and driver's education, the school shall submit its entrance requirements for each program [or course] for approval or disapproval by the director.

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

(iii) If multiple opportunities are allowed for retaking the same entrance test, such applicants shall wait five calendar days prior to retaking the test. An applicant may take a second entrance test on the same day provided a substantially different test is administered. This shall be

stated in the admissions policy published in the school catalog [bulletin].

(iv)-(vii) (No change.)

(B) The school must maintain a written record of the previous education and training of the applicant student which clearly indicates that appropriate credit has been given by the school for previous education and training. Official transcripts of all previous postsecondary institutions attended provided by the student must be placed in the student file with a written evaluation initiated by the school director or the school director's designee. The new training period shall be shortened where warranted through use of appropriate skills or achievement tests and the student so notified. When the training period is shortened, the course cost shall be reduced accordingly. With the exception of seminars and workshops as defined in §69.122 of this title (relating to Definitions) and individual subjects within an established curriculum, schools shall use form DPSVE-O10 or the equivalent which will become a part of the student's permanent record at the school. The subject matter involved in seminars and workshops is such that credit for previous education and training may not be required.

(C) Prior to enrollment the school shall furnish the following to each prospective student:

(i) school catalog [bulletin] and program [program/course] outline;

(ii)-(viii) (No change.)

(D) (No change.)

(E) In addition, all schools shall use a form approved by the director to verify the student's receipt of the information required in subparagraphs (C) and (D) of this paragraph. At the discretion of the director, the [The] form shall also include the following statements.

(i) "For the program entitled '_____', I have been informed that the current completion rate is _____%, or _____ of _____ students enrolled, and for students issued a certificate of completion, the current job placement rate is _____%, or _____ of _____ students, and the employment rate is _____%."

(ii) "I have furnished information disclosing my previous education, training, and work experiences. I understand this will be evaluated and may result in my program [program/course] length being shortened and the cost being reduced."

(iii) (No change.)

(iv) "A comparison of the cost to me for a similar program [course or] at other schools is available by contact-

ing the Division of Proprietary Schools and Veterans Education, Texas Education Agency, [1701 North Congress Avenue,] Austin[, Texas 78701, (512) 463-9475]."

(F) (No change.)

(G) The school shall submit an enrollment agreement to the director for approval. Further, with the exception of seminars and workshops exclusive of driving safety and driver education, the school shall enroll students using the approved enrollment agreement. The agreement shall include, but is not limited to, the following:

(i) full and correct name and location of the school;

(ii) program title, tuition, fees, reasonable estimated cost of books and supplies, any other expenses, total cost of the program, items subject to cost change, method of payment and payment schedule, disclosure statement (if interest is charged on more than three payments), and detachable buyer's right to cancel if enrollment is procured off campus;

(iii) date training is to begin and program length;

(iv) name and address of the student;

(v) statement that the student has received a copy of the school enrollment agreement and catalog;

(vi) cancellation and refund policy; and

(vii) Federal Trade Commission statement for holder in due course.

(3) (No change.)

(4) Tuition and fees.

(A) All tuition, fees, and other charges shall be stated in the school's application for approval and shall be disclosed to potential students in the school catalog [bulletin].

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

(5) Cancellation and refund policy.

(A) (No change.)

(B) Each school must have a cancellation and settlement policy that will permit a potential student to cancel any enrollment agreement or contract within 72 hours (until midnight of the third day excluding Saturdays, Sundays, and legal holidays) after the enrollment contract is signed by the prospective student. Any potential student who has not toured the school facil-

ities and inspected the equipment prior to signing an enrollment contract has an additional three days excluding Saturdays, Sundays, and legal holidays following a tour and inspection to request a full refund of any monies paid to the school and release from all obligations. The student shall sign and date a form certifying the tour. Correspondence. [and] combination correspondence-residence, and seminars and workshop programs are not required to provide the student a tour.

(i) For any student enrolled [solicited] off the school premises [in the home], the notice of cancellation must be in the following form:

(I)-(III) (No change.)

(ii)-(iii) (No change.)

(C) For residence programs [courses] more than 12 months in length, the refund shall be applied to each 12-month period, or part thereof separately.

(i) The determining factor as to whether a program [course] is longer than 12 months will be based on the length of the program [course] as taught by the school in the shortest period of time on a regularly scheduled basis.

(ii)-(iii) (No change.)

(D) -(E) (No change.)

(F) For correspondence programs [courses] such policy must provide that:

(i) refunds will be computed based on the number of home study lessons in the program [course];

(ii) the effective date of termination for refund purposes will be the earliest of the following:

(I)-(III) (No change.)

(iii) if tuition is collected before any lessons have been completed, and if, after expiration of the 72-hour cancellation privilege, the student fails to begin the program [course], not more than \$50 shall be retained by the school;

(iv) in cases of termination or withdrawal after the student has begun the correspondence program [course], the school may retain \$50 of tuition and fees, and the minimum refund policy must provide that the student will be refunded the pro rata portion of the remaining tuition, fees, and other charges that the number of lessons completed and serviced by the school bears to the total number of lessons in the program [course];

(v)-(vi) (No change.)

(vii) enrollment contracts

must specify the amount of time allotted the student to complete the **program** [course]. If at the end of the specified period the student has not completed the **program** [course], the student must be terminated and a refund must be totally consummated within 30 days. Should the student desire to reenroll, appropriate credit must be given as outlined in paragraph (2) of this subsection.

(G) (No change.)

(H) For **programs** [courses] consisting of a combination of home study lessons and residence training, not more than \$100 will be retained by the school for those students who fail to enter residence training, unless the school submits affirmative evidence acceptable to the administrator disclosing the home study lessons are of such quality and content to reasonably assure that the students will achieve the stated objective without the residence training portion of the **program** [course].

(I) If it is determined that the method used by the school to calculate refunds is in error or the school does not routinely pay refunds within the time required by the Texas Education Code, §32.39(b)(7) and (12), the school shall submit a report of an audit which includes any interest due as set forth in the Texas Education Code, §32.39(e), conducted by an independent certified public accountant or public accountant registered with the State Board of Public Accountancy, of the refunds due former students. The audit opinion letter shall be accompanied by a schedule of student refunds due which shall disclose the following information for the previous four years from the date of request by the agency for each student;

(i) name address, and social security number;

(ii) last date of attendance date of termination; and

(iii) amount of refund with principal and interest separately stated date and check number of payment if payment has been made, and any balance due.

(6) Vocational instructional programs [Instructional programs].

(A) Subject hour length and program standards, generally. No subject or combination of subjects constituting a particular program shall be approved by the administrator unless it is demonstrated by the applicant that the program offered is of such quality content, and length as to reasonably and adequately impart to a student the job skills and knowledge necessary for the student to obtain employment in the business trade, technical, or industrial

occupation for which the instruction is offered.

[(A) The courses, content, and length of instruction shall be of such nature and quality as to assure reasonably that the students will adequately develop the job skills and knowledge necessary for obtaining employment in the occupation for which the instruction is offered.

(i) In making this determination, the director will consult with recognized industrial and/or educational experts, as appropriate, in the field for which the program trains students.

[(ii) With each program/course application, the curriculum content and program/course length submitted shall be justified by school officials as necessary for the student to obtain the required job skills. Further, the objectives for offering the program and the specific jobs for which the student will be trained shall be named.

[(iii) In addition, with each program/course application, school officials shall submit the objectives for offering the program/course, including the desired retention and placement rate and the plan to reach those objectives. The school shall maintain sufficient monitoring procedures to ascertain the rates on a monthly basis. If at any time the retention rate or placement rate falls below the rate agreed upon prior to approval of the program, the school officials shall submit to the director a written report within 30 days of the reasons why the rate is low and the steps taken to improve the rate.]

(B) Standards for program application review. In determining whether an application for a program or combination of subjects constituting a program shall be approved under subparagraph (C) of this paragraph, the administrator shall consider the following.

(i) Occupational objective. The program shall prepare the student for a job in a recognized occupation. An application for program approval that does not identify a recognized occupation shall be denied unless it can be shown by the applicant that:

(I) the occupation is of such recent origin that it has not been recognized by any of the entities identified in subparagraph (B) (i) of this paragraph; and

(II) employers regularly solicit and hire employees for such occupation.

(ii) Need for education and training. An application for program

approval shall not be approved unless it is demonstrated by the applicant that a student who successfully completes the program is more likely to be employed in the occupation for which the program is offered than an individual who does not enroll in the program. In determining whether a particular program conforms to the standards set out in this subparagraph the administrator shall take into consideration all of the following:

(I) whether employers who regularly employ persons in the occupation under review prefer the same or similar education and training offered by the program under review;

(II) whether employers who regularly employ persons in the occupation under review require substantial on-the-job training as a condition of employment and the requirement of such on-the-job training renders the program under review unnecessary; and

(III) whether employers who regularly employ persons in the occupation under review generally allow more rapid advancement to a graduate of the program under review than to persons who have not graduated from the program.

(iii) Occupational demand. The program shall prepare the student for a job in a recognized occupation for which there is demonstrable demand. An application for program approval that does not identify a demonstrable employer demand for the occupation for which the program is offered shall be denied. In determining whether there is demonstrable employer demand for the occupation under review. The administrator shall consider the following:

(I) the applicant's statement of occupational demand which may include, but is not limited to publications of established relevant occupational associations; references to advertisements for employment in Texas media;

(II) the job employment rate of students who have previously completed the same or substantially similar program;

(III) reports or publications relating to demand for the occupation under review including, but not limited to, the following:

(-a-) any state or federal agency;

(-b-) employers who regularly employ individuals for the occupation under review;

(-c-) Quality Work Force Planning Committee located in the region in which the applicant is located; and

(-d-) established relevant occupational associations; and

(IV) the opinion of individuals whose expertise is recognized in either education or the industry relating to the occupation for which the program is offered.

(iv) Program content. Each subject that collectively constitutes the program shall advance the practical skill and knowledge required for employment in the business trade technical, or industrial occupation for which the program is offered. Subjects which do not bear a substantial and demonstrable relationship to the job skills and knowledge required for employment in the recognized occupation for which the program is offered shall not be approved. In determining whether a particular subject or the program as a whole conforms to the standards stated in this clause (iv) of this subparagraph, the administrator shall take into consideration all of the following:

(I) the structure and content of programs offered by other educational providers which prepare the student for the same or substantially similar occupation;

(II) any statutory requirements applicable to the occupation;

(III) the opinion of individuals whose expertise is recognized in either education and/or the industry relating to the occupation for which the program is offered;

(IV) whether the employability and advancement potential of a student who successfully completes the program under review would be significantly greater than the employability of a student who successfully completes a program with a different content which prepares the student for the same or substantially similar occupation;

(V) the education and experience level set forth in the entrance requirements as a prerequisite; and

(VI) any other relevant sources.

(v) Program length. Each program submitted for approval shall identify the clock/credit hours allocated to each subject which comprises the program. The total number of clock/credit hours allocated to each subject shall bear a direct and reasonable relationship to the job skills and knowledge required for employment in the recognized occupation for which the program is offered. Subjects or a combination of subjects constituting a program which when considered separately or collectively evidence clock/credit hours which exceed that which is reasonable to prepare the student for the recognized occupation for which the program is offered shall not be approved. In determining whether a particular subject or the program as a whole conforms to the standards stated in this clause, the administrator shall consider all of the following:

(I) the structure, content, and length of programs offered by other educational providers which prepare the student for the same or substantially similar occupation;

(II) any statutory requirements applicable to the occupation;

(III) the opinion of individuals whose expertise is acknowledged in either education or the industry relating to the occupation for which the program is offered;

(IV) whether the employability or advancement potential of a student who successfully completes the program under review would be significantly greater than the employability of a student who successfully completes a program with fewer clock/credit hours which prepares the student for the same or substantially similar occupation;

(V) the education and experience level set forth in the entrance requirements as a prerequisite; and

(VI) any other relevant sources.

(vi) Program title. Each program submitted for approval shall be identified by a title. The title shall clearly identify the occupation for which the program is offered. False, misleading, or deceptive program titles shall not be approved.

(C) Standards of program/subject length. The commissioner of education shall establish minimum and maximum program lengths for recog-

nized occupations consistent with this subsection. The commissioner of education or his designee may approve a variance from the established minimum and maximum program lengths with sufficient justification.

(D) Submission of the program applications. Applications for program approval shall be submitted on forms provided by the agency.

(E)[(B)] Catalogs. Schools shall not publish in their catalogs [bulletins] or other promotional literature programs [courses] which have not been approved by the director.

(F)[(C)] Qualified faculty. When a school is approved to offer a program [course] and enrolls students in the program [course], the school shall maintain sufficient and qualified faculty to teach all subjects for completing the program [course] during the length of time stipulated in the school catalog [bulletin] regardless of the size of the class.

(G)[(D)] Scheduling of classes. The school shall schedule classes so that the students will be able to complete the program [course] during the length of time stipulated in the school catalog [bulletin]. The school shall publish in its catalog a class schedule to include the amount of time allocated for breaks and mealtimes.

(H)[(E)] Discontinuance of program. If an approved program [course] is discontinued for any reason, the director shall be notified within 72 hours of discontinuance and furnished with the names and addresses of any students who were prevented from completion by reason of the discontinuance of the program [course]. Should the school fail to make arrangements satisfactory to the students and the director for the completion of their program(s) [course(s)], the full amount of all tuition and fees paid by the students are then due and refundable. If arrangements are not made satisfactory to the students and director, the refunds must be made no later than 30 days from the date the program [course] was discontinued. Any program [course] discontinued will be removed from the list of approved programs [courses].

(I)[(F)] Evening school. No evening school class schedule shall extend beyond a reasonable time.

(J)[(G)] Conversion table for credit hours.

(i) If the applicant requests approval to measure programs

[courses] in credit hours for academic purposes, the following conversion table must be used.

(I)(i) Schools which schedule their programs [courses] on a quarter or semester basis:

(-a-)(I) One semester credit hour is equal to a minimum of:

(-1-)(-a-) one hour of classroom lecture per week for a semester or the equivalent number of hours;

(-2-)(-b-) two hours of laboratory experience per week for a semester or the equivalent number of hours; or

(-3-)(-c-) 45 clock hours of externship.

(-b-)(II) One quarter credit hour is equal to a minimum of:

(-1-)(-a-) one hour of classroom lecture per week for a quarter or the equivalent number of hours;

(-2-)(-b-) two hours of laboratory experience per week for a quarter or the equivalent number of hours; or

(-3-)(-c-) 30 clock hours of externship.

(II)(ii) Schools in which programs [courses] are not scheduled on a quarter or semester basis.

(-a-)(I) One semester credit hour is equal to a minimum of:

(-1-)(-a-) 15 clock hours of classroom lecture;

(-2-)(-b-) 30 clock hours of laboratory experience; or

(-3-)(-c-) 45 clock hours of externship.

(-b-)(II) One quarter credit hour is equal to a minimum of:

(-1-)(-a-) 10 clock hours of classroom lecture;

(-2-)(-b-) 20 clock hours of laboratory experience; or

(-3-)(-c-) 30 clock hours of externship.

(ii) The school shall publish in its catalog an explanation of the method used to convert clock hours to credit hours and shall show the actual contact hours of theory lab and externship in addition to the total credit hours for each subject.

(K)(H) Reasons for denial. If, upon review and consideration of an original, renewal, or amended application for program approval, the administrator determines that the applicant fails to meet the requirements in the Texas Education Code or this chapter, the administrator shall notify the applicant, setting forth the reasons for denial in writing. This may include summaries of peer evaluations from both educators and employers offering similar programs.

(L)(I) Reasons for revocation. The administrator may revoke approval of an institution's program(s) at any time the administrator finds cause, including, but not limited to:

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

(M)(J) Right to appeal. An applicant whose program approval is denied or revoked shall have the right to appeal under Chapter 157 of this title (relating to Hearings and Appeals). If the applicant fails to furnish additional evidence or exercise the right of appeal within 15 days after receipt of notice that the application is unacceptable, the notice shall become final.

(7) Advertising.

(A) Printed catalog [bulletins] shall [or other promotional information must] be specific with respect to training prerequisites for admission to the school's programs [courses], the curricula, the content of programs [courses], and graduation requirements.

(B) Schools holding a franchise to offer-specialized programs [courses] or subjects not available to other schools shall not advertise such programs [course] in such manner as to diminish the value and scope of programs [courses] offered by other schools that do not hold such a franchise. Such advertising of special subjects or programs [courses] offered under a franchise shall be limited to the subject or programs [courses] offered.

(C)-(I) (No change.)

(J) No statement or representation shall be made that students will be guaranteed employment while enrolled in the school or that employment will be guar-

anteed for students after graduation, nor shall any school or representative thereof falsely represent opportunities for employment upon completion of any program [course] of study.

(K) (No change.)

(L) No statement shall be made that the school or its programs [courses] of instruction have been accredited unless the accreditation is that of the appropriate nationally recognized accrediting agency listed by the United States Office of Education.

(M) No statement shall be made that the school or its programs [courses] of instruction have been approved unless the approval can be substantiated by an appropriate certificate of approval issued by the approving agency of the state or federal government. Any advertisement that includes a reference to awarding of credit hours shall include the statement, "limited transferability." An explanation of the transferability must be included in an appropriate place in all school catalogs. Where a school has an arrangement with a college or university to accept transfer hours, such information may be advertised but any limitations shall be included in such advertisement.

(N)-(R) (No change.)

(8) Minimum progress and attendance standards.

(A) Progress. Appropriate standards must be implemented to ascertain the progress of the students enrolled. Progress standards must meet the following requirements.

(i) Schools approved on a clock hour basis must have a progress evaluation system on a maximum of eight weeks. Schools approved on a credit hour basis must have a progress evaluation system at mid-term and end-of-term for semester or quarter or at least every eight weeks [for clock hour programs].

(ii)-(iii) (No change.)

(iv) Seminars and workshops as defined in §69.122 of this title (relating to Definitions) may give only a final exam at the end of the program in lieu of the progress evaluation system outlined required in this subsection to determine whether the student has the knowledge to warrant a certificate of completion.

(v)-(vi) (No change.)

(vii) The school shall submit its regulations pertaining to incomplete grades to the director for approval and publish those regulations in the school's catalog [bulletin]. The regulations shall ad-

dress the possibility of the subjects being discontinued when the student returns and clarify appropriate reasons as set forth in the Texas Education Code, §32.39(f).

(B) Attendance.

(i) Absence shall be charged for a full day when the student attends none of the scheduled classes on that day. A partial day of absence shall be charged for any period of absence during or at the end of the day. **With the exception of driving safety, seminar and workshop programs which begin and end during one day do not have to maintain an attendance policy.**

(ii) School holidays, such as summer vacation and Christmas holidays, etc., shall not be considered as days of absence.

(iii) The attendance policy shall stipulate the following condition for termination of students who accumulate absences as outlined in the following subclauses prior to entering the period in which the student is obligated for all tuition, fees, and other charges:

(I) (No change.)

(II) more than 15% of the total clock hours in a program [course]; [or]

(III) more than 25% of the total clock hours, if the program [course] is 200 clock hours or less [,] in the approved programs for all except teenage driver education which shall consist of classroom hours only; or

(IV) the behind-the-wheel phase of teenage driver education shall be completed within 90 days of the beginning of the program.

(iv) (No change.)

(v) For schools having specific term-beginning dates [(not an open-enrollment policy),] a school may not start students after the third day of classes, during any given term, except in those cases where appropriate credit has been given according to the Texas Education Code, §32.33(d), and §69.127(b)(2)(B) of this title (relating to Minimum Standards for Operation of Proprietary Schools).

(vi) (No change.)

(vii) Leaves of absence.

(I)-(IV) (No change.)

(V) The leave of absence policy shall be stated in the school's catalog [bulletin].

(viii) All schools must maintain a master record of attendance for each student which clearly indicates the number of scheduled hours each day and the hours of absence. The instructor's roll books must indicate a positive record of each student's attendance. **Entries in the roll books shall be made in ink.** Schools offering seminars, workshops, or other programs [courses] where students do not change instructors during the school day are not required to maintain a separate master record of attendance.

(9)-(10) (No change.)

(11) Financial stability.

(A) New school.

(i) The prospective owner shall furnish the director with an initial application for a certificate of approval, an audited balance sheet consistent with generally accepted accounting principles and auditing standards, that has been [and] certified by an independent public accountant or certified public accountant properly registered with the appropriate state board of accountancy.

(ii)-(iv) (No change.)

(B) General requirements for financial [annual] statements. Each certificated school shall furnish annually two copies of acceptable financial statements in association with an independent public accountant or certified public accountant not later than 120 days from the close of the school's fiscal year. These statements shall be consistent with generally accepted accounting principles except compilations and must include the following:

(i) balance sheet. Calculation of unearned student tuition shall be based upon at least a quarterly pro rata basis or refund policy basis for the program, whichever would most accurately reflect recognition of income;

(ii) statement of results of operation (statement of income and retained earnings). This statement must include the gross amount of tuition and fees earned net of refunds during the fiscal year for all programs [courses] approved under the Texas Education Code, Chapter 32, for each school;

(iii) statement of cash flows [changes in financial position (statement of source and application of funds)];

(iv) the gross amount minus refunds of annual student tuition and fees for each school unless the school chooses to pay the maximum annual renewal fee [an annual renewal fee of \$1,100.00].

(C) Specific types of statements required. Certificated schools shall

meet the following requirements.

(i) Schools shall submit audited financial statements which have been certified by an independent public accountant or certified public accountant at the end of their first year of operation. [Thereafter, schools shall submit annual financial statements which have been reviewed, rather than audited, by an independent public accountant or certified public accountant. Exceptions to the requirement that the financial statements shall be reviewed by the accountant may be made for the following schools:

[(I) schools whose gross annual income from student tuition and fees is \$50,000 or less; or

[(II) schools whose courses are less than one month in length.]

(ii) At the end of the second year of operation and thereafter, schools shall submit annual financial statements as set forth in subparagraph (B) of this paragraph which may be reviewed rather than audited, by an independent certified public accountant or public accountant. The school may submit financial statements which have been compiled by an independent certified public accountant or public accountant, if the gross annual revenue from student tuition and fees is \$50,000 or less; or the programs are less than one month in length. The compiled financial statements shall contain at least one note which discloses the current and long term liabilities similar to those required by generally accepted accounting principles for reviewed and audited statements. [Such schools must submit annual financial statements as set forth in subparagraph (B)(i)-(iv) of this paragraph; however, they need not be audited or reviewed but must be compiled by a public accountant or certified public accountant and no opinion need be expressed. If a question arises as to the validity of the compiled or reviewed financial statements submitted or to the adequacy of the financial structure, the administrator may require an audit of a school, at the school's expense, certified by a public accountant or certified public accountant. Schools which are subsidiaries of another corporation may submit, in lieu of the statements required in subparagraph (B) (i)-(iv) of this paragraph, the annual audited financial statements of the parent corporation provided that:

[(I) said statements are accompanied by an audited list of any student tuition refunds payable by the subsidiary school at the close of its fiscal year and an audited list of the gross amount minus refunds of annual student tuition and fees for each school unless an annual fee of \$1,100 is paid for each school;

[(II) the parent corporation assumes full responsibility for ensuring that each student enrolled in the subsidiary school receives either the training agreed upon or a refund as provided in the Texas Proprietary School Act and submits a certified resolution of its board of directors to this effect; and

[(III) said statements must be accompanied by information indicating the gross amount of tuition and fees earned net of refunds during the fiscal year on all courses approved under the Texas Education Code, Chapter 32, for each school.]

(iii) If a question arises as to the validity of the compiled or reviewed financial statements submitted or to the adequacy of the financial structure, the administrator may require an audit of a school, at the school's expense, that has been certified by an independent certified public accountant or public accountant.

(iv) Schools which are subsidiaries of another corporation may submit, in lieu of the statements required in subparagraph (B) of this paragraph, the annual audited financial statements of the parent corporation provided that:

(I) said statements shall be accompanied by an audited list of any Texas student tuition refunds payable by the subsidiary school at the close of its fiscal year. In addition, the statements shall also be accompanied by an audited amount for each school stating the gross amount minus refunds of Texas student tuition and fees earned during the fiscal year on all programs approved under the Texas Education Code, Chapter 32, unless a written assurance that the maximum annual renewal fee shall be paid for each school accompanies the financial statements; and

(II) the parent corporation assumes full responsibility for ensuring that each student enrolled in the subsidiary school receives either the training agreed upon or a refund as provided in the Texas Education Code, Chapter 32, and submits a certified resolution of its board of directors to this effect.

(D) (No change.)

(E) Financial stability required. The school shall have sufficient finances to establish and carry out a satisfactory program of education on a continuing basis.

(i) (No change.)

(ii) The applicant's balance sheet required in subparagraphs (A), (B)-(D) of this paragraph shall [must] reflect all of the following: [a current ratio of at least one-to-one and a positive equity or net worth balance. To determine this ratio, staff will deduct:]

(I) positive equity or net worth balance: [any unearned tuition from both the asset and liability section; and]

(II) unearned tuition as a current liability: and [any subscriptions receivable from the asset section and the equity section of the balance sheet.]

(III) a current ratio of at least one-to-one. To determine this ratio, staff will deduct any unearned tuition from both the asset and liability sections, and deduct from the asset section and the equity section of the balance sheet, any subscription receivables, and/or related party receivables in connection with loans to stockholders if the loan has been included in current assets for more than one year. The requirements related to the current ratio do not apply to those schools whose bond amount is \$20,000 or less as required by the Texas Education Code, §32.38 provided that the amount of the bond is greater than the amount of unearned student tuition and the amount of any negative equity considered separately.

(iii) The balance sheet shall reflect that stockholder's equity or net worth exceeds the amount shown goodwill under assets in the balance sheet.

(F) Federal audits. Schools which participate in federal financial aid programs must submit a copy of each audit in accordance with reporting requirements of *Government Auditing Standards*, the most current edition, issued by the comptroller general of the United States [of such programs] at the same time the audit report is submitted to the Department of Education. [If the school would otherwise submit compiled or reviewed annual financial statements as allowed under this minimum standard, and if the audit of the federal programs causes a question to arise as to the adequacy of the school's financial structure, the administrator may require an audit of the school, at the school's expense, certified by a public accountant or certified public accountant.]

(G)-(H) (No change.)

(12) Adequate space for classroom instruction and shop/laboratory experiences.

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

(C) Seminars and workshops without a fixed location, itinerant schools, and schools with multiple locations shall submit for the approval of the director the dates of program [course] offerings, locations, and class schedule at least 30 days prior to teaching a class.

(13) (No change.)

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

(14) Records.

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

(D) Each school shall maintain a master student registration list consisting of at least the information in this paragraph. An entry shall be made on this list for any person who signs an enrollment agreement, makes a down payment to attend the school, or attends a class. The entry shall be made on the date the first of these events occurs. The order of these events may vary from school to school. The following information is required:

(i)-(vi) (No change.)

(vii) name of program [course].

(E)-(G) (No change.)

(15) (No change.)

§69.129. Minimum Standards for Operation of Proprietary Schools Which Grant Degrees.

(a) (No change.)

(b) 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) Applied technology (AT) degree—A technical certificate issued to students who complete an occupational curriculum and general education of collegiate level and character consisting of at least 60 semester hours or 90 quarter hours, but not less than 1,200 clock hours of instruction [in subjects related to business and technical programs].

(3) Occupational studies (OS) degree—A technical certificate issued to students who complete an occupational curriculum which will assure adequate preparation for entry level employment in a particular occupational field. These programs shall consist of at least 60 semester hours or 90 quarter hours, but not less than 1,400 [1,200] clock hours of instruction [in subjects related to trades, shops, and industry].

(4)-(8) (No change.)

(c) Minimum standards.

(1) (No change.)

(2) The quality, content, and sequence of each course, curriculum, or program of instruction, training, or study shall be appropriate to the purpose of the institution and shall be such that the institution may reasonably and adequately achieve the stated objectives of the course or program by providing graduates of these programs with marketable skills. In addition, prior to graduation students shall demonstrate the attainment of advanced skills as appropriate to the degree. At least 95% of the subjects [courses] required for each degree shall [must] be offered in organized classes. [by the institution. A minimum of 14 quarter credit hours or nine semester credit hours of the course required for the applied technology degree shall be general education courses. A minimum of nine quarter credit hours or six semester credit hours of the courses required for each degree shall be applied foundations courses.]

(3) An institution may contract with another institution for the instruction of general education or applied foundation courses if that contract has been approved by the agency. A minimum of 14 quarter credit hours and nine semester credit hours of the courses required for the applied technology degree shall be general education courses. A minimum of nine quarter credit hours or six semester credit hours of the courses required for the occupational studies degree shall be applied foundations courses.

(4)[(3)] Deans, directors, or supervisors of AAA, AAS, AOS, OS, or AT degree programs shall have at least:

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

(5)[(4)] Instructors employed in AAA, AAS, AOS, OS, or AT programs shall have:

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

(C) an associate's [AOS], OS, or AT degree with three years of experience in the field within the last 10 years; or

(D) (No change.)

[(5) Instructors employed in AOS and OS degree programs shall have a bachelor's degree or five years experience in the field in which they are to teach, within the last 10 years or an AAA, AAS, AOS, or AT degree and three years of work experience within the last 10 years.]

(6)-(9) (No change.)

(10) The requirements for learning resources are as follows:

(A) Schools offering [AAA, AAS, or AOS] degree programs must provide an adequate learning resource center or centers. This requirement may be met in any one or any combination of the following ways:

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

(B) (No change.)

(11) (No change.)

(12) The institution shall provide prospective students, prior to enrollment, [with] a catalog [or brochure] containing information describing the purpose, length, and objectives of the programs offered by the institution; schedule of tuition, fees, and all other charges and expenses necessary for completion of the program [course] of study; cancellation and refund policies; and such other facts concerning the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein, together with any other disclosures specified by this chapter. Any institution that provides a [an AAA, AAS, or AOS] degree must explain to each student in the enrollment process that transferability may be limited. Each student must sign a statement to the effect that an explanation has been provided. Should a school have an articulation agreement with an academic college or university, such information shall be provided, including any limitations. Any such school shall also provide a list of known Texas institutions of higher education and state technical institutes that accept any or all of the credit hours so earned.

(13) Upon satisfactory completion of training, the student shall be given appropriate educational credentials by the institution indicating that the program [course or courses] of instruction or study undertaken has [have] been satisfactorily completed by the student.

(14) (No change.)

(15) The institution shall require for admission into its degree programs a high school diploma or recognized equivalency certificate or evidence of successful completion of the equivalent of one full-time semester (12 semester hours) or quarter (18 quarter hours) at an accredited college or university or postsecondary institution. Official transcripts of all previous postsecondary institutions attended provided by the student must be in the student file with a written evaluation initialed by the school director or the school director's designee.

(16) (No change.)

(d)-(e) (No change.)

(f) Issuance of approval to grant a degree.

(1) (No change.)

(2) The institution approved to grant a degree shall not use terms to interpret the significance of the approval which specify or connote greater approval. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended" by the Central Education Agency or the Texas Education Agency. Any institution that advertises [advertised] a degree shall include the statement, "limited transferability." An explanation of the transferability must be included in an appropriate place in all school catalogues. Where a school has an arrangement with a college or university to accept transfer hours, such information may be advertised but any limitations shall be included in such advertisement.

(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 October 25, 1990.

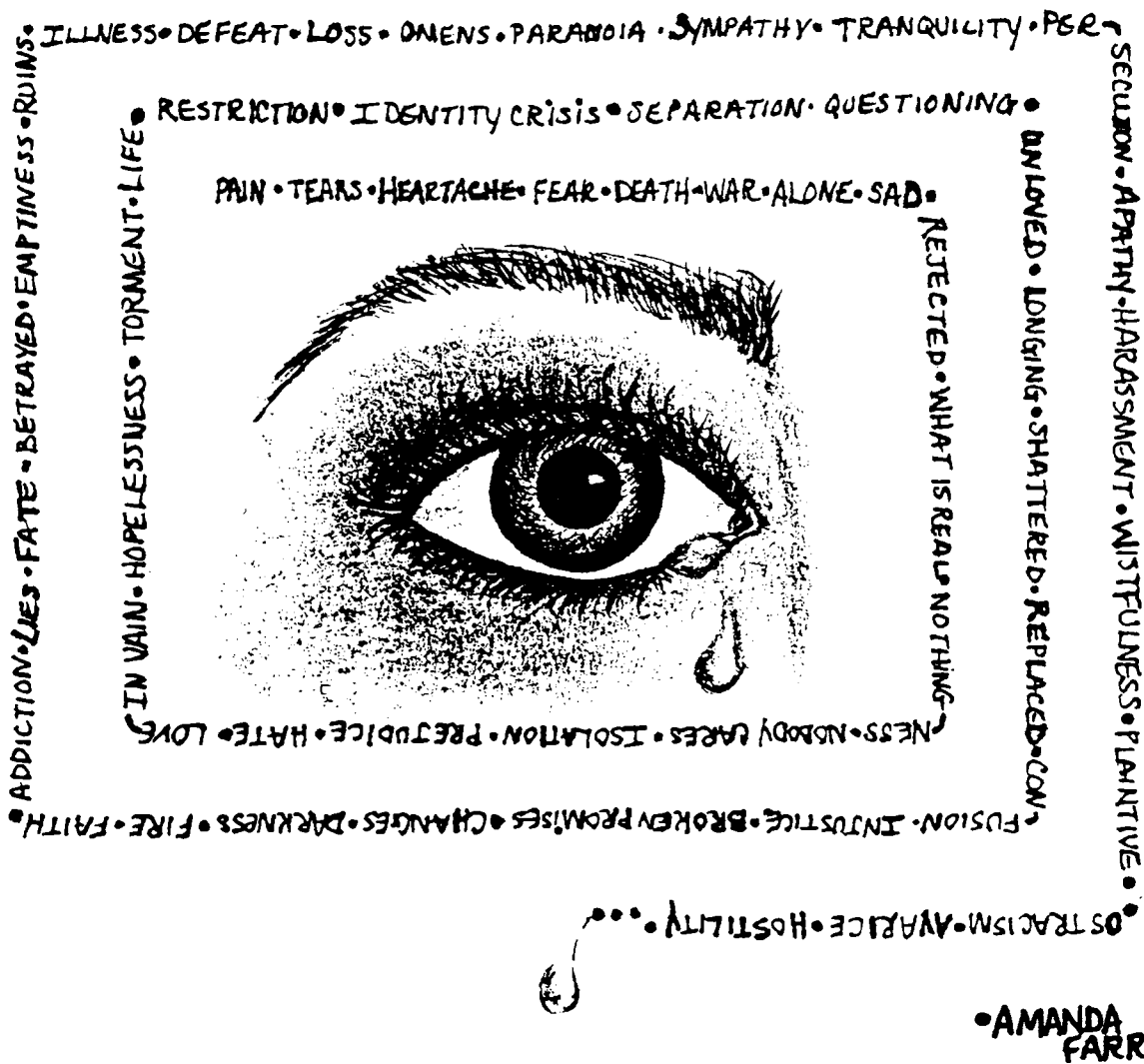
TRD-9012377

W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: December 31, 1990

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

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•AMANDA
FARRAR•

Name: Amanda Farrar

Grade: 10

School: Richardson High School, Richardson ISD

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 1. General Administration

Subchapter A. Rules of Practice and Procedure

• 28 TAC §1.51

The State Board of Insurance proposed an amendment to §1.51, concerning appeals to the State Board of Insurance from the actions of certain associations or other entities. The amendment is necessary to clarify what constitutes the timely filing of an appeal of an act of the Texas Workers' Compensation Assigned Risk Pool, the Texas Catastrophe Property Insurance Association, or the Texas Medical Liability Underwriting Association, whose decisions are required by statute to be appealed within a specified time. The amendment changes the title of the section and reformats the present language in §1.51 to become subsection (a). New language is made subsection (b). The amendment states that such an appeal is deemed to be adequately and timely filed if the appeal is sent to the chief clerk of the board by first-class United States mail or by certified or registered mail in an envelope or wrapper properly addressed and stamped and deposited in the mail one day or more before the last day for filing the appeal and if the appeal is received by the chief clerk not more than 10 days subsequent to the due date for filing.

James W. Norman, associate insurance commissioner for hearings, 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, and there will be no effect on local employment or local economy. There will be a fiscal effect on small businesses to the extent any small business which wishes to appeal a decision is not prevented from doing so by filing its appeal too late. On the basis of cost per hour or labor, there is no difference in cost of compliance for small businesses and larger businesses.

Mr. Norman 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 facilitate the filing of appeals with the State Board of Insurance. There could be a savings to appellants, if by virtue of the rule change, the appellant is able to timely file an appeal and if the appellant subsequently prevails after the hearing.

Comments on the proposal may be submitted to James W. Norman, Associate Insurance Commissioner for Hearings, Mail Code 022-1, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendment is proposed under the Insurance Code, Article 1.04, which provides the board with the authority to determine rules in

accordance with the laws of this state; under the Insurance Code, Article 5.76(j), which provides for appeals to the board of acts of the Texas Workers' Compensation Assigned Risk Pool; under the Insurance Code, Article 21.49, §5A, pursuant to which the board may, after notice and hearing, issue any orders necessary to carry out the purposes of the Texas Catastrophe Property Insurance Pool Act; and under the Insurance Code, Article 21.49, §9, which, among other matters, specifies certain procedures for filing appeals to the board of decisions of the Texas Catastrophe Property Insurance Association; under the Insurance Code, Article 21.49-3, §7(b), which specifies procedures for filing appeals to the board of decisions of the Texas Medical Liability Underwriting Association; and under Texas Civil Statutes, Article 6252-13a, §4(a), which require the board to adopt rules of practice setting forth the nature and requirements of all formal and informal procedures.

§1.51. Appeals to the Board of Acts, Rulings, or Decisions of Certain Persons, Associations, Organizations, or Other Entities [Appeal from Commissioner's or Fire Marshals Final Decision or Order].

(a) Any party aggrieved by a final decision or order of the commissioner or the fire marshal in contested case may appeal to the board after the decision or order complained of is final. To the extent not superceded by the Act, the procedures specified in the Insurance Code, Article 1.04(d), apply to appeals to the board from decisions of the commissioner and are adopted for appeals to the board from decisions of the fire marshal. An appeal to the board for review of an action of the commissioner or the fire marshal shall be made within 30 days from the date that the writing evidencing the official action or order complained of is final and appealable, but, for good cause shown, the board may allow for an appeal after that date.

(b) A person may timely appeal to the board an act, ruling, or decision of the Texas Workers' Compensation Assigned Risk Pool, the Texas Catastrophe Property Insurance Association, or the Texas Medical Liability Underwriting Association by sending the appeal to the chief clerk of the State Board of Insurance by first class or by certified or registered United States mail in an envelope or wrapper properly addressed and stamped and deposited in the mail one day or more before the last day for filing the appeal, if the appeal is received by the chief clerk's office not more than 10 days subsequent to the due date for filing.

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 November 20, 1990.

TRD-9012460

Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: December 31, 1990

For further information, please call: (512) 463-6327

Chapter 5. Property and Casualty Insurance

Subchapter E. Texas Catastrophe Property Insurance Association Plan of Operation

• 28 TAC §5.4001

The State Board of Insurance proposes an amendment to §5.4001, concerning the plan of operation of the Texas Catastrophe Property Insurance Association (the association). The amendment is necessary to add provisions concerning notices of appeal of decisions of the association. The amendment reformats subsection (d)(4)(D) so that subparagraph (D) is divided into clauses (i) and (ii). Clause (i) of subparagraph (D) contains the same language as present subparagraph (D) and adds a provision requiring the association to notify a person whose claim is denied of certain new provisions respecting appeals as set out in a new clause (ii). Clause (ii) adds new language which states that an appeal of an act, ruling, or decision of the association is deemed to be timely filed if the appeal is sent to the chief clerk of the State Board of Insurance by first-class United States mail or by certified or registered mail in an envelope or wrapper properly addressed and stamped and deposited in the mail one day or more before the last day for filing the appeal, if the appeal is received by the chief clerk not more than 10 days subsequent to the due date for filing.

James W. Norman, associate insurance commissioner for hearings, 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, and there will be no effect on local employment or economy. There will be a fiscal effect on small businesses to the extent any small businesses which wishes to appeal a decision of the association is not prevented from doing so by filing its appeal too late.

Mr. Norman 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 to facilitate the filing of appeals from decisions of the association with the State Board of Insurance. There would be a savings to appellants of the association if, by virtue of the rule change, the appellant is able to timely file an appeal and if the appellant subsequently prevails after the hearing.

Comments on the proposal may be submitted to James W. Norman, Associate Commissioner, State Board of Insurance, Hearings 002-1, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendment is proposed under the Insurance Code, Article 21.49 §5A, pursuant to which the board may, after notice and hearing, issue any orders necessary to carry out the purposes of Article 21.49, and under the Insurance Code, Article 21.49, §9, which, among other matters, specifies procedure for filing appeals of the association's decisions.

§5.4001. Plan of Operation.

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

(d) Catastrophe insurance.

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

(4) Payment of claims.

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

(D) Notice of appeal.

(i) The association shall, immediately upon totally or partially denying a claim of any person insured pursuant to the Insurance Code, Article 21.49, give written notice by certified mail, return receipt requested, to such person of the right to appeal such total or partial denial under the Insurance Code, Article 21.49, §9. An offer of less than the amount claimed on the claimant's proof of loss is considered a partial or total denial of a claim. The notice must, at a minimum, contain the following information placed in a prominent position:

(I)/(i) a clear, accurate, and complete description and statement of the partial or total denial of the claim;

(II)/(ii) a statement that the person has the right to appeal the association's determination to the State Board of Insurance under the Insurance Code, Article 21.49, §9;

(III)/(iii) a statement that, under applicable law, an aggrieved person who chooses to appeal must appeal to the State Board of Insurance within 30 days after such determination of the association; [and]

(IV)/(iv) a statement of the date of such determination; and

(V) language which describes the time limit for filing an appeal as specified in clause (ii) of this subparagraph.

(ii) An act, ruling, or decision of the association is deemed to be timely filed if an appeal is sent to the

chief clerk of the State Board of Insurance by first-class or by certified or registered United States mail in an envelope or wrapper properly addressed and stamped and deposited in the mail one day or more before the last day for filing the appeal, if the appeal is received by the chief clerk's office not more than 10 days subsequent to the due date for filing.

(e)-(f) (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 November 20, 1990.

TRD-9012461

Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: December 31, 1990

For further information, please call: (512) 463-6327

Part II. Texas Workers' Compensation Commission

Chapter 112. General Provisions-Scope Contractor/Subcontractor and Motor Carrier/Owner Operator

• 28 TAC §112.101, §112.102

The Texas Workers' Compensation Commission proposes new §112.101 and §112.102 concerning agreements to provide workers' compensation coverage between general contractors and subcontractors, and agreements between motor carriers and owner operators.

New §112.101 deals with agreements between a general contractor and a subcontractor to provide workers' compensation. The new section requires such an agreement to be in writing and to be made at the time the contract for work is made, sets out the information to be included in the agreement, and indicates when a copy of the agreement must be filed with the carrier and the commission. The section provides that the insurance coverage provided by the general contractor shall take effect no sooner than the date on which the agreement was executed, nor shall deduction for premiums be made for coverage provided prior to that date. The new section requires the general contractor to give the subcontractor's employees the notice required under The Texas Workers' Compensation Act (the Act), §3.24. The section also provides for an administrative penalty for failure to file the agreement. The section also allows an employee of a subcontractor who has made an agreement in accordance with this section to elect to retain his common law rights as provided by the Act, §3.08.

New §112.102 allows a motor carrier and an owner operator to agree that the owner oper-

ator will assume the responsibilities of an employer for the performance of work, and sets out the information to be included in such an agreement. The new section also allows a motor carrier and an owner operator to enter into an agreement under which the motor carrier provides workers' compensation insurance coverage to the owner operator its employees. The section sets out the requirements for such an agreement, and indicates when the workers' compensation insurance coverage provided under the agreement shall take effect.

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. There is no anticipated impact on employment, locally or statewide as a result of implementing the sections.

Mr. Looney has also determined that for each year of the first five years the sections are in effect the public benefit anticipated is the implementation of the Workers' Compensation Act adopted by recent legislation. There will be no effect on small businesses. The only anticipated economic cost to persons who are required to comply with the sections as proposed will be negligible costs for filing a copy of the agreements with the commission and/or with the carrier. Also, under 112.101, persons who fail to file the agreement with the commission may be assessed an administrative penalty up to \$5,000.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, 200 East Riverside Drive, Austin, Texas 78704-1287. 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, Article 8308, §2. 09(a), which authorizes the Commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

§112.101. Agreement to Provide Workers' Compensation Insurance Coverage Between General Contractors and Subcontractors.

(a) An agreement between a general contractor and a subcontractor made in accordance with the Texas Workers' Compensation Act (the Act), §3.05(e) or (1) of the Act shall be made at the time the contract for the work is made.

(b) The agreement shall:

(1) be in writing;

(2) state that the subcontractor and the subcontractor's employees are employees of the general contractor for the sole purpose of workers' compensation coverage;

(3) indicate whether the general contractor will make a deduction for the premiums;

(4) specify the location of the job sites subject to the contract and the agreement;

(5) contain the signatures of both parties; and

(6) indicate the date the agreement was made, the term the agreement will be effective, and the estimated number of workers affected by the agreement.

(c) The workers' compensation insurance coverage provided by the general contractor under the agreement shall take effect no sooner than the date on which the agreement was executed and deductions for the premiums shall not be made for coverage provided prior to that date.

(d) The general contractor shall file a copy of the agreement with the general contractor's workers' compensation insurance carrier and the commission within 10 days of the date of execution and prior to the commencement of any work pursuant to the agreement. After January 1, 1993, a general contractor who is a certified self-insurer shall file a copy of the agreement with the Division of Self-Insurance Regulation within 10 days of the date of execution. Filing shall be made with the commission by personal delivery, registered or certified mail.

(e) The general contractor shall be required to give the subcontractor's employees the notice required under the Act, §3.24(c) when such an agreement is made.

(f) A person who fails to file this agreement may be assessed an administrative penalty up to \$5,000.

(g) If a subcontractor makes an agreement in accordance this section, an employee of the subcontractor may elect to retain his common law rights as provided by the Act, §3.08.

§112.102. Agreements Between Motor Carriers and Owner Operators.

(a) A motor carrier and an owner operator may enter into an agreement which requires the owner operator to assume the responsibilities of an employer for the performance of work.

(b) An agreement made under subsection (a) of this section shall be made at the time the contract for the work is made and shall:

(1) be in writing;

(2) state that the owner operator assumes the responsibilities of an employer for the performance of work;

(3) contain the signatures of both parties; and

(4) indicate the date the agreement was made, the term the agreement will be effective, and the estimated number of workers affected by the agreement.

(c) A motor carrier and an owner operator may enter into an agreement under which the motor carrier provides workers' compensation insurance coverage to the

owner operator and the owner operator's employees.

(d) An agreement made under subsection (c) of this section shall be made at the time the contract for the work is made and shall:

(1) be in writing;

(2) indicate whether the motor carrier will make a deduction for the premiums;

(3) contain the signatures of both parties;

(4) indicate the date the agreement was made, the term the agreement will be effective, and the estimated number of workers affected by the agreement; and

(5) be filed with the commission and the insurance carrier of the motor carrier within 10 days of execution and prior to the commencement of the work.

(e) The workers' compensation insurance coverage provided by the motor carrier under the agreement shall take effect no sooner than the date on which the agreement was executed and deductions for the premiums shall not be made for coverage provided prior to that date.

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 November 26, 1990.

TRD-9012593

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest proposed date of adoption: December 31, 1990

For further information, please call: (512) 440-3973

◆ ◆ ◆ Subchapter C. Application to Certain Building and Construction Workers

• 28 TAC §§112.201-122.203

The Texas Workers' Compensation Commission proposes new §§112.201-122.203, concerning agreements between certain building and construction workers regarding compensation coverage of those workers.

New §112.201 describes certain written agreements that may be made between an independent contractor and a hiring contractor in building and construction projects that allow the hiring contractor to withhold the cost of workers' compensation insurance from the contract price, and to stipulate, solely in regard to workers' compensation insurance, that the hiring contractor will be the employer of the independent contractor and the independent contractor's employees. The section requires any such agreement to be made at the time the contract for work is made or amended, on a form prescribed by the com-

mission, and sets out the requirements of the agreement, as well as the time the coverage is to take effect, and the time and means by which the agreement is to be delivered to the hiring contractor's carrier. The section provides that a hiring contractor who elects to provide workers' compensation coverage through such an agreement shall be deemed to have accepted the rights and responsibilities of an employer imposed under the Texas Workers' Compensation Act (the Act). The section also provides that the employee of an independent contractor may elect to retain his common law rights as provided under the Act. The section also provides that for purposes of the Act, §3.06, 20,000 square feet (as that term is used in the statute) is measured on the outside perimeter of the structure.

New §112.202 allows an independent subcontractor and a hiring contractor to enter into an agreement providing that the subcontractor is an independent contractor and is not an employee of the hiring contractor. Such an agreement must be entered into in writing at the time the contract for work is executed or amended. The section sets out the information that is required to be in the agreement, and indicates when and to whom copies are to be delivered. The section also indicates that if no separate agreement has been made in accordance with §112.201 (concerning agreement to establish employer-employee relationship for certain building and construction workers), then the subcontractor and its employees will not be entitled to workers' compensation from the hiring contractor and the latter's workers' compensation carrier shall not require premiums to be paid by the hiring contractor for coverage of the independent contractor or its employees, helpers, or subcontractors. The section also provides that all hiring contracts executed by the parties during the year after an agreement under this section is entered in are subject to the agreement unless expressly excluded.

New §112.203 provides for an exception to the application of the agreement to affirm the independent relationships for certain building and construction workers. The section requires the hiring contractor to notify the commission and the hiring contractor's insurance carrier in writing if a subsequent hiring agreement is made that expressly states that the joint agreement made under §112.202 (concerning joint agreement to affirm independent relationship for certain building and construction workers) does not apply to the subsequent hiring agreement. The section also specifically states that nothing in the rule otherwise nullifies the joint statement as it applies to other hiring agreements made during the term of the joint statement. The section sets out the information to be included in the notification to the commission, and specifies when the notice is to be delivered.

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. There is no anticipated impact on employment, locally or statewide, as a result of implementing the sections.

Mr. Looney also has determined that for each year of the first five years the sections are in effect the public benefit anticipated is the

implementation of the Act adopted by recent legislation. 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 Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, 200 East Riverside Drive, Austin, Texas 78704-1287. 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, Article 8308, §2.09(a), which authorize the commission to adopt rules necessary to administer the Act.

§112.201. Agreement to Establish Employer-Employee Relationship for Certain Building and Construction Workers.

(a) This section applies only to building and construction projects as provided by the Texas Workers' Compensation Act (the Act), §3.06(a).

(b) An independent contractor and a hiring contractor, as defined in the Act, §3.06, may enter into a written agreement:

(1) to allow the hiring contractor to withhold the cost of workers' compensation insurance from the contract price; and

(2) to stipulate that, for the sole purpose of providing workers' compensation insurance, the hiring contractor will be the employer of the independent contractor and the independent contractor's employees.

(c) An agreement made under subsection (b) of this section shall be made at the time the contract for the work is made or amended, on a form prescribed by the commission.

(d) The agreement shall:

(1) be in writing;

(2) indicate whether the hiring contractor will make a deduction for the premiums;

(3) specify that the hiring contractor will be the employer of the independent contractor and the independent contractor's employees for the sole purpose of providing workers' compensation insurance;

(4) specify the location of the job sites subject to the contract and the agreement;

(5) contain the signatures of both parties; and

(6) indicate the date the agreement was made, the term the agreement will be effective, and the estimated number of employees affected by the agreement.

(e) The workers' compensation insurance coverage provided by the hiring contractor under the agreement shall take effect no sooner than the date on which the

agreement was executed and deductions for the premiums shall not be made for coverage provided prior to that date.

(f) The hiring contractor shall file by personal delivery, registered, or certified mail the agreement with the commission and a copy of the agreement with the hiring contractor's workers' compensation insurance carrier within 10 days of the date of execution and prior to the commencement of work pursuant to the agreement.

(g) A hiring contractor electing to provide workers' compensation insurance coverage through an agreement under subsection (b) of this section shall be deemed to have accepted the rights and responsibilities of an employer imposed under the Act as of the effective date of the workers' compensation insurance coverage.

(h) If an independent contractor makes an agreement under this section, the employee of the independent contractor may elect to retain his common law rights as provided by the Act §3.08.

(i) For purposes of the Act §3.06, 20,000 square feet is measured on the outside perimeter of the structure.

§112.202. Joint Agreement to Affirm Independent Relationship for Certain Building and Construction workers.

(a) An independent subcontractor and a hiring contractor may enter into an agreement which states that the subcontractor is an independent contractor and is not an employee of the hiring contractor.

(b) An agreement made under subsection (a) of this section shall be made at the time the contract for the work is executed or amended.

(c) The agreement shall be on the form prescribed by the commission and shall:

(1) be in writing;

(2) state that the subcontractor meets the qualifications of an independent contractor under the Texas Workers Compensation Act, §3.06;

(3) state that the subcontractor is an independent contractor and is not an employee of the hiring contractor;

(4) contain the signatures of both parties; and

(5) indicate the date the agreement was made.

(d) The hiring contractor shall file the agreement by personal delivery, registered, or certified mail with the commission and a copy of the agreement with the hiring contractor's workers' compensation insurance carrier, if any, within 10 days of the date of execution and prior to the commencement of work pursuant to the agreement.

(e) If the agreement is made in compliance with subsections (a) to (d) of this section and a separate agreement has not been made in accordance with §112.201 of this title (relating to Agreement to Establish Employer-Employee Relationship for Certain Building and Construction Workers):

(1) the subcontractor and the subcontractor's employees shall not be entitled to workers' compensation coverage from the hiring contractor; and

(2) the hiring contractor's workers' compensation insurance carrier shall not require premiums to be paid by the hiring contractor for coverage of the independent contractor or the independent contractor's employees, helpers, or subcontractors.

(f) All hiring contracts executed by the parties during the year after an agreement under subsection (a) of this section is filed are subject to that agreement, unless such contract expressly states that the agreement does not apply.

§112.203. Exception to Application of Agreement to Affirm Independent Relationship for Certain Building and Construction Workers.

(a) If a subsequent hiring agreement is made that expressly states that the joint statement made under §112.202 of this title (relating to Joint Agreement to Affirm Independent Relationship for Certain Building and Construction Workers) does not apply to that hiring agreement, the hiring contractor shall notify the commission and the hiring contractor's insurance carrier in writing. Nothing in this section otherwise nullifies the joint statement as it applies to other hiring agreements made during the term of the joint statement.

(b) The notification shall be on the form prescribed by the commission and shall:

(1) specify the date the agreement to affirm an independent relationship was made;

(2) specify the parties to the agreement;

(3) specify the date the subsequent hiring agreement to which it does not apply was made; and

(4) contain the signatures of both parties.

(c) The notice shall be provided by personal delivery or certified mail no later than 10 days from the date the subsequent hiring agreement was made and prior to the commencement of work pursuant to the agreement.

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 November 26, 1990.

TRD-9012594

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest proposed date of adoption: December 31, 1990

For further information, please call: (512) 440-3973

Subchapter D. Application to Farm or Ranch Employees

• 28 TAC §112.301

The Texas Workers' Compensation Commission proposes new §112.301, concerning a labor agent's notification to farm and ranch workers of their status relating to workers' compensation insurance coverage.

New §112.301 requires a labor agent to notify in writing each person with whom he contracts to provide the services of migrant and seasonal workers of whether or not the labor agent has workers' compensation coverage. The notice must be made at the time the contract is made and must be signed and dated by both parties. The section requires a labor agent who has workers' compensation coverage to provide written evidence of such coverage to anyone with whom he contracts to provide the services of immigrant and seasonal workers at the same time notification of coverage is made. The section requires a party to retain such evidence with a copy of the notice and provides that a certificate of insurance is considered adequate evidence of coverage. The notice and evidence of coverage must be given each time a labor agent makes a contract with a person to provide migrant or seasonal workers, and if provided for a prior contract between the parties is insufficient to meet the requirements of the rule. In the event coverage is terminated, the section requires the labor agent to notify the person with whom the agent contracted to provide services and the migrant and seasonal workers affected of that fact.

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section. There is no anticipated impact on employment, locally or statewide, as a result of implementing the section.

Mr. Looney also has determined that for each year of the first five years the section is in effect the public benefit anticipated is the implementation of the Workers' Compensation Act adopted by recent legislation. 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 Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, 200 East Riverside Drive, Austin, Texas 78704-1287. 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, Article 8308, §2. 09(a), which authorize the commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

§112.301. Labor Agent's Notification of Coverage.

(a) A labor agent shall notify each person with whom the labor agent contracts to provide the services of migrant and seasonal workers whether or not the labor agent has workers' compensation insurance coverage.

(b) The notification shall be in writing and shall be given at the time the contract for the services of the migrant or seasonal workers is made. The notification shall be signed and dated by both parties and each party shall retain a copy of the notice.

(c) If the labor agent does have workers' compensation insurance coverage, the labor agent shall present evidence of the workers' compensation insurance coverage to each person with whom the agent contracts to provide the services of migrant and seasonal workers. The evidence of coverage shall be in writing and shall be presented at the time the notification of coverage is made. Each party shall retain a copy of the evidence of coverage with the copy of the notice. A certificate of insurance shall be considered adequate evidence of coverage.

(d) The notice and evidence of coverage, if applicable, shall be given each time a labor agent makes a contract with a person to provide migrant or seasonal workers. Any notice and evidence of coverage provided for a prior contract between the parties shall be considered insufficient to meet the requirements of this section.

(e) If coverage is terminated during the period of the contract for employment, the labor agent shall notify:

(1) the person with whom the agent contracted to provide the services of migrant and seasonal workers; and

(2) the migrant and seasonal workers affected that the workers' compensation insurance coverage has been terminated.

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 November 26, 1990.

TRD-9012595

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: December 31, 1990

For further information, please call: (512) 440-3973

Chapter 134. Benefits-Guidelines for Medical Services, Charges, and Payments

Subchapter I. Provider Billing Procedures

• 28 TAC §§134.800-134.802

The Texas Workers' Compensation Commission proposes new §§134.800-134.802, concerning health care provider billing procedures for medical services rendered to injured workers.

New §134.800 requires medical bills to be submitted only to the insurance carrier, and, upon request, to the employee, the employee's representative or the commission at no charge. The new section requires rebilling to include identical codes and charges as reflected in the original, be clearly marked as a rebill, and not include charges for new services. The new section requires medical bills to be in the form and manner prescribed by the commission and to contain certain information which is set out in the section. The new section also requires certain specified individuals and entities to submit bills using a specified claim form and to include certain specified information. The new section also requires hospitals to include certain additional information specified in the section. The new section also sets out the information pharmacists must include in the bills they submit, and requires their bills to be submitted in a form and manner prescribed by the commission. The new section authorizes the division of medical review to order reimbursement of a carrier when the health care provider is paid in excess of the amount allowed by the medical policies and fee guidelines established, and allows the health care provider to request review of those services and charges within ten days after the medical review orders the reimbursement.

New §134.801 requires a health care practitioner to submit a properly completed bill to the carrier within 15 days after the initial service or treatment date, but allows subsequent billing to be monthly. Health care facilities must submit bills to the carrier within 10 days of discharge if confinement was for less than 30 days. For confinement of more than 30 days, the facility must submit an interim bill within 45 days of admission and then every 30 days until discharged. The final bill must be submitted within ten days of discharge. Outpatient service bills must be submitted on a monthly basis.

New §134.802 requires insurance carriers to submit a copy of a bill from a health care provider to the commission within 15 days after final payments and allows for electronic submission. The section requires that a copy of the notice of medical payment dispute be attached to any bill where the charges are reduced or denied. The new section sets out in detail the information to be submitted by the insurance carrier. The purpose of the section is to implement the data gathering duties of the commission under the new law.

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed sections are in effect there will be fiscal implications for state

or local government as a result of enforcing or administering the sections insofar as they will incur costs for converting workers' compensation insurance billing to certain national standard forms specified in the section, and for obtaining the required forms if not currently in use, though such costs are not determinable due to the variances in billing systems. There is no anticipated impact on employment, locally or statewide as a result of implementing the sections.

Mr. Looney also has determined that, for each year of the first five years the sections are in effect, the public benefit anticipated is the implementation of the Workers' Compensation Act adopted by recent legislation. There will be no effect on small businesses. The only anticipated additional economic cost to persons who are required to comply with the section as proposed will be in converting workers' compensation to national standard forms and obtaining such forms if not currently in use.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, 200 East Riverside Drive, Austin, Texas 78704-1287. 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, Article 8308, §2. 09(a), which authorize the Commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

§134.800. Health Care Provider Billing.

(a) All medical bills shall be submitted to the insurance carrier only. Upon request a copy of the bill shall be sent at no charge to the employee, the employee's representative or the commission.

(b) Rebilling by the health care provider shall include identical codes and charges as reflected on the original bill. The bill shall be clearly marked "rebill" and shall not include charges for new services.

(c) Medical bills from all health care providers shall be in the form and manner prescribed by the commission and contain the following:

- (1) information required under §133.1 of this title (relating to Information Required in Communications);
- (2) date(s) of service provided;
- (3) specific diagnosis (-es) with appropriate ICD-9-CM code(s);
- (4) itemized list of procedures performed or services provided;
- (5) charge for each procedure performed or the service provided;
- (6) total charges billed; and
- (7) date of the billing.

(d) In addition to the information in subsection (c) of this section, doctors of medicine, osteopathic medicine, optometry, dentistry, podiatry, or chiropractic, and psychologists, physical therapists, occupational

therapists and ambulatory surgical centers, radiology centers, pathology centers, and emergency centers (other than hospital based emergency centers) shall submit bills using the national standard HCFA-1500 health insurance claim form and include:

- (1) place of service;
- (2) procedure code(s) according to the fee guidelines established by the commission;
- (3) description of the service(s) provided;
- (4) unit(s) (or number) of service(s) or treatment(s); and
- (5) type of service.

(e) Hospitals shall, in addition to the information in subsection (c) of this section, include the revenue code and submit bills using the UB-82 billing form for institution services and the national standard HCFA-1500 health insurance claim form for professional services.

(f) Pharmacists shall submit bills in a form and manner prescribed by the commission, and include:

- (1) information required under §133.1 of this title (relating to Information Required in Communications);
- (2) date(s) of service provided;
- (3) date of the billing;
- (4) prescribing doctor's name and professional license number;
- (5) prescription number of each medication and the charge for each medication;
- (6) national drug code (NDC) of each medication;
- (7) medication name and strength;
- (8) quantity of each medication dispensed;
- (9) estimated days' supply dispensed;
- (10) if the prescription is new or a refill supply; and
- (11) total charges billed.

(g) Health care providers not specifically noted in the preceding subsections of this rule shall submit bills in a form and manner prescribed by the commission.

(h) The division of medical review will order the health care provider to reimburse a carrier when the health care provider is paid in excess of the amount allowed by the medical policies and fee guidelines established. A health care provider may request a review of those services and charges under the Act, §8.26, no later than 10 days after the division of medical review orders the reimbursement.

§134.801. Submission of Health Care Provider Billing.

(a) Health care practitioners (as defined in the Act, §1.03(22)) shall submit to the carrier a properly completed bill within 15 days after the initial service or treatment date. Subsequent billing shall be monthly for services and treatments rendered.

(b) For inpatient services, health care facilities (as defined in the Act, §1.03(21)) shall submit bills to the insurance carrier within 10 days after discharge, if the confinement is less than 30 days. If the confinement is greater than 30 days, the facilities shall submit an interim bill within 45 days of admission and then every 30 days until discharge. The final bill shall be submitted within 10 days of discharge. For outpatient services, bills shall be submitted on a monthly basis to the insurance carrier.

§134.802. Insurance Carriers Submission of Medical Bills to the Commission.

(a) Within 15 days after final payment of an original bill from a health care provider, insurance carriers shall submit a copy of the bill with the information described in subsection (c) and (d) of this section to the commission in Austin. Upon written approval by the commission, the insurance carrier may submit the information described in this rule electronically, in a form and format prescribed by the commission.

(b) If the carrier is unable to submit the required information described in this rule electronically, paper copies of the original bill shall be submitted to the commission. A copy of the notice of medical payment dispute, as defined in §133.304 of this title (relating to Notice of Medical Payment Dispute) will be attached to any bill where the charges were reduced or denied.

(c) The insurance carrier shall submit the following information from each original bill received from a health care provider:

- (1) the injured worker's name, address, and social security number;
- (2) date of injury;
- (3) employer's name;
- (4) insurance carrier's name;
- (5) the worker's compensation number assigned by the commission, if known;
- (6) the health care provider's name, address, professional license number and federal tax identification number;
- (7) date of billing; and
- (8) date the bill was received by the insurance carrier.

(d) In addition to the information in subsection (c) of this section, the insurance carrier shall include the following informa-

tion for each service, treatment, or medication charged by the provider:

- (1) date(s) of service(s) provided;
- (2) place of service;
- (3) specific diagnosis (-es) with appropriate ICD-9-CM code(s);
- (4) procedure code according to the fee guidelines established by the commission or, if a medication, the national drug code;
- (5) unit(s) (or number) of service(s) or treatment(s);
- (6) type of service;
- (7) the charge; and
- (8) if paid in full, the date of reimbursement.

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 November 26, 1990.

TRD-9012596

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: December 31, 1990

For further information, please call: (512) 440-3973

Chapter 150. Representation of Parties Before the Agency-Qualifications for Representatives

• 28 TAC §150.2

The Texas Workers' Compensation Commission proposes new §150.2, concerning the qualification and authorization of an attorney who seeks to practice before the commission.

New §150.2 requires an attorney who represents a party before the commission to be licensed in Texas in order to be qualified to receive an attorney's fee. An attorney who represents a claimant for benefits must notify the commission in writing within 10 days of undertaking the representation and identify the attorney and the claimant or injured employee. The new section also sets out the grounds on which an attorney may be disqualified from representing any party before the commission. The new section allows a disqualified attorney to petition for reinstatement to practice before the commission but makes it clear that one who has been disbarred cannot apply for reinstatement until certified by the state bar that the license to practice has been reinstated.

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or

administering the section. There is no anticipated impact on employment, locally or statewide, as a result of implementing the section.

Mr. Looney also has determined that for each year of the first five years the section is in effect the public benefit anticipated is the implementation of the Workers' Compensation Act adopted by recent legislation. 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 Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, 200 East Riverside Drive, Austin, Texas 78704-1287. 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, Article 8308, §2. 09(a), which authorize the commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

§150.2. Qualification and Authorization of Attorney to Practice Before the Commission.

(a) An attorney who represents any party before the commission shall be licensed to practice law by the State Bar of Texas in order to receive an attorney's fee.

(b) An attorney who represents a claimant for benefits shall notify the commission in writing within 10 days of undertaking the representation of the claimant. The written notice shall identify the attorney and the claimant and the injured employee (if different from the claimant).

(c) An attorney may be disqualified, after a hearing under the Texas Workers' Compensation Act (the Act), §10.33, from representing any party before the commission for the following activities:

(1) knowingly assisting charging a claimant a fee in excess of that allowed by the commission;

(2) knowingly assisting any person in making a false or misleading statement, misrepresenting or concealing a material fact, and/or fabricating, altering, concealing, or destroying a document, in order to claim benefits;

(3) knowingly assisting any person in making a false or misleading statement, misrepresenting or concealing a material fact, and/or fabricating, altering, concealing, or destroying a document, in order to defeat a claim for benefits;

(4) for engaging in conduct described in the Act, §10.07(a) (1)-(10), whether or not an administrative violation is assessed; or

(5) being suspended or disbarred by the State Bar of Texas.

(d) An attorney who is disqualified may apply to the commission for reinstatement, no sooner than the expiration of the

term of disqualification. However, an attorney who has been disbarred by the State Bar of Texas cannot apply for reinstatement to practice before the commission unless the State Bar of Texas certifies that the attorney has had the license to practice law reinstated.

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 November 26, 1990.

TRD-9012597

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: December 31, 1990

For further information, please call: (512) 440-3973

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 114. Control of Air Pollution from Motor Vehicles

• 31 TAC §114.11

The Texas Air Control Board (TACB) proposes new §114.11, concerning Alternative Fuel Requirement for Transit Authorities. The proposed new §114.11 define alternative fuel and requires transit authorities in consolidated metropolitan statistical area or metropolitan statistical area with populations of 350,000 or more which have not met the National Ambient Air Quality Standard to ensure that their vehicles are capable of running on alternative fuels by a specified schedule. The new rule also requires compliance with applicable safety standard, establishes the circumstances under which an exemption may be obtained, and requires the maintenance of written records. The new section is being proposed to satisfy the requirement of Senate Bill 769, passed by the Texas State Legislature and signed by the Governor on June 16, 1989.

Bennie Engelke, director of management and staff service, has determined that for the first five-year period the section a proposed is in effect, additional costs as follow will be incurred by the agency as a result of administering the section: \$40,000 in 1991; \$140,000 in 1992 and \$235,000 in 1993-1995. The probable costs to affected rapid transit authorities, regional transportation authorities, and city transportation department for converting 50 % of transit fleets and providing filling stations with alternative fuels could range from \$18,000,000 to \$36,000,000. However, these costs are expected to be offset by fuel cost savings and reduced maintenance expenditures. Those entities that cannot expect to offset the costs of conver-

sion may apply for an exemption from the conversion requirements.

Les Montgomery, P.E., deputy director of program development, has determined that for each of the first five years the section as proposed is in effect, the public benefit anticipated to result from implementing the section will be the promotion of fuel flexibility and improved air quality resulting from reduction in hydrocarbon, carbon monoxide, and particulate emissions. There will be no effect on small businesses.

A public hearing on this proposal is scheduled for 10 a.m. December 19, 1990, in the Auditorium of the Texas Air Control Board in Austin. Copies of the proposal are available from Lynn Wright at the TACB central office and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearing. Written comments should be sent to the Regulation Development Section, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The new section is proposed under the Texas Clean Air Act (TCAA), §382.017 (a), which provides the TACB with the authority to adopt rules and regulations consistent with the policy and purposes of the TCAA.

§114.11. Alternative Fuel Requirements for Transit Authorities

(a) Metropolitan rapid transit authorities created under Texas Civil Statutes, Article 1118x, regional transportation authorities created under Texas Civil Statutes, Article 1118y, and city transportation departments created under Texas Civil Statutes, Article 1118z, shall ensure that transit vehicles are capable of being operated on alternative fuels defined as follows:

(b) Provisions of this section shall apply only to metropolitan rapid transit authorities, regional transportation authorities, and city transportation departments located in consolidated metropolitan statistical areas or metropolitan statistical areas with populations of 350,000 or more which have not met the National Ambient Air Quality Standards for ozone, carbon monoxide, nitrogen oxides, and/or inhalable particulate matter.

(c) Capability for operating on alternative fuels shall be accomplished in accordance with the following schedule:

(1) 30 % or more of fleet vehicles by September 1, 1994;

(2) 50 % or more of fleet vehicles by September 1, 1996.

(d) Vehicles using alternative fuels must comply with all applicable federal and state safety standards.

(e) Metropolitan rapid transit authorities, regional transportation authorities, or city transportation departments may apply to the executive director of the Texas Air Control Texas Air Control Board for an exemption from the alternative fuels conversion requirement if one or more of the following conditions are met:

(1) affected vehicles would be

operating primarily in an area which does not have or cannot reasonably be expected to establish a central refueling station for providing alternative fuels; or

(2) The affected entity is unable to secure financing provided by or arranged through the proposed supplier or suppliers of alternative fuels sufficient to cover any additional costs attributable to such alternative fueling.

(f) Metropolitan rapid transit authorities, regional transportation authorities, and city transportation departments shall maintain records on all individual revenue vehicles, including, but not limited to: miles travelled, fuel consumed, maintenance and repair, and such other records as may be necessary for determining air quality benefits from alternative fuels.

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 November 21, 1990.

TRD-9012491

Lane Hartssock
Director, Planning and
Development Program
Texas Air Control Board

Earliest proposed date of adoption: February 28, 1991

For further information, please call: (512) 451-5711

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TITLE 34. PUBLIC FINANCE
Part VII. State Property Tax Board

Chapter 161. Valuation Procedures

Subchapter B. Policy for Conduct of the Property Value Study

• 34 TAC §§161.101-161.111

The State Property Tax Board proposes new §§161.101-161.111, concerning policy for conduct of the property value study. The new sections set out policies for the conduct of the agency's annual property value study under the Education Code, §11.86, and the Tax Code, §5.10.

Section 161.101 states generally that the sections are to ensure adequate basis for the staff's judgments in the study.

Section 161.102 sets out definitions applicable for the subchapter.

Section 161.103 sets out guidelines for determination of what constitutes a major category or major kind of property. Generally, a category of property that represents less than five percent of a district's property wealth will not be tested.

Section 161.104 sets out procedures for studying agricultural, timber, utilities, mineral,

and industrial properties. Generally, agricultural and timber categories are directly appraised under applicable statutory provisions and board rules. The other types of property are appraised on the basis of samples. The section sets out a description of sampling procedures and requires the application of generally accepted appraisal methods.

Section 161.105 sets out procedures for studying local property, property other than utility, industrial, mineral, or 1-d or 1-d-1 qualified agricultural property. The agency will use sampling procedures. Judgment sampling is generally to be used, with sample sizes set by supervisory staff. The section addresses the composition of a reasonable and representative sample.

Section 161.106 sets out procedures for selecting sales for use in a local property sample. Appraisers are to gather sales from a variety of sources. The section sets out criteria for selection based first on proximity to the assessment date. The section sets out guidelines for documentation and verification of sales information. The section addresses the exclusion of sales that are not arm's-length transactions. The section also addresses adjustments to ensure representativeness, adjustments for financing, and adjustments for time of sale.

Section 161.107 sets out procedures for selecting local properties to be appraised in the conduct of the study. Appraisals are employed for a variety of purposes. The section addresses use of generally accepted appraisal practice and criteria for selecting or excluding property.

Section 161.108 sets out directives concerning local reports of property value. Agency staff are directed to issue and revise report forms and to thoroughly review the responses. The section sets minimum criteria for making changes to reported information.

Section 161.109 addresses the methods used in determining the taxable value of property in a category or in a school district once samples have been gathered and analyzed.

Section 161.110 correspondingly addresses the measures used to measure appraisal district level of appraisal and uniformity.

Section 161.111 adopts as general standards, based on the recommendation of the state auditor, two standard publications. The Standard on Assessment Ratio Studies, published by the International Association of Assessing Officers, addresses the conduct of ratio studies. Government Accounting Standards, published by the United States Government Accounting Office, sets out general guidelines for conducts of audits of governmental entities.

Sands L. Stiefer, general counsel, has determined that there will not be fiscal implications as a result of enforcing or administering the sections.

Mr. Stiefer also has determined that for the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the sections will be consistent application of board policies to the conduct of its study. There will be no effect on small businesses. There will be no economic costs to persons who are required to comply with the sections.

Comments on the proposals may be submitted to Sands L. Stiefer, General Counsel, State Property Tax Board, 4301 Westlake High Drive, Building B, Suite 100, Austin, Texas 78746-6565. The agency will also hold a public hearing for comment on the proposals on December 12, 1990, at 10 a.m. in the agency headquarters conference room.

The new sections are proposed under the Tax Code, §5.02, which provides the State Property Tax Board with the authority to adopt policies that define the responsibilities of the agency staff.

§161.101. General Statement of Policy. Agency staff shall conduct the studies required by the Education Code, §11.86, and the Tax Code, §5.10, in the manner required by law. The studies constitute a limited audit of the taxable value of property in the districts. The purpose of this subchapter is to ensure that sufficient competent and relevant evidence affords a reasonable basis for the staff's judgments and conclusions regarding the taxable value of property in a school district and the appropriate measures of appraisal level and uniformity in an appraisal district.

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

Agency—The State Property Tax Board.

Appraisal—A statement that indicates the market value or other legally required value of property.

Appraisal ratio—An appraisal ratio is the ratio of a property's appraised value as determined by the appraisal office or appraisal review board, as applicable, to:

(A) the appraised value of the property according to law if the property qualifies for appraisal for tax purposes according to a standard other than market value; or

(B) the market value of the property if subparagraph (A) of this section does not apply.

Appraiser—A person, including a staff member, who conducts appraisals for use in the property value study.

Board—The governing body of the State Property Tax Board.

Coefficient of dispersion—The absolute average deviation of appraisal ratios in a sample from the median appraisal ratio for the sample, expressed as a percentage of the median.

Documentary evidence—Documentary evidence consists of created information such as letters, appraisal records, or deeds.

Local property—Property other than utility, industrial, mineral, or 1-d or 1-d-1 qualified agricultural property.

Median appraisal ratio—The median level of appraisal is the median appraisal ratio of a reasonable and representative sample of properties in an appraisal district. The median appraisal ratio for a sample of properties is, in a numerically ordered list of the appraisal ratios for the properties:

(A) if the sample contains an odd number of properties, the appraisal ratio above and below which there is an equal number of appraisal ratios in the list; or

(B) if the sample contains an even number of properties, the average of the two consecutive appraisal ratios above and below which there is an equal number of appraisal ratios in the list.

Property value study—The studies conducted by the State Property Tax Board pursuant to the Tax Code, §5.10, and the Education Code, §11.86.

Reasonable and representative sample—Representative means composed of individual properties that collectively reflect the characteristics of the population from which they were drawn. All properties in a sample need not be typical for the sample to be representative. Reasonable means of sufficient size that a reasonable person would consider the sample competent evidence of the taxable value of property and the uniformity and level of appraisal in a school or appraisal district.

Sale—A transfer of property for consideration.

Sale date—The date on which a deed or other document transferring title to real property by sale is executed.

Sample—A group of properties analyzed to determine characteristics of a category of property in a school or appraisal district.

Staff—The employees of the State Property Tax Board.

Stratification—Stratification information divides the range of information for a category of property in a district into intervals and lists the number and value of properties falling into each interval. The agency stratification survey asks districts to rank properties by appraised value, divide the list into intervals by value, and identify the number and appraised value of properties in each interval, such as \$20,000-24,999, \$25,000-\$29,999.

Stratified weighted mean appraisal ratio—A stratified weighted mean appraisal ratio is calculated by separating the properties in a category sample into sub-categories by value range (strata) and determining the weighted mean appraisal ratio for each of the strata in the manner described in the weighted mean appraisal ratio definition. The value of property in each of the strata is calculated by dividing the locally reported value by the weighted mean appraisal ratio. These individual market value estimates are then added to produce a market value estimate for the total category sample. The total locally reported value of property in the category is then divided by the total category market value estimate to produce

the stratified weighted mean ratio.

Weighted mean appraisal ratio—The weighted mean appraisal ratio is a number calculated by dividing the total locally appraised value of property in a category sample by the total market or legally required value of property in that sample. The weighted mean appraisal ratio for local property is determined by dividing the total locally appraised value of local properties sampled in a school district or an appraisal district by the total market or legally required value of that property.

§161.103. Selection of Categories of Property Tested. Generally, the staff shall determine taxable values, median levels of appraisal, and coefficients of dispersion for those categories of property listed in §163.6(h)(1)-(15) of this title (relating to Certification of Appraisal Roll). However, the primary priority in determining categories of samples is the accuracy of the estimate of total property value for each school district in this state. The executive director may determine whether a category or class of property in a school or appraisal district is a major category or class of property on a case-by-case basis. Where necessary to maximize accuracy or efficient use of resources, the staff may decline to sample or estimate category values or measures. As a general guideline, the staff will not select samples in a category of property in a school district if the value of property in the category is less than 5.0% of the total value for the district and the total value of property categories sampled in that district exceeds 75% of the total value for the district. If the staff does not sample a category of property listed in §163.6 in a school district, the staff shall compute the value of property in the category by applying the weighted mean ratio of local properties in the appraisal district to the reported value of property in the category. Where practicable, if the staff does not sample residential or commercial property in a school district, the staff shall sample them in the appraisal district.

§161.104. Procedures for Determining Taxable Value and Appraisal Performance Measures for Utilities, Minerals, Industrial Property, and Agricultural Property.

(a) Agricultural land qualified for productivity appraisal. Staff shall determine the productivity value of land qualified for productivity appraisal in a school district through direct appraisal. The staff shall estimate an average value per acre for each land class in each school district using information provided by published sources and by individuals knowledgeable concerning local agricultural conditions. The estimated average productivity value per acre shall be developed using the same methods applicable to appraisal districts under §161.1 of this title. The estimated value per acre shall be applied to the total number of

acres in each land class reported in the school district report of property value to determine the total value of property in each class. The sum of the values of each class is the total value of agricultural property receiving productivity appraisal in the school district.

(b) Timber land qualified for productivity appraisal. Staff shall determine the productivity value of land qualified for timber appraisal in a school district through direct appraisal. The staff shall estimate an average value per acre for each soil class and type of timber in each school district using information provided by published sources and by individuals knowledgeable concerning local timber production. The estimated average productivity value per acre shall be developed using the same methods applicable to appraisal districts under §161.11 of this title (relating to Appraisal of Timberlands). The estimated value per acre shall be applied to the total number of acres in each soil class for each type of timber reported in the school district report of property value to determine the total value of property in each class. The sum of the values of each class is the total value of timber property receiving productivity appraisal in the school district.

(c) Utility property. Utility samples in a school district shall be chosen using a method that ensures sampling the highest valued properties and other properties as appropriate. Utilities shall be valued using recognized unitary valuation methods, including the cost, income, and market (sales comparison or stock and debt) approaches. Utility unit values will be allocated using generally accepted allocation methods based on the best information available. Appraisers shall consider the effects of regulation, if applicable.

(d) Industrial property. Staff shall choose industrial property samples without regard to whether the appraisal district performs its own industrial property appraisals. Industrial properties shall be valued using generally recognized appraisal methods. The staff shall ensure that each appraisal district that reports industrial property value as a significant percentage of the total appraised value (including the productivity value of qualified land) in the district shall be tested at least once every three years.

(e) Minerals. Mineral samples in a school district shall be chosen using a method that ensures sampling the highest valued leases and a representative sample of other leases. Minerals shall be appraised using generally accepted appraisal methods, emphasizing the income approach to value. The sales approach and cost approach to value may be used as a check to market value. Staff shall appraise only those reserves that are commercially recoverable and marketable under existing economic conditions at the time of appraisal.

(f) Changing appraisal methods.

Appraisers shall consult regularly with representatives of property owners, industries, appraisal firms, and other interested parties to keep abreast of changing appraisal methods.

§161.105. Procedures for Determining Taxable Value and Appraisal Performance Measures for Local Property.

(a) The agency shall make its determinations of taxable value and appraisal district measures on the basis of reasonable and representative samples of property selected within school districts. Except as provided in these rules, agency staff shall select samples of properties based on their judgment of the number and kind of properties required to be sampled to reasonably reflect the value of property in the school district and the appropriate measures for the appraisal district. Agency staff are not required to but may employ random sampling or other sampling procedures where feasible and appropriate.

(b) Sample sizes shall be assigned by supervisory staff. The sample size assigned for a particular category of property in a particular school district is based on the available staff time, the availability of current sales, variability of ratios, and the relative value of the category. A sample may exceed assigned sample requirements if sales are abundant, time permits, and doing so would not adversely affect the samples representativeness. The reasons for and amount of any reduction in assigned sample size must be documented.

(c) To the extent possible, samples shall include a combination of sales and appraisals that satisfies both size and representativeness requirements. All meaningful property characteristics shall be considered in selecting samples, including where applicable value, use, construction type, business type, age, size, location, and sold versus unsold properties. To the extent possible, samples shall be structured so that property characteristics are represented in proportion to their representation in the population under consideration. For example, if available relevant and competent stratification information establishes that 50% of the value of all single-family residences in a particular school district is attributable to homes appraised at values between \$25,000 to \$49,999, then roughly 50% of the value in the single-family residence sample should be attributed to properties within the same value range. The percentage of the sample that falls within a particular range should be computed using appraisal district values rather than agency values. The following guidelines should be followed:

(1) A sample should include both sold and unsold properties. The sample should not be weighted in favor of sold properties that are appraised at a different level from unsold properties.

(2) A sample should include properties from the primary geographic areas of each school district.

(3) A sample should include improvements of varying ages.

(4) Sample selection should consider other property characteristics such as construction type, size, use, and business type as required.

(5) Stratification information should be used to ensure that samples are representative. If these data are unavailable, an appraiser should use informed judgment and knowledge of the area in a reasonable effort to ensure that samples are representative.

(d) Appraisers shall categorize sample properties as they are categorized by appraisal districts (Category A, B, C, etc.).

§161.106. Local Property Sales Selection.

(a) Appraisers should gather sales from a variety of sources, such as appraisal districts, real estate professionals, title companies, financial institutions, courthouse records, and publications such as MLS, SREA, REVAC, and other reliable sources.

(b) The appraiser should use sale date as the first selection criterion. Sales that occur closer to the assessment date are considered more reliable indicators of market value on that date than sales that occur farther from the assessment date. Thus, for example, sales that occur within one month either side of the assessment date are preferable to sales that occur within two months either side of the assessment date.

(c) The appraiser should begin the sales selection process by considering all arm's-length sales that occurred within one month either side of the assessment date. Next, the appraiser should determine whether the sales that occurred within one month either side of the assessment date satisfy sample size requirements. If not, then the appraiser should consider all sales that occurred within two months either side of the assessment date. The appraiser should continue this process until sample size requirements have been met.

(d) The appraiser must document the source of each sale included in the property value study. The appraiser must use codes provided in the appraisal guide to identify the source of each sale entered into the agency sales/appraisals system. The appraiser must maintain sufficient written documentation to permit source verification upon request.

(e) The appraiser must obtain or confirm at least 20% of the sales included in each category sample for each school district from sources other than the appraisal district. For each particular category sample, the appraiser must independently confirm at least 10% of sales supplied by the appraisal district. In general, the appraiser should use random selection procedures to determine which sales to confirm, but always confirm questionable sales.

(f) The appraiser shall exclude sales that occurred more than 12 months before or more than six months after the assessment date. If a sale that occurred outside the time frame is included in the sample, the appraiser must determine the market value of the property by appraisal. However, the appraiser may not limit appraisals to properties that sold outside the study time frame. To do so ensures that unsold properties are never tested. If the appraiser appraises a property that sold outside the study time frame, the appraiser must also include an appraisal of a comparable property that did not sell. The appraiser may use sales that occurred outside the study time frame as comparables for appraisals.

(g) Sales included in a sample must be arm's-length transactions. Arm's-length transactions are consistent with the definition of market value found in the Texas Property Tax Code, §1.04, Paragraph (7). For the purposes of that section, price means the most probable price. An appraiser should exclude transactions that are not arm's-length sales from the property value study. The following transactions are generally invalid for ratio studies and should be excluded if found:

(1) sales involving courts, or in which government agencies or public utilities are principals;

(2) sales in which charitable, religious, or educational institutions are principals;

(3) sales in which a financial institution is the buyer and a lienholder;

(4) sales between relatives;

(5) sales between corporate affiliates;

(6) sales of convenience;

(7) sales settling an estate;

(8) forced sales; or

(9) sales of doubtful title.

(h) Although the following may be arm's-length, open market sales, because they involve special circumstances, should be either excluded or used with caution:

(1) trades;

(2) transactions involving partial interests;

(3) land contracts, contracts-for-deed, and other installment purchase agreements; or

(4) incomplete or unbuilt property.

(i) If an appraiser questions whether a transaction of the type listed in subsection (h) of this section or any other type of transaction is an arm's-length sale, the appraiser should obtain sales agreements, closing statements, statements from parties to the transaction, deed records that disclose full consideration, or other evi-

dence sufficient to determine whether or not the transaction is at arm's-length.

(j) The appraiser must exclude sales of properties that change category after the sale but before the assessment date.

(k) The appraiser may not exclude a sale solely because it appears to be inconsistent with other sales in the sample. Such inconsistencies may indicate that a sale is non-arm's-length, but they may also indicate that information regarding the sale was recorded incorrectly. If further investigation reveals that the sale was indeed a legitimate arm's-length transaction, the appraiser may include it in the sample despite its apparent inconsistency. The appraiser should not exclude a sale simply because the property does not appear on the appraisal roll.

(l) Once the appraiser has selected sufficient sales to meet sample size requirements, the appraiser must take reasonable steps to ensure the sales sample is representative of the population from which it was drawn. Sample composition should roughly approximate the overall characteristics of the population under consideration. Where necessary to achieve representativeness, the appraiser may adjust for underrepresentation by including additional sales or appraisals. Similarly, the appraiser may adjust for properties that are grossly overrepresented by excluding sales. The appraiser must use random procedures to selectively include or exclude sales for purposes of improving sample representativeness. Alternatively, the review staff may consider calculating values using a stratified weighted mean.

(m) The appraiser shall use the following guidelines regarding adjustment of sales prices for financing.

(1) Generally, when financing reflects prevailing market practices and interest rates, sales prices require no adjustment. Adjustments should be considered if:

(A) the seller and lender are the same party and financing is not at prevailing market rates;

(B) the buyer assumes an existing mortgage at a nonmarket rate of interest; or

(C) lenders charge the seller "points" (a percentage of the loan amount) for making money available to the purchaser/borrower.

(2) Some forms of mortgage terms may also require adjustment. If these adjustments alter the sales price significantly, the use of the sale as a good indicator of market value may be questionable.

(n) The appraiser shall adjust sales samples for the effect of time if there is evidence of a significant value increase or decrease during the study time frame. The

appraiser must document the procedures used to develop time adjustments, such as resale analysis, matched-pair analysis, regression analysis, or selecting samples so that the value of properties sold during a specified period before the assessment date roughly approximates the value of properties sold during a similar period after the assessment date. A sample balanced in this manner will negate the effect of changes in the level of market values as long as those changes occurred uniformly over the study time frame.

§161.107. Appraisals of Local Property.

(a) Appraisals are performed to ensure the study develops competent evidence of the value of all property in the district. Only a small percentage of property in a district sells during the study time frame. Appraisals are used to ensure a representative sample of sufficient size and to test whether sold and unsold properties are assessed at the same level.

(b) As a general rule, the number of appraisals in each sample must equal 10% of the required sample size or a minimum of five appraisals, whichever is greater. For example, a required sample of 80 must include eight appraisals. Similarly, a required sample of 40 must include five appraisals.

(c) The appraiser should use both on-site selection and selection from property listings in choosing properties to appraise.

(d) The appraiser should not exclude a property selected for appraisal simply because it does not appear on the appraisal roll.

(e) Appraisals shall be conducted using generally accepted appraisal practice for mass appraisals. Each year the staff shall prepare an appraisal guide and other guidelines as needed for use in conducting appraisals. Material in the guide is a guideline for the conduct of appraisals, and may be modified as needed to reflect local conditions and individual property characteristics. The guide and any other written instructions are open records.

(f) Appraisers should physically inspect each property appraised. If acreage or lots cannot be physically inspected, the appraiser may use appraisal cards, aerial photographs, soil maps, and other relevant information in performing appraisals.

(g) In appraising a particular property, the appraiser may not consider the value placed on that property by the appraisal district. However, the appraiser may consult with appraisal district staff and review appraisal district records to gather information relevant to the appraisal.

(h) The market value estimate for a particular property account must include the value of all property associated with that account, e.g., multiple improvements, pav-

ing, outbuildings, signs, business vehicles, additional lots, etc. The appraiser may use the appraisal district's value for any item(s) that the appraiser is unable to appraise if the item(s) in question represent less than 5.0% of the appraisal district's total appraised value for the account.

§161.108. Local Reports of Taxable Value. Local reports of taxable value are essential parts of the property value study. Staff shall issue and revise report forms as needed to incorporate necessary legal and technical changes. Staff shall thoroughly review reports of property value as needed to ensure their reliability. Between the time a report is filed and the time preliminary study findings based upon the report are issued, reported values or facts may not be changed unless the reporting entity provides sufficient competent evidence supporting a change. Once preliminary study findings based upon a report are issued, a reported value or fact may be changed only through a protest or audit request under this title. Staff shall set reasonable deadlines for the return of local reports and may grant extensions of filing time of up to 30 days.

§161.109. Determination of School District Value.

(a) The taxable value of a category of property in a school district shall be determined by dividing the total locally appraised value of property in that category by the weighted mean ratio for the sample of property selected from that category. However, the taxable value of property in a category may be determined by other methods if it is determined that sufficient competent evidence requires their use.

(b) The taxable value of property in a school district shall be determined by adding together the taxable value of property in each category of property in the school district and subtracting from the total the items listed in the Education Code, §11.86(a)(1)-(8). However, the taxable value of property in a school district may be determined by other methods if it is determined that sufficient competent evidence requires their use.

§161.110. Determination of Appraisal District Measures.

(a) The median level of appraisal for each category of property in the appraisal district and for the appraisal district as a whole is determined as provided by the Tax Code, §5.10.

(b) The coefficient of dispersion for each category of property in the appraisal district and for the appraisal district as a whole is determined as provided by the Tax Code, §5.10.

(c) The staff may determine and report other measures of appraisal accuracy and uniformity as it deems useful and informative.

§161.111. General Standards. Except where inconsistent with these rules, the following documents are adopted by reference as standards for the conduct of the property value study:

(1) Standard on Assessment Ratio Studies, International Association of Assessing Officers (1990); and

(2) Government Auditing Standards, United States Government Accounting Office (1988).

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 November 21, 1990.

TRD-9012570

Leon A. Whillite
Executive Director
State Property Tax Board

Earliest possible date of adoption: December 31, 1990

For further information, please call: (512) 329-7802

◆ ◆ ◆
Chapter 165. Practice and Procedure

Rules of Practice and Procedure

• **34 TAC §§165.71-165.78**

The State Property Tax Board proposes amendments to §§165.71-165.77 and new §165.78, concerning procedures for protesting the agency's annual property value study under the Education Code, §11.86, and the Tax Code, §5.10.

The amendment to §165.71 deletes provisions that barred the agency from conducting an audit of its study findings if the audit presented matters that were or should have been resolved in protests of the agency's preliminary findings. The amendment defines an audit as a review to determine whether the agency's records correctly reflect its actions and to determine whether locally reported property values are incorrect. The amendment sets out a procedure for requesting an audit and states minimum information that must be provided with a request.

The amendment to §165.72 clarifies existing language concerning the relationship of appraisal district and school district protests. The amendment also sets out a procedure for the agency staff to initiate appeals to correct errors where the correction does not adversely affect a district.

The amendment to §165.73 clarifies the requirements for a petition protesting study findings. The amendment also requires that any sale offered as evidence of level of appraisal be accompanied by a document verifying the sale price and naming the buyer and seller. The amendment also requires a petitioning district to give 10 days' notice of its intended action to all affected districts. The amendment also provides for the parties to serve reasonable requests for information after the

filing of a petition. Information requested must normally be provided within 10 days.

The amendment to §165.74 states guidelines for informal review of a protest prior to hearing. Specific guidelines address the addition or deletion of sales or appraisals from agency samples. The amendment requires the agency to provide districts with a written recommendation on the disposition of a protest, and provides that any disposition by agreement must be in writing. The amendment requires the agency staff to file all documentary evidence on which it intends to rely at the time the letter of recommendation is sent or at the time the notice of hearing is sent, whichever is earlier. The amendment provides that all parties may have access to documents on file for the appeal.

The amendment to §165.75 clarifies existing provisions concerning preliminary hearings on protests. The amendment explicitly states that hearings are informal and not governed by the rules of evidence applicable in contested hearings. The amendment also addresses the right to cross examination. The amendment also permits admission of late-filed evidence in several circumstances. Guidelines applied to staff review in §165.74 also apply to agency hearing designees.

The amendment to §165.76 clarifies ambiguous language concerning the filing of exceptions to a proposed decision. The amendment also requires a district that files exceptions to pay the cost of preparing a transcript. They require the transcript to be served on all parties.

The amendment to §165.77 permits admission of the transcript in a hearing on exceptions. The amendment requires the board's final order to contain findings of fact and conclusions of law. The amendment permits the board to remand a case to a hearing panel for further proceedings, and provides that no decision or agreement is final until approved by the board.

New §165.78 provides that the agency's rules of practice and procedure apply to a case remanded to the board after appeal.

Sands L. Stiefer, general counsel, has determined that for the first five-year period the sections are in effect the amendment to §165.76 requiring a district to pay the cost of a transcript for a hearing on exceptions will have fiscal implications for local government. There are no fiscal implications for the state. The effect on local government for the first five years the section as proposed will be in effect will vary with the number of protests appealed to the board and the length of hearings. Based on a projection of 50 appeals per year and hearings of 1/2 hour each, the estimated additional cost will be \$2,500.

Mr. Stiefer 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 protest procedures for the agency will be conducted under clearer and more comprehensive rules.

There will be no economic costs to persons who are required to comply with the sections as proposed.

Comments on the proposals may be submitted to Sands L. Stiefer, General Counsel, State Property Tax Board, 4301 Westlake High Drive, Building B, Suite 100, Austin,

Texas 78746-6565. The agency will also hold a public hearing for comment on the proposals on December 12, 1990, at 10 a.m. in the agency headquarters conference room.

The amendments and new section are proposed under the Tax Code, §11.86, which provides the State Property Tax Board with the authority to adopt by rule procedures for the conduct of protests of the property value study.

§165.71. Audits of School District Taxable Property Values.

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

[(d) A school district may not request an audit if:

[(1) the audit request raises the same issue or presents the same evidence presented during a protest of preliminary findings of value;

[(2) the audit request raises an issue or presents evidence that should have been raised during a protest of preliminary findings of value; or

[(3) the request concerns an error in the school district's annual report of property value discovered after the deadline for filing a protest of the board's findings of taxable value unless the information supporting the change did not exist in time to be incorporated into the board's findings.

[(e) The commissioner of education may not request an audit if:

[(1) the audit request raises the same issue or presents the same evidence presented during a protest of preliminary findings of value;

[(2) the audit request raises an issue or presents evidence that could have been raised by the affected school district in a protest of preliminary findings of value if it would have been of benefit to the district; or

[(3) the request concerns an error in the school district's annual report of property value discovered after the deadline for filing a protest of the board's preliminary findings of taxable value and the error could have been corrected by the school district if it would have been to the benefit of the district.

[(f) The executive director shall determine if an audit request raises issues that are within the jurisdiction of the board. He shall issue a preliminary finding on the request as soon as practicable and must deliver a copy of the finding to any school district that is the subject of the audit and to the commissioner of education.

[(g) Any change of a district's taxable value pursuant to an audit request may be made only on written order of the board, and must be certified to the commissioner of education.

(d)[(h)] For purposes of these rules, an audit is an investigation or review made to determine whether:

(1) the agency's records contain clerical errors that affect the property value study findings; or

(2) a local report of taxable value contains incorrect information that affects the property value study findings; and, if so, whether the certified finding [findings] of a school district's total taxable value of property is [are] incorrect and should be changed. Incorrect information includes reported value amounts that have been changed by the final decision of a court.

(e) A request for an audit must be made in writing. The request must state:

(1) the study year in question;

(2) the action proposed;

(3) whether the audit concerns local reports or the correction of the agency's records; and

(4) if the request concerns the agency's records, the request must state with specificity what needs to be corrected.

(f) A request for an audit to determine whether a local report of taxable value is correct must be accompanied by an amended school district report showing the requested adjustments and an affidavit from the chief appraiser that states:

(1) the total appraised value legally included on the district's appraisal roll as of the date of the request; and

(2) the total amounts that, according to the district's appraisal roll as of the date of the request, would not be included in a determination of the taxable value of the school district under the Education Code, §11.86.

(g) Agency staff may request additional information from the district as needed to complete the audit.

(h) In conducting an audit, agency staff shall consider whether the matter presented in the audit request has been finally determined in a prior proceeding. If so, the staff may base its audit finding on the result of that prior proceeding.

§165.72. Protests and Audits. Arising from School Property Values and Appraisal District Ratio Findings.

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

(d) A school district is a party to a protest filed by an appraisal district in which it participates, and changes ordered to study findings concerning the appraisal district will also change school district findings if applicable.

(e) An appraisal district is a party to a protest filed by a school dis-

trict for which it appraises property, and changes ordered to study findings concerning the school district will also change appraisal district findings if applicable.

(f) A property value study preliminary finding may not be changed except as finally approved by the board. Following the preliminary certification of study findings, the staff shall, to the extent practicable, review the findings and shall suggest in writing any changes that should be made as a result of the review. A change that does not adversely affect a district shall be submitted to the board or the board's designee as a staff-initiated appeal. A change that adversely affects a district must be certified as a new preliminary finding to the district and the commissioner of education and extends the district's time to appeal.

§165.73. Method of Filing a Protest.

(a) A protest must be filed by submitting a petition [written statement] to the board showing the name and address of the petitioner and identifying the determination that is the subject of the petition [submission].

(b) A protest of the preliminary findings of taxable value or appraisal levels must be filed within 30 days after the date the board certifies preliminary findings of school district taxable value to the commissioner of education. A protest of the preliminary findings of an audit of taxable values must be filed within 30 days of the date the district received preliminary findings of the audit. A petition or statement of grounds [submission] may be withdrawn, amended, or supplemented at any time prior to the deadline for filing, but may not be withdrawn, amended, or supplemented after the filing deadline.

(c) A petition [submission] must be signed by:

(1) the superintendent or president of the board of trustees of the district if it is a protest filed by a school district; or

(2) the chief appraiser or chairman of the board of directors of the appraisal district, if it is a protest filed by the appraisal district.

(d) A petition must state [submission must specify] all grounds for objection. The statement of grounds must set forth the reasons the petitioner disagrees with the action of the agency. The petitioner must list and number the items, individually or by category, with which there is disagreement and list and number the factual and legal grounds why the agency's findings should be changed. Legal authority must be cited if the petitioner disagrees with the agency's interpretation of the law [and contain sufficient information to determine the validity of the protest]. Three copies of all documentary

[documents and other] evidence that supports [support] the petitioner's protest must be included with the petition [submission]. Except as permitted by this title [subsection (h) of this section], no additional documentary evidence may be submitted after the deadline for submitting the petition.

(e) The petition [submission] must contain a sworn statement by the person signing the petition that, to the best of his knowledge, the information contained in the petition [submission] is true and correct.

(f) The district shall file with the petition a sworn statement in substantially the following form by any person who selected a sale or performed an appraisal submitted as evidence:

The State of Texas

County of Travis

Before me, the undersigned authority, on this day personally appeared (name of person making statement), known to me, and who, being by me duly sworn, on oath deposed and said:

"I prepared the evidence attached to this statement for use in connection with the State Property Tax Board's Property Value Study of Category (Categories) (List of Categories) in (Name of District) District.

"I have read all of the attachments to this affidavit, and they are true and correct.

"Any analysis of property sales, appraisals, or appraisal ratios attached was prepared directly (by me) or by (names of other preparers) under my supervision, and was prepared using standard valuation, statistical compilation, and analysis techniques. Any sales reported were verified according to generally accepted standards. Any appraisal of property attached was prepared directly (by me) or by (names of other preparers) under my supervision, and was prepared using generally accepted appraisal methods for the purpose of appraising the subject property at its market value as of (date). "Witness my hand, this the (day) of (month), (year).

Signature of Affiant Professional
Designation

Subscribed and Sworn to before
me this the (day) of (month), (year).

Notary Public, State of Texas

My commission expires:

[Any ratio study or other appraisal analysis that is included with the submission shall contain a sworn statement by the person producing the study or analysis that it was performed in accordance with generally accepted appraisal standards. For purposes of this section, ratio study is defined as any property sale or appraisal offered as an indicator of the level of property apprais-

als that exists on a district's appraisal or tax roll.]

(g) A sale offered as evidence of the level of property appraisals must be accompanied by a copy of the deed, a closing statement, a statement signed by a party to the transaction verifying the sale price, a multiple listing service sold entry, or other document verifying the sale price and indicating the names of the buyer and seller.

(h) A petitioner must provide every district that may be affected by its protest at least 10 days' written notice of its intent to file a petition prior to filing a petition. The petition [A submission] must contain a certification that:

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

(i)(h) For good cause shown, the executive director may extend a deadline for submitting evidence. An extension must be requested and approved in writing before the original filing deadline. The director may grant only one extension for each school district, and may not extend the deadline by more than 10 days.

(j)(i) An error in a school district's annual report of property value may be corrected by filing a petition under this section. Any changes made to a school district's annual report of property value after the deadline has passed for filing a protest of the board's preliminary findings must be made through an audit request filed as provided in §165.71 of this title (relating to Audits of School District Taxable Property Values).

(k) At any time following the filing of a petition, either party may serve a request for information on the other party. The request must be served allowing reasonable time for the other party to respond. The request for information may request:

(1) copies of any documents or other tangible items not already filed that relate to matters in the statement of grounds or petition letter, except working papers and reports prepared in anticipation of the protest hearing; or

(2) more information for the purpose of clarifying ambiguous matters in the statement of grounds or position letter.

(l) A party who is served with a request shall supply the requested information within 10 days of the date the request is received or at least 10 days before the date of the hearing, whichever is earlier. However, if a document or other tangible item is not readily available, it may be served upon the party no later than two days before the date of the hearing.

(m) If the board or its designee determines that a party knowingly failed to comply with a request and that the

information is material to the proceeding, the board or its designee may recess the hearing until the party complies with the request.

§165.74. Informal Review of a Protest; Scheduling a Protest Hearing.

(a) On receiving a protest, the executive director shall determine whether the petition [submission] raises issues that are within the jurisdiction of the board. The director shall deliver notice of the date, time, and place fixed for a hearing to each party. The notice must be delivered not later than 10 days before the date of the hearing and must be provided to each party.

(b) The staff shall review each protest of the property value study to resolve as many problems in an informal manner as possible. Upon completion of review, the staff shall prepare a written recommendation that summarizes the issues and the evidence and states the staff's recommended disposition. The recommendation shall accept or reject, in whole or in part, each contention in the district's statement of grounds.

(c) The staff may not recommend a change in the board's findings unless sufficient competent evidence supports the change.

(1) Before recommending the addition of sales to a sample, the staff should ensure that the sales evidence is valid and reliable. The staff should also ensure that the addition of the sales would enhance the representativeness of the sample. A district that requests the addition of sales to a sample should provide the information requested in the SPTB stratification survey or other relevant stratification evidence. If the district does not or cannot provide such relevant evidence and the staff is unable to determine whether the sales will enhance representativeness, the staff may employ standard statistical tests to ensure the sales are selected from the same population as the SPTB sample.

(2) The staff may not recommend deletion of a sale from a staff sample simply because, as a higher valued property, the sale affects the weighted mean ratio for the sample. A sale may be deleted only if sufficient competent evidence shows that the sale would be excluded under the criteria for excluding sales set forth in these rules.

(3) Before recommending the addition of an appraisal to a sample, the staff should ensure that the appraisal is valid and that it represents the level of appraisal of similar properties in the population. The staff should also ensure that addition of the appraisal is the only available means to enhance the representativeness of the sample. Generally, selection of additional sales or mathematical

weighting is preferable to inclusion of an additional appraisal. A district that requests the addition of an appraisal to a sample should provide the information requested in the SPTB stratification survey or other relevant stratification evidence. If the district does not or cannot provide such relevant evidence and the staff is unable to determine whether the appraisal will enhance representativeness, the staff may employ standard statistical tests to ensure appraisals are selected from the same population as the SPTB sample. If the appraisal was used by the appraisal district or appraisal review board in determining the local taxable value of the property, the district should provide relevant evidence that the appraisal is representative of the appraisal district's appraisals of other properties.

(4) The staff may not recommend the deletion of an appraisal from a sample solely because the appraisal or a group of appraisals indicate a different level of appraisal than sales of property included in the sample. One of the purposes for including appraisals is to test the level of appraisal of property that has not sold within the time period under study. Before deleting an appraisal, the staff should ensure that there is no available method of correcting the appraisal or compensating mathematically for representativeness.

(5) The staff may not change the recorded data concerning a sample member unless the documentary evidence is sufficient to support the change.

(d) Upon completion of the review, the staff shall serve a copy of its recommendation on the district. At the time the staff recommendation letter is served or at the time notice of the preliminary hearing is delivered to the district, whichever is earlier, the staff shall file all documentary evidence not already provided to the district that it intends to submit at the hearing. The staff shall also file copies of documents verifying any sales used and an affidavit in the form required by §165.73 of this title (relating to Method of Filing a Protest).

(e) The staff may recommend the disposition of a protest by agreement. The agreement must be stated in writing, signed by the district's representative and a representative of the staff, and approved by written order of the board.

(f)(b) The board shall conduct consolidated hearings [a single hearing] that provide [provides] for:

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

(g) A copy of all documents required to be filed or served on a party under this chapter must be filed with the valuations division.

(h) Any authorized representative of a party may inspect and copy, at his or

her own expense and in the agency headquarters, all documents on file in the case, subject to the rules of confidentiality contained in the Tax Code and the Education Code.

§165.75. Conduct of Preliminary Hearing.

(a) The board or its designee shall convene a preliminary hearing for a protest.

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

(d) [Each petitioner may present argument on any matter raised by the petition. Each party may offer oral argument at the hearing. Argument shall be confined to the evidence and to arguments of other parties.] The board or its designee may refuse to hear arguments that are repetitious, not confined to matters raised in the statement of grounds or staff recommendation [petition], not related to the evidence or that constitute mere personal criticism.

(e) The board or its designee may place reasonable time limits on presentations [If the board or its designee decides that the number of hearings raise a reasonable doubt that all matters will be decided within the time allotted by statute, the board or its designee may place time limitations on oral arguments].

(f) The board or its designee shall convene the hearing. Parties will identify themselves, and then each party will present its case, generally on an issue-by-issue basis. A party may present direct testimony, call and examine witnesses if desired, and introduce previously filed documentary evidence. The parties may agree on the order of presentation or the board or its designee may establish it. In all cases, however, a district is entitled to conclude in presenting evidence and in argument. Either party may submit direct or rebuttal testimony in writing.

(g) Documentary evidence or exhibits will be marked for identification. Copies or excerpts of documents are permissible.

(h) Each party may cross-examine opposing witnesses by directing questions to the witness through the board or its designee. The board or its designee may place reasonable limits on cross-examination.

(i) A hearing on a protest is an informal proceeding. The rules of evidence applicable in a contested case do not apply. Unless these rules specifically state an exception, the board or designee may consider any reasonably reliable evidence. A party that objects to the admission of evidence should state the objection and its basis. The board or its designee shall rule on the objection. If evidence is excluded by a designee, the party may include an offer of proof in the record. The board's designee may

question any party or any witness [The board or its designee shall establish the order of proceeding, and is responsible for closing the record]. The record may be held open for a single period of time not to exceed 15 days, and may be held open only for a specific purpose that is stated in the record.

(j) Except as provided by this section, documentary evidence not filed by the deadlines set forth in §165.73 and §165.74 of this title (relating to Method of Filing a Protest, Informal Review of a Protest; Scheduling a Protest Hearing) may not be introduced or considered. However, late-filed documentary evidence other than sales or appraisals may be introduced and considered if any of the following circumstances apply:

(1) the documentary evidence was acquired by the party offering it through a request for information from the opposing party;

(2) the party against whom it is offered fails to object to its admission;

(3) the documentary evidence is a copy of a public record or a document offered to verify a sale;

(4) the documentary evidence is of a type that might be officially noticed; or

(5) the documentary evidence is offered to rebut timely filed documentary evidence or testimonial evidence offered at a hearing. However, in any instance listed in this subsection, the party offering the evidence must provide all other parties with a copy of the evidence at least two days before the hearing.

(k) Property sales or appraisals offered for inclusion in a sample or as part of a ratio study submitted as evidence of level of appraisal may not be considered unless documentary evidence identifying each sale or appraisal is filed before the deadlines set forth in §165.73 or §165.74.

(l) The board's designee shall recommend a change in the agency's preliminary findings if the designee finds that sufficient relevant and competent evidence preponderates in favor of the change. The guidelines for the staff informal review set forth in §165.74 (c)(1)(4) apply to the designee in hearings requesting the addition or deletion of sales or appraisals.

§165.76. Proposed Decision.

(a) If the board's designee conducts a hearing, it shall prepare a proposed decision within 30 days after the date the record is closed. The proposed decision must contain a statement of the reasons for the decision [and of each finding of fact necessary to the decision].

(b) The executive director, on behalf of the designee, shall serve the proposed decision on each party by certified mail. The executive director shall include a statement that sets forth the time, date, and place the board will convene to hear exceptions to the proposed decision and estimates the cost of preparing a transcript.

(c) Within 10 days after the date of receiving a proposed decision, a petitioner that wishes to exhaust its administrative remedies may file a written response taking exception to the proposed decision. A written response must state the reason for taking exception to the proposed decision and must be accompanied by payment of the estimated cost of preparing the transcript [and may include a request for an appeal hearing before the board].

(d) Within 10 days after the date a written response under subsection (c) of this section is received, the staff shall file a response to the exceptions and serve the response on all parties. Regardless of whether a petitioner files exceptions, the [The] executive director may take exception to the designee's proposed decision and request an appeal hearing before the board. If the director requests an appeal, he shall file a written statement taking exception to the proposed decision. The statement shall set forth the reasons for taking exception to the proposed decision. The agency shall bear the cost of preparing a transcript when the executive director files exceptions. The executive director shall serve a copy of the statement [deliver written notice] by certified mail to the school district, appraisal district, or commissioner of education within 10 days after the date the proposed decision was delivered to a party.

(e) Upon filing of an exception, a transcript of the panel hearing and summary of the evidence shall be prepared. Copies of the transcript and summary shall be served on the parties as soon as practicable.

§165.77. Final Decision.

(a) The board shall convene to: [hear all appeals of]

(1) consider exceptions to proposed decisions;

(2) [I approve all proposed decisions to which exception is not taken;

(3) [not appealed, and] approve and certify its findings of school district taxable property values as changed; and

(4) determine by final order the level and uniformity of appraisals within each appraisal district.

(b) If the date set for a hearing differs from the date set forth with the proposed decision, the [The] executive di-

rector shall deliver notice of the new date, time, and place fixed for the [a] hearing. The notice must be delivered not later than 10 days before the date of the hearing and must be provided to each party.

(c) The purpose of the exception procedure is to provide the board with notice of and an opportunity to correct alleged errors in a proposed decision before that decision is made final. A hearing on exceptions is [All appeals are] limited to the record made during the protest hearing. The board shall admit the transcript and summary of the evidence. Argument shall be confined to the issues set forth in the statement of exceptions and the staff's response. At the conclusion of the hearing, the board may approve the proposed decision; disapprove the proposed decision and remand the proposal to the designee for further proceedings or the taking of additional evidence or both as directed by the board; disapprove the proposed decision and affirm its preliminary findings, or make such other disposition as is appropriate. A party may appear to offer oral argument, but no additional evidence may be introduced. Written argument may be submitted in lieu of an oral appearance.

(d) The board shall issue its final decision by written order. The order shall include findings of fact and conclusions of law [All appeals of protests concerning the preliminary findings of taxable value must be decided by written order within 120 days of the date the preliminary findings were certified to the commissioner of education].

(e) A designee's proposed decision or a disposition of a protest by agreement becomes final only when approved by the board. A petitioner is not entitled to a hearing before the board under this section unless the case has first been heard under §165.75 of this title (relating to Conduct of Preliminary Hearing) [All appeals of protests concerning preliminary findings of appraisal levels must be decided by written order before the deadline established in subsection (d) of this section].

(f)-(g) (No change.)

§165.78. Hearing on Remand. Subject to any requirements imposed in the judgement, a protest remanded to the board following the final disposition of an appeal to the district court under the Education Code, §11. 86(f), shall be heard in the same manner as an original protest of the board's preliminary findings. Evidence admitted before the court may be admitted in the proceeding.

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 November 21, 1990.

TRD-9012569

Leon A. Willhite
Executive Director
State Property Tax Board

Proposed date of adoption: December 31, 1990

For further information, please call: (512) 329-7802

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 10. Family Self-support Services

Child Care Management Services Statewide Implementation

• 40 TAC §§10.3412, 10.3414, 10.3429, 10.3452

The Texas Department of Human Services (DHS) proposes amendments to §§10.3412, 10.3414, 10.3429, and 10.3452, concerning child care management services statewide implementation, in its Family Self-support Services chapter. The purpose of the amendments is to clarify the intent of each section.

Burton F. Raiford, chief financial officer, has determined that for the first five-year period the proposed 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. Raiford 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 more continuity in child care arrangements. 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.

Questions about the content of this proposal may be directed to Charlotte Brantley at (512) 450-4179 in DHS's Client Self-support Services Division. Comments on the proposal may be submitted to Cathy Rossberg, Policy and Document Support Department-558, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 44, which authorizes the department to administer public assistance and day care programs.

§10.3412. Determination of Funding Source and Priority for Service.

(a) (No change.)

(b) With the exception of Title XX income eligible clients, the [The] child care management services (CCMS) contractor verifies the client's eligibility status and

determines the appropriate funding source(s) for purchasing child care. For Title XX Income eligible clients, the CCMS contractor determines the client's eligibility based upon the requirements stated in §§10.007, 10.1008, and 10.1009 of this title (relating to Definition of a Family; Income Inclusions; and Determination and Redetermination of Income Eligibility.)

(c)-(i) (No change.)

§10.3414. Exceptions to Eligibility.

(a) (No change.)

(b) The CCMS contractor must apply for a waiver from DHS to allow families described in subsection (a)(1) and (2) of this section to receive child care paid from Title XX funds.

§10.3429. Termination of Enrollment Due to Excessive Absences.

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

(e) Procedures for termination of enrollment based on excessive absences include the following.

(1) (No change.)

(2) When a child's enrollment is terminated for absence of at least 10 days [more than 10 days of absence], the CCMS contractor must give the parent(s) written notification at least 10 [or 12] calendar days before the termination date. If the notice is mailed, it must be mailed at least 12 calendar days before the termination date. [depending upon whether the notice is given to the parent(s) or mailed.] The child's enrollment continues until the termination date, unless the parent(s) requests an appeal before the termination date. If the parent(s) requests an appeal, the enrollment continues until the appeal decision.

§10.3452. Parent Advisory Groups.

(a) (No change.)

(b) Vendors required to set up a parent advisory group must develop and implement written policies that describe the membership and functions of the parent advisory groups. DHS must approve the policies.

(c) The vendor must ensure that the parent advisory group meets at least twice a year to address the concerns of the parents of enrolled children. [DHS must approve the policies.]

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 November 20, 1990.

TRD-9012464

Cathy Rossberg
Agency liaison, Policy and
Document Support
Department
Texas Department of
Human Services

Proposed date of adoption: February 1, 1991
For further information, please call: (512)
450-3765

Chapter 50. Day Activity and Health Services

Provider Eligibility

The Texas Department of Human Services (DHS) proposes the repeal of §50.2902, concerning provider eligibility, and new §§50.6901-50.6906, concerning reimbursement methodology for day activity and health services, in its Day Activity and Health Services chapter. The purpose of the repeal is to delete the section containing a specific rate, because it is being replaced with the reimbursement methodology sections. The purpose of the new sections is to establish a uniform reimbursement methodology for the Day Activity and Health Services (DAHS) Program as required by the Human Resources Code, §32.028.

Burton F. Raiford, chief financial officer, 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 section.

Mr. Raiford 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 for provider agencies to understand the department's process for setting reimbursement rates and to be able to respond to the department's review of provider cost reports. 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.

Questions about the content of this proposal may be directed to Mary Anne Joseph at (512) 450-4050 in DHS's Provider Reimbursement Section. Comments on the proposal may be submitted to Cathy Rossberg, Policy and Document Support-556, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

• 40 TAC §50.2902

The repeal is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§50.2902. Rates.

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

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Cathy Rossberg
Agency liaison, Policy and
Document Support
Department
Texas Department of
Human Services

Proposed date of adoption: February 1, 1991
For further information, please call: (512)
450-3765

Reimbursement Methodology for Day Activity and Health Services

• 40 TAC §§50.6901-50.6906

The new sections are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

§50.6901. Introduction. Adult day activity and health care facilities provide non-institutional care to clients residing in the community through rehabilitative nursing and social services. The Texas Department of Human Services (DHS) reimburses day activity and health services provider agencies for the services they provide to clients.

§50.6902. Cost Reporting Procedures. Provider agencies must submit financial and statistical information at least annually on cost report forms provided by the Texas Department of Human Services (DHS) or on facsimiles which are formatted according to DHS specifications and are preapproved by DHS staff. Providers must complete the cost report according to the rules and specifications set forth in this section. The Texas Board of Human Services determines reimbursement rates as specified in §24.101 and §24.102 of this title (relating to General Specifications and Methodology).

(1) Cost report due date. Provider agencies must submit cost reports to DHS no later than 90 days following receipt of the cost report forms.

(2) Extension of due date. DHS may grant extensions of due dates for good cause. A good cause is defined as one that the provider agency could not reasonably be expected to control. Provider agencies must submit requests for extensions in writing to DHS before the cost report due date. Provider Reimbursement Section staff respond to requests within 10 workdays of receipt.

(3) Reporting period. The provider agency must prepare the cost report to reflect the activities of the provider agency during the previous fiscal year. Cost reports may be required for other periods at the discretion of the department. Should a provider agency terminate its contract (provider agreement) with the department, a cost report must be submitted for that period beginning with the first day not included in a previous cost reporting period and ending with the effective date of termination of its provider agreement.

(4) Failure to file an acceptable cost report. If a provider agency fails to file

a cost report or cost report supplement according to all applicable rules and instructions, the department may withhold all provider payments until the provider agency submits an acceptable cost report.

(5) Accounting requirements. The provider agency must ensure that financial and statistical information submitted in cost reports is based upon the accrual method of accounting, except for governmental institutions operated on the cash method of accounting. The provider agency's treatment of any financial or statistical item must reflect the application of the generally accepted accounting principles (GAAP) approved by the American Institute of Certified Public Accountants.

(6) Allocation method. If allocation of cost is necessary, provider agencies must use reasonable methods of allocation. DHS adjusts allocated costs if the department considers the allocation method to be unreasonable. The provider agency must retain workpapers supporting allocations.

(7) Cost report certification. Provider agencies must certify the accuracy of cost reports submitted to DHS in the format specified by DHS. Provider agencies may be liable for civil and/or criminal penalties in the case of misrepresented or falsified information.

(8) Cost report supplements. The department may at times require additional financial and statistical information other than the information contained in the cost report.

(9) Review of cost reports. DHS staff review each cost report to ensure that all financial and statistical information submitted conforms to all applicable rules and instructions. The review of the cost report includes a desk audit. DHS reviews all cost reports according to the criteria in §24.201 of this title (relating to Basic Objectives and Criteria for Desk Review of Cost Reports). If a provider agency fails to complete cost reports according to instructions or rules, the department returns the cost reports to the provider agency for proper completion. The department may require information other than that contained in the cost report to substantiate reported information.

(10) On-site audits. The department may perform on-site audits on all provider agencies that participate in the program. DHS determines the frequency and nature of audits but ensures that they are not less than that required by federal regulations related to the administration of the program.

(11) Notification of exclusions and adjustments. DHS notifies providers of exclusions and adjustments to reported expenses made during desk reviews and on-site audits of cost reports as specified in §24.401 of this title (relating to Notification).

(12) Access to records. Each provider agency or its designated agent(s)

must allow access to any and all records necessary to verify information submitted to DHS on cost reports. This requirement includes records pertaining to related-party transactions and other business activities engaged in by the provider agency. If a provider agency does not allow inspection of pertinent records within 30 days following written notice from DHS, a hold is placed on vendor payments until access to the records is allowed. If the provider agency continues to deny access to records, the department may cancel the provider agency's contract.

(13) Recordkeeping requirements. Provider agencies must maintain records according to the requirements stated in §69.202 of this title (relating to Contractors' Records). Provider agencies must ensure that records are accurate and sufficiently detailed to support the financial and statistical information contained in cost reports.

(14) Failure to maintain adequate records. If a provider agency fails to maintain adequate records to support the financial and statistical information reported in cost reports, the department allows 90 days for the provider agency to bring recordkeeping into compliance. If a provider agency fails to correct deficiencies within 90 days from the date of notification of the deficiency, the department may cancel the provider agency's contract for services.

§50.6903. Reimbursement Rate Determination. The Texas Department of Human Services (DHS) determines rate reimbursement in the following manner.

(1) Exclusion of certain reported expenses. Provider agencies must ensure that all unallowable costs are eliminated from the cost report. The department excludes any unallowable costs that are included in the cost report.

(2) Cost areas. DHS combines reported costs into the following six cost areas.

(A) Salaries/benefits cost area. This includes the salaries, wages, and benefits for all day activity and health services personnel.

(B) Transportation cost area. This includes the rental or lease of transportation equipment and operating costs. The driver's salary is not included in this cost area.

(C) Food and food service cost area. This includes the cost of meals and supplies provided to day activity and health services clients.

(D) Building, equipment, and capital cost area. This includes all building operation expenses.

(E) Utility cost area. This includes all water, electric, gas, telephone expenses.

(F) Other expenses cost area. This includes all other expenses such as training, educational, and activity supplies, building maintenance, and administration supplies.

(3) Provider administration, transportation, utilities, and building expenses are adjusted to reflect per diem costs at the 85% rate of occupancy for providers who operate with an occupancy rate of less than 85%.

(4) Projected cost areas. The department projects all allowable expenses from each of the six cost areas, specified in paragraph (2)(A)-(F) of this section, for the period from each provider's reporting period to the next ensuing rate period. The department determines reasonable and appropriate economic adjusters as described in §24.301 of this title (relating to Determination of Inflation Indices) to calculate the projected expenses. DHS also adjusts rates if new legislation, regulations, or economic factors affect costs as specified in §24.501 of this title (relating to Adjusting Rates When New Legislation, Regulations, or Economic Factors Affect Costs).

(5) Rate setting methodology. The department determines the recommended reimbursement rate by the following computation. The department ranks from low to high all provider agencies' projected costs per unit of service in each cost area. The weighted median from each projected cost area is then determined. The total that is reached from adding the weighted medians from all six cost areas becomes the recommended reimbursement rate.

(6) Rate setting authority. The Texas Board of Human Services establishes the reimbursement rate using the Medicaid state plan and state rules, the provisions of which are included in this chapter. Rates are set in an open meeting after board consideration of financial and statistical information, and public testimony.

(7) Reviews of cost report disallowances. A provider agency may request notification of the exclusions and adjustments to reported expenses made during either desk reviews or on-site audits according to §24.401 of this title (relating to Notification). Providers may request an informal review and, if necessary, an administrative hearing to dispute an action taken by DHS under §24.601 of this title (relating to Reviews and Administrative Hearings).

§50.6904. Allowable Cost Information.

(a) Factors affecting allowable costs. To be allowable under this program, costs must be:

(1) necessary and reasonable for the proper and efficient administration of the program to deliver services for which the department has contracted;

(2) authorized or not prohibited under state or local laws or regulations;

(3) consistent with any limitations or exclusions described in this section, federal or state laws or other governing limitations as to types or amounts of cost items;

(4) consistent with policies, regulations, and procedures that apply uniformly to both the Day Activity and Health Services Program and other activities of the organization of which the provider agency is a part;

(5) treated consistently using generally accepted accounting principles appropriate to the circumstances;

(6) not allocable to or included as a cost of any other program in either the current or a prior period; and

(7) the net of all applicable credits.

(b) Definition of reasonableness. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. In determining the reasonableness of a given cost, the department considers the following:

(1) whether the cost is of a type generally recognized as ordinary and necessary for the operation of the business or the performance under the contract;

(2) the restraints or requirements imposed by generally accepted sound business practices, arm's length bargaining, federal and state laws and regulations, and contract terms and specifications; and

(3) the action that a prudent person would take in the circumstances, considering his responsibilities to the public, the government, his employees, clients, share-holders, or members, and the fulfillment of the purpose for which the business was organized.

\$50.6905. List of Allowable Costs. The following list of allowable costs is not comprehensive, but rather serves as a general guide, and serves to clarify certain key expense areas. The absence of a particular cost does not necessarily mean that it is not an allowable cost.

(1) Compensation of DAHS employees. Only those employees who provide services directly to day activity and health services participants, such as the director, social service activities coordinator, registered nurse, vocational nurse, attendant, driver, and food service personnel receive compensation, which includes:

(A) wages and salaries. This can include deferred compensation, overtime pay, incentive pay and bonuses, or any other monies subject to withholding taxes and FICA deductions.

(B) payroll taxes and insurance. This includes Federal Insurance Contributions Act (FICA or social security), unemployment compensation insurance, or workmen's compensation insurance.

(C) employee benefits. This includes Employer paid health and life insurance premiums, employer contributions to employee retirement accounts, uniform/clothing allowances, or automobile provided for personal use.

(2) Transportation. Expenses must be directly related to the provision of transportation services for DAHS recipients. These expenses include the rental, lease, or contract costs of transportation equipment, depreciation, and operating/maintenance costs. Mileage is allowable if there is adequate documentation of the mileage and if the expense was related to delivery of services for which the department has contracted.

(3) Food and food services. Cost of meals and snacks must be for participants in the DAHS program only. This includes food and nonalcoholic beverages, food service supplies, and cooking utensils expenses.

(4) Medical equipment and supplies. These are allowable costs if they are related to the services for which the department has contracted. This may include, but is not limited to, supplies and equipment considered necessary to perform client assessments, medication administration, and nursing treatment.

(5) Building, equipment and capital expenses.

(A) Depreciation and amortization expense. Property owned by the provider and improvements to owned, leased, or rented property valued at more than \$500 at the time of purchase must be depreciated or amortized, using the straight-line method.

(i) Buildings. Allowable depreciation is calculated by deducting the estimated salvage value from the historical cost and dividing the result by the asset's remaining years of useful life.

(ii) Building equipment. Allowable items for depreciation include air conditioning units, trade fixtures, furnaces, chairs, tables, beds, building, and grounds improvements.

(B) Rental and lease expense. Rental and lease expense paid to a

related party is limited to the lower one of these two costs: the actual cost to the related party or the actual cost if rented or purchased elsewhere. This includes buildings, building equipment, and furniture.

(C) Interest expense.

(i) Interest expense is allowable on loans for the acquisition of allowable items, subject to all of the requirements for allowable costs and the following:

(I) the loan must be evidenced in writing; and

(II) the loan must be made in the name of the provider entity as maker or comaker of the note.

(ii) Interest expense on related-party loans is limited to the lesser of:

(I) the cost to the provider entity, which is the cost to the related party; or

(II) the prevailing national average prime interest rate during the year in which the loan contract was finalized, as reported by the United States Department of Commerce, Bureau of Economic Analysis, in the Survey of Current Business and the Business Conditions Digest.

(D) Tax expense. This includes ad valorem, real and personal property taxes, motor vehicle registration fees, sales taxes, Texas corporate franchise taxes, and organization filing fees.

(E) Insurance expense. This includes facility fire and casualty, professional liability and malpractice, and transportation equipment liability insurance.

(6) Utilities expense. This includes electricity and natural gas, water, waste water, garbage collection, and telephone.

(7) Materials and supplies. These include office, activities, and educational supplies.

(8) Training expenses. These are limited to direct costs for travel, lodging, food, and registration fees for personnel who provide services directly to DAHS recipients. Training must be related directly to the care of recipients in a DAHS facility.

(9) Contract services provided by outside vendors. This includes laundry and linen service, janitorial service, plant operation and maintenance expenses, and professional services such as those of accountants and attorneys.

\$50.6906. Unallowable costs. Unallowable costs are expenses incurred by a provider agency which are not directly or indirectly related to the provision of contracted services according to applicable laws, rules, and standards. A provider agency may expend funds on unallowable cost items, but those costs must not be included in the cost report and are not used in calculating a rate recommendation. The following list is a general guide to the various unallowable costs frequently encountered in cost reports submitted by provider agencies and is not intended to be inclusive of all possible unallowable costs:

- (1) advertising expenses other than those for employee recruitment, yellow page listings no larger than one column width and one inch length, and advertising to meet statutory or regulatory requirements;
- (2) allowances for bad debts or other similar accounts;
- (3) business expenses not related to the provision of services for which the department has contracted;
- (4) contributions to political activities or contributions to charity;
- (5) corporate headquarters expenses that are not directly involved in providing services or supplies used by the day activity and health services agency staff in normal operations related to day activity and health services;
- (6) depreciation expenses other than those based on straight-line depreciation;
- (7) discounts for administrative reasons; courtesy, cash, trade, and quantity discounts; rebates; or other discounts granted;
- (8) dues and membership fees to organizations whose primary emphasis is not related to the services for which the department has contracted;
- (9) entertainment expenses, except for entertainment which is reported as an employee benefit;
- (10) expenses incurred for services not related to the provision of services for which the department has contracted;
- (11) expenses which are not the legal obligation of the provider agency;
- (12) expenses of donated items, including depreciation and amortization of the value of the donations;
- (13) fees and travel expenses for corporation or association board of directors; partnership or corporation filing fees;
- (14) fines and other penalties for violation of statutes or ordinances; penalties for late payment of taxes, utilities, mortgages, loans, and other similar penalties;
- (15) franchise fees;
- (16) fund-raising and promotion expenses; public relations expenses;
- (17) expenses for life insurance premiums where the beneficiary is the provider organization unless life insurance is a requirement of a loan agreement and the loan is related to client care;
- (18) interest expenses on loans for assets not related to the delivery of services for which the department has contracted; interest expense must be reduced or offset by interest income except interest income from funded depreciation accounts or qualified pension funds;
- (19) personal compensation not related to the delivery of services for which the department has contracted;
- (20) personal expenses not related to the delivery of services for which the department has contracted;
- (21) physician's fees for completion of physician orders;
- (22) expenses for the purchase of services, facilities, or supplies from related organizations or parties if the expenses exceed the lower of the cost to the related party or organization or the price of comparable services, facilities, or supplies purchased in an arm's length transaction;
- (23) rental or lease expense on any item not related to the delivery of services for which the department has contracted;
- (24) tax expense for federal, state, or local income tax; any tax levied on assets not related to the delivery of services for which the department has contracted;
- (25) values assigned to the services of unpaid workers or volunteers;
- (26) building depreciation expenses based on less than a 30-year life;
- (27) contributions to self-insurance funds that do not represent payment on current liabilities;
- (28) expenses that cannot be adequately documented;
- (29) forms of compensation that are not clearly enumerated to dollar amount or that represent profit distributions;
- (30) insurance premiums pertaining to items of unallowable cost; and
- (31) transportation expenses for vehicles which are not generally suited to functions related to the provision of services for which the department has contracted. Mileage expense may be included at a cost per mile not to exceed the current reimbursement rate set by the legislature for state employee travel.

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 November 20, 1990.

TRD-9012465

Cathy Rossberg
Agency liaison, Policy and
Document Support
Department
Texas Department of
Human Services

Proposed date of adoption: February 1, 1991

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

Part V. Veterans Land Board

Chapter 175. General Rules

• 40 TAC §175.7

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

The Veterans Land Board proposes an amendment to §175.7, concerning title examination. The proposed amendment provides that the chairman of the Veterans Land Board, chief clerk, executive secretary, and assistant executive secretary may, on a case-by-case basis, review and approve seller requests for use of special warranty deeds. The amendment will also provide for group disability insurance coverage.

Mr. David Gloier, deputy commissioner for the Veterans Land Board, 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. Gloier also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section as proposed will be that eligible veterans will be able to utilize the Veterans Land Program to purchase foreclosed property from the Resolution Trust Corporation, Federal Deposit Insurance Corporation, and other financial institutions which cannot issue general warranty deeds. 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 Phillips, General Counsel, Legal Services, Room 630, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The amendment is adopted under the Natural Resources Code, §161.061 and §161.063, which provides the Veterans Land Board with the authority to adopt rules that it considers necessary or advisable to ensure the proper administration of the Veterans Land Program.

§175.7. Title Examination.

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

(e) The staff of the board will prepare a deed sufficient to convey title to the land from the seller to the board. If the seller wishes to have a deed prepared and furnishes it to the board, this deed must:

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

(5) contain a general warranty; special warranty deeds are not acceptable, except where specifically authorized by the chairman of the board, chief clerk, executive secretary, or assistant executive secretary.

(f)-(i) (No change.)

(j) The board has obtained a group credit life insurance policy and a group disability policy for the benefit of both veterans and non-veterans who are purchasing land through the program. If the contract holder obtains the group credit life insurance and dies while it is in force, the principal balance [(exclusive of any delinquencies)] of the veteran's account as of the date of death will be paid in full in accordance with the terms of the policy of insurance. If the contract holder obtains the group disability insurance and becomes disabled, the account holders regularly scheduled payments will be made in accordance with the terms of the policy of insurance. The policy or policies will be terminated when the contract holder dies or pays the account in full.

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 November 19, 1990.

TRD-9012522 Garry Mauro
Chairman
Veterans Land Board

Earliest proposed date of adoption: December 31, 1990

For further information, please call: (512) 463-5235

Part X. Texas Employment Commission

Chapter 301. Unemployment Insurance

• 40 TAC §301.7

The Texas Employment Commission (TEC) proposes an amendment to §301.7, concerning the filing by employers of quarterly wage reports on magnetic media. The amended rule will require larger employers to file quarterly wage reports on magnetic media.

James W. Jackson, unemployment insurance director, has determined that there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an estimated reduction in cost in excess of \$50,000 for fiscal years 1991-1995. There will be no effect on local government. Small businesses will not be affected as the proposal only applies to employers of more than 250 employees who are not already filing the Wages List part of their Employer's

Quarterly Report by Magnetic Tape. Employers having more than 250 employees have been required for years to file certain IRS forms on an annual basis by magnetic media. The conversion to reporting employee wage data to TEC on a quarterly basis should be negligible.

Mr. Jackson also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be annual savings to TEC in excess of \$50,000 to be achieved by reduced keypunch and/or scanning of wage data. In addition, a more reliable TEC wage record file will result in fewer employer contacts by TEC to resolve wage discrepancies. Also, benefits paid to qualified claimants would be calculated based upon more accurate data. Actual costs/savings will be monitored and calculated after employers commence reporting. The anticipated economic cost to persons who are required to comply with the section as proposed will be only minimal start-up costs for fiscal year 1991. Thereafter employers would realize savings through fewer time consuming audits by TEC to resolve wage discrepancies.

Comments on the proposal may be submitted to Carolyn Calhoon, Office of Special Counsel, TEC Building, 101 East 15th, Room 660, Austin, Texas 78778, (512) 463-2291.

The amendment is proposed under Texas Civil Statutes, Article 5221b, which provide the Texas Employment Commission with the authority to adopt, amend, or rescind such rules as it deems necessary for the effective administration of this Act.

§301.7. Reports Required and Their Due Dates.

(a) (No change.)

(b) Each taxed employer shall submit to the commission, within the month during which contributions for any period become due, and not later than the date on which contributions are required to be paid to the commission, an employer's quarterly report showing the total amount of remuneration paid during the preceding calendar quarter for employment (or showing that no remuneration was paid during such quarter), showing the total amount of wages (as defined in the Texas Unemployment Compensation Act (the Act), subsection 19(n) paid during such quarter for employment, and showing the amount of wages for "benefit wage credits" (as defined in the Act, subsection 3(e) paid to each individual during such quarter for employment and the social security account number and name of each individual to whom such wages were paid, and showing other information called for on the employer's quarterly report form printed by the commission. The employer's quarterly report shall be made on commission forms and shall contain all facts and information necessary to a determination of the amount of contributions due. The filing of a part of the report on magnetic media will be required to the extent provided as follows.

(c)-(d) (No change.)

(e) All forms for the filing of reports provided for in this section shall be furnished by the commission to each employing unit, upon application being made therefor, and all reports shall be filed upon the forms so furnished or on forms approved by the commission in writing. Failure to receive forms for making such reports will not, however, relieve the employing unit of the responsibility of making the reports upon the date on which they are due. Employers who have to report 250 or more employees in any calendar quarter must file their quarterly wages as defined in the Act, subsection 3(e) on magnetic media using a format prescribed by this agency. A magnetic media wage report may contain information from more than one employer. Employers with less than 250 employees may elect to use magnetic reporting.

(f)-(j) (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 November 20, 1990.

TRD-9012474 Carolyn Calhoon
Administrative Technician
IV
Texas Employment
Commission

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For further information, please call: (512) 463-2291

Part XVI. Interagency Council on Sex Offender Treatment

Chapter 510. Sex Offender Treatment Provider Registry

• 40 TAC §§510.1-510.9

The Interagency Council on Sex Offender Treatment proposes new §§510.1-510.9, concerning the sex offender treatment provider registry. This chapter clearly defines terms, standards that must be met to be listed as a Sex Offender Treatment Provider, fees for maintaining registered status, the council's revocation policy, and an appeals process.

Bill W. Bownds, executive director, has determined that will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect is that revenue will be increased by amounts earned from treatment providers (\$100 or \$25 registration fees). There will be no effect on local government for the first five-year period the section is in effect. The cost of compliance with the section for small businesses will be the affected counseling offices will pay the \$100 or \$25 fee for registration on the Sex Offender Treatment Pro-

vider Registry or listing in the Appendix. The cost of compliance will remain the same for both small and large businesses.

Mr. Bownds also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be an easier access to sex offender treatment providers. The anticipated economic cost to persons who are required to comply with the section as proposed will be the payment of the fee of \$100 or \$25 for those who desire to be listed on the Sex Offender Treatment Provider Registry or Appendix.

Comments on the proposal may be submitted to Bill W. Bownds, Executive Director, Interagency Council on Sex Offender Treatment, 4900 North Lamar Boulevard, Second Floor, #2552, Austin, Texas 78751, (512) 483-5146.

The new section is proposed under Texas Civil Statutes, Article 4413(51), §13 and §15, which provides the Interagency Council on Sex Offenders Treatment with the authority to establish and maintain a registry, develop procedures and eligibility requirements, and set a reasonable fee for registration.

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

Council—The Interagency Council on Sex Offender Treatment.

Rehabilitation service—A Mental health treatment or medical intervention program designed to treat or remedy a sex offender's mental or medical problem that may relate or contribute to the sex offender's criminal or paraphiliac problem.

Sex offender—A person who:

(A) admits to committing or has been convicted of an offense under any of the following sections of the Texas Penal Code:

(i) §20.04(a)(4) (aggravated kidnapping);

(ii) §21.07 (public lewdness);

(iii) §21.08 (indecent exposure);

(iv) §21.11 (indecent with a child);

(v) §21.011 (sexual assault);

(vi) §22.021 (aggravated sexual assault);

(vii) §25.02 (incest);

(viii) §25.06 (solicitation of a child);

(ix) §43.25 (sexual performance by a child); or

(B) experiences or evidences a paraphiliac disorder as defined by the

Revised Diagnostic and Statistical Manual III.

Treatment provider—A person, licensed to practice in this state, who provides mental health or medical services for rehabilitation of sex offenders, including a physician, psychiatrist, psychologist, licensed professional counselor, or certified social worker.

§510.2. Registry Criteria. In order to be listed in the Registry as Registered Sex Offender Treatment Provider, the following criteria must be met:

(1) applicants must be a treatment provider as defined in §510.1(d) of this title (relating to Definitions);

(2) applicant must meet the following criteria:

(A) minimum of one year clinical experience in the direct delivery of sex offender rehabilitation service;

(B) six hours of training in the specific area of sex offender rehabilitation service; and

(C) two hours of the required training may be self-study of materials in the specific area of sex offender rehabilitation service;

(3) applicant must submit a complete and accurate description of his treatment program on the form prescribed by the council;

(4) applicant must not have been convicted of a felony;

(5) applicant must submit a fee of \$100, which will be refunded if the application is denied. This fee is waived for full-time state government employees;

(6) the application must be sworn to before a Notary Public.

§510.3. Registry Renewal. In order to maintain status on the Registry, the Sex Offender Treatment Provider must:

(1) complete and provide the Council with proof of an annual minimum of six hours of training in the specific area of sex offender rehabilitation service;

(2) two hours of the required training may be self study of materials in the specific area of sex offender rehabilitation services;

(3) submit a renewal fee of \$100. This fee is waived for full-time state government employees.

§510.4. Appendix Criteria. Applicants who do not meet the criteria to be a Registered Sex Offender Treatment Provider may be listed in an appendix to the Registry. In

order to be listed in the Appendix the applicant must:

(1) meet one of the following criteria:

(A) be a treatment provider as defined in §510.1 of this title (relating to Definitions);

(B) have a minimum of one year clinical experience in the direct delivery of sex offender rehabilitation services; or

(C) have completed six hours of training as set forth in §510.2(B) and (C) of this title (relating to Registry Criteria);

(2) applicant must submit a complete and accurate description of his sex offender treatment program on the form prescribed by the council;

(3) applicant must not have been convicted of a felony;

(4) applicant must submit a fee of \$25, which will be refunded if the application is denied. This fee is waived for full-time state government employees;

(5) application must be sworn to before a Notary Public.

§510.5. Appendix Renewal. In order to maintain status on the Registry Appendix, the provider must submit an annual renewal fee of \$25. This fee is waived for full-time state government employees.

§510.6. Application Availability. Applications for the Sex Offender Treatment Provider Registry will be available by phone call or written request to the Interagency Council on Sex Offender Treatment.

§510.7. Documentation. In determining the acceptability for the treatment provider's experience and/or training, the Interagency Council on Sex Offender Treatment may require documentation of experience or training regarding the quality, scope, or nature.

§510.8. Revocation. The council shall have the right to revoke registration or a listing in the Appendix or refuse to renew a Registry or Appendix listing upon proof that the treatment provider:

(1) has been convicted of a felony;

(2) has had licensure/certification revocation, cancellation, or suspension from any professional licensing body;

(3) has been guilty of unprofessional or unethical conduct;

(4) has been guilty of deceit or fraud in connection with the delivery of

services or documentation of Registry or Appendix requirements.

§510.9. Appeals Process. Upon denial of application or revocation of registry listing, the treatment provider has the right to an appeal. The method of appeal shall be:

(1) applicant shall submit to the council in writing his complete appeal, including proof that he meets all of the requirements of §510.2 and §510.3 of this title (relating to Registry Criteria; Registry Renewal), or §510.4 and §510.5 of this title (relating to Appendix Criteria; Registry Renewal), and that he is not included under

any subsection of §510.8 of this title (relating to Revocation);

(2) the council shall reply in writing to applicant their decision within 90 days;

(3) applicant may request in writing a hearing before a three-member board appointed for that purpose by the chair of the council, submitting documentation of the matter is dispute;

(4) if a legitimate dispute exists, applicant shall receive such a hearing within 30 days of the receipt of his request;

(5) the decision of the appointed three member board shall be final.

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 November 26, 1990.

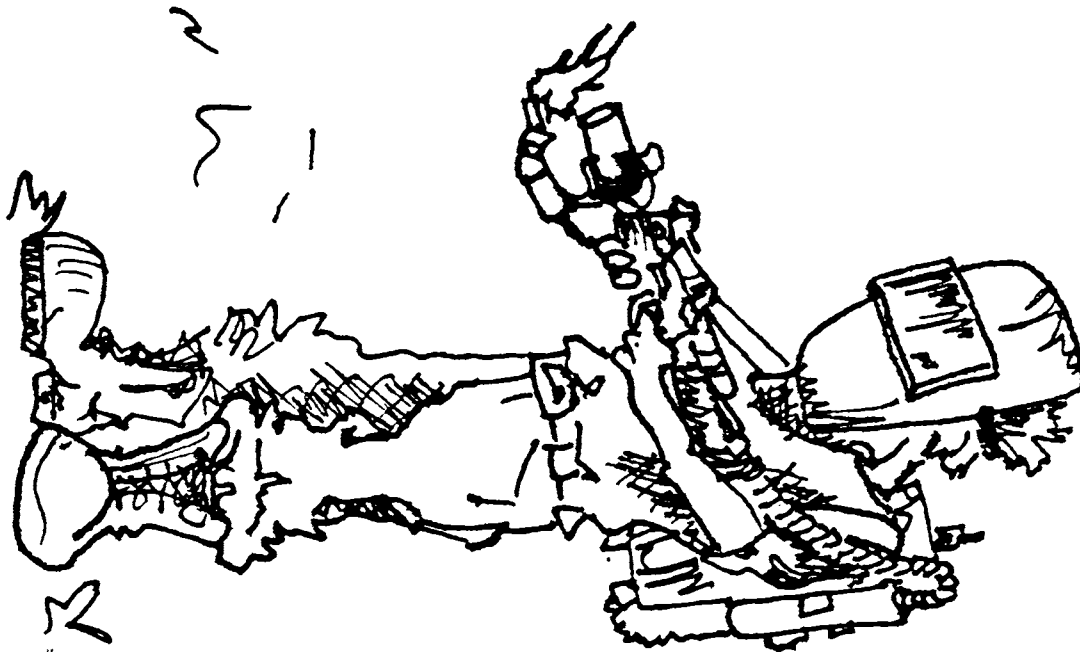
TRD-9012589

Bill W. Bownds
Executive Director
Interagency Council on
Sex Offenders
Treatment

Earliest proposed date of adoption: December 31, 1990

For further information, please call: (512)463-0360

◆ ◆ ◆



Hand-drawn sketch of a vehicle's side profile, showing a large rectangular window, a steering wheel, and a front grille. The drawing is simple and appears to be a preliminary sketch.

Name: Albert Hernandez

Grade: 11

School: Richardson High School, Richardson ISD

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 37. PUBLIC SAFETY AND CORREC- TIONS

Part III. Texas Youth Commission

Chapter 118. Priority Care

• 37 TAC §118.1

The Texas Youth Commission has withdrawn from consideration for permanent adoption a proposed new §118.1 which appeared in the October 26, 1990, issue of the *Texas Register* (15 TexReg 6182). The effective date of this withdrawal is November 28, 1990.

Issued in Austin, Texas, on November 20, 1990.

TRD-9012429 Gail Graham
Policy and Manuals
Coordinator
Texas Youth Commission

Effective date: November 28, 1990

For further information, please call: (512)
483-5244

◆ ◆ ◆



Name: Leo Zhao

Grade: 10

School: Richardson High School, Richardson ISD

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 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 5. Program Development

Subchapter J. Instructional Telecommunications

• 19 TAC §§5.191-5.197

The Texas Higher Education Coordinating Board adopts the repeal of §§5.191-5.197, without changes to the proposed text as published in the June 8, 1990, issue of the *Texas Register* (15 TexReg 3295).

The rules have been repealed and rewritten to permit greater flexibility in self-study and statewide review requirements. The rules will encourage institutions' use of telecommunications technologies and enhance their ability to deliver higher education to the citizens of Texas.

The rules will allow that institutions can effectively address present and future needs regarding instructional telecommunications. The rules will help to identify the broader range of instructional delivery technologies now available, clarify the types of instruction covered by the rules, and simplify instructions and requirements for submitting institutional plans to initiate instruction via telecommunications technology.

Responses were received but no comments made for the following institutions: Brazosport College, East Texas State University, Kilgore College, Prairie View A&M University, San Jacinto College District, and UT-Austin.

The following institutions responded and made comments and these comments were reviewed by the Advisory Committee: Austin Community College, College of the Mainland, Houston Community College System, Texas A&M University, Texas A&M University System, Texas Tech University, Tyler Junior College, University of Houston, University of North Texas, University of Texas System, Alvin Community College, American Educational Complex, Collin County Community College District, Dallas County Community College District, Del Mar College, El Paso Community College, Galveston College, Grayson County College, Lee College, Midwestern State University, Navarro College, North Harris County College District, Odessa College, Paris Junior College, San Jacinto College, Tarrant County Junior College, Tyler Junior College, and Wharton County Junior College. The majority of the responses reflected disagreement between the institutions

and the Coordinating Board staff on the perceived one-third limitation (§5.193(c)).

The institutions consider the rules to be prohibitive while the staff believes it not to be a limit but a requirement for a justification and a means by which to monitor the delivery of instruction by telecommunications technology in Texas.

The repeals are adopted under the Texas Education Code, §61.027, which provides the Coordinating Board with the authority to adopt rules regarding instructional telecommunication.

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 November 19, 1990.

TRD-9012438

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Effective date: December 11, 1990

Proposal publication date: June 8, 1990

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

• 19 TAC §§5.191-5.195

The Texas Higher Education Coordinating Board adopts new §§5.191-5.195. Sections 5.192-5.194 are adopted with changes to the proposed text as published in the June 8, 1990, issue of the *Texas Register* (15 TexReg 3295). Section 5.191 and §5.195 are adopted without changes and will not be republished.

The new sections will permit greater flexibility in self-study and statewide review requirements. The rules will encourage institutions' use of telecommunication technologies and enhance their ability to deliver higher education to the citizens of Texas.

The new sections will allow that institutions can effectively address present and future needs regarding instructional telecommunications. The new sections will help to identify the broader range of instructional delivery technologies now available, clarify the types of instruction covered by the rules and simplify instructions and requirements for submitting institutional plans to initiate instruction via telecommunications technology.

Responses were received but no comments made for the following institutions: Brazosport College, East Texas State University, Kilgore College, Prairie View A&M University, San Jacinto College District, and UT-Austin.

The following institutions responded and made comments and these comments were reviewed by the Advisory Committee: Austin Community College, College of the Mainland, Houston Community College System, Texas A&M University, Texas A&M University System, Texas Tech University, Tyler Junior College, University of Houston, University of North Texas, University of Texas System, Alvin Community College, American Educational Complex, Collin County Community College District, Dallas County Community College District, Del Mar College, El Paso Community College, Galveston College, Grayson County College, Lee College, Midwestern State University, Navarro College, North Harris County College District, Odessa College, Paris Junior College, San Jacinto College, Tarrant County Junior College, Tyler Junior College, and Wharton County Junior College. The majority of the responses reflected disagreement between the institutions and the Coordinating Board staff on the perceived one-third limitation (§5.193(c)).

The institutions consider the rules to be prohibitive while the staff believes it not to be a limit but a requirement for a justification and a means by which to monitor the delivery of instruction by telecommunications technology in Texas.

The new sections are adopted under the Texas Education Code, §61.027, which provides the Coordinating Board with the authority to adopt rules regarding Instructional Telecommunication.

§5.192. Exemptions.

(a) The following courses shall be exempt from the rules and regulations contained herein:

(1) organized classes offered via telecommunication technology by an institution on its campus;

(2) courses offered by a public community junior college to organized classes via telecommunication technology at any location within the boundaries of its taxing district except as provided in §5.154(e)-(h) of Subchapter H;

(3) courses offered at remote sites or facilities which constitute "on campus" locations or qualify for "on campus" treatment under Subchapter H, §5.151 (A) and (B);

(4) noncredit extension, correspondence, or other continuing education courses; and

(5) credit courses which are self-supporting, paid for entirely by the students, or do not involve state funding.

(b) Other exemptions to all or part of the rules and regulations contained herein may be made by the commissioner and the Coordinating Board on recommendation of the Advisory Committee on Telecommunications.

§5.193. Institutional Plan.

(a) Any institution seeking authority to offer instruction via telecommunication technology must submit an institutional plan for instructional telecommunications for review by the advisory committee on telecommunications and approval by the Coordinating Board. The plan must reflect institutional policies for offering courses via telecommunication technology and maintaining quality in accordance with these rules and regulations. In addition, the plan must include a description of institutional arrangements for operation of the instructional telecommunications program.

(b) The institutional plan must include identification of the courses to be offered by instructional telecommunications. Any additional courses selected for offering by instructional telecommunications after the institutional plan has been approved are subject to the Coordinating Board's established procedures for updating the list of courses taught via telecommunications technology.

(c) The institution shall stipulate the maximum proportion of the course requirements any student may take by instructional telecommunications for a degree or certificate program. If at any time an institution wishes to offer more than one-third of a degree program by instructional telecommunications, it may request approval by submitting an explanation of how the program will be offered, why it is needed, and similar supporting information.

(d) The Coordinating Board shall provide guidelines to assist institutions in preparation of institutional plans for instructional telecommunications.

(e) Upon review of the plan, the Coordinating Board staff may request additional information.

(f) Each institution offering courses subject to the provisions of this subchapter shall conduct a self-study upon request by the Coordinating Board. The self-study report shall be available to the Coordinating Board and its staff if requested. The Coordinating Board shall provide guidelines to assist institutions in preparation of their self-study reports.

(g) The Coordinating Board shall serve as a clearinghouse for instructional telecommunications to facilitate the exchange of information on materials used in courses offered via telecommunication technology.

(h) The commissioner may authorize a one-time experimental offering upon

receipt of a written request from an institution.

§5.194. Standards and Conditions.

(a) Each course subject to the provisions of this subchapter must be applicable to a campus-based degree or certificate program approved by the Coordinating Board for the institution.

(b) Courses subject to the provisions of this subchapter must be included in the institution's current course inventory as approved by the Coordinating Board.

(c) Reception sites (other than homes) for courses subject to the provisions of this subchapter must be approved in advance by the commissioner.

(d) Any proposal by an institution to offer courses subject to the provisions of this subchapter in a Texas community or in a community college district in which another institution of higher education is located, is subject to the procedural requirements described in Subchapter H, §§5.152(f) and (g), 5.153, and 5.154(e)-(h).

(e) Funding formulas for community junior colleges and for senior colleges and universities shall be used for funding of courses subject to the provisions of this subchapter.

(f) Institutions offering courses subject to the provisions of this subchapter shall submit to the Coordinating Board annual financial reports on direct operating expenditures for the delivery of the courses. These reports shall be used to evaluate current funding procedures and levels.

(g) Courses subject to the provisions of this subchapter must include print materials and live interaction sessions with the instructor of record. At a minimum, this interaction must include:

(1) an orientation session or sessions at the beginning of the course;

(2) periodic scheduled sessions between the student and the instructor of record, either on an individual basis or in a group setting; and

(3) provision for access by the student for advice or consultation with the instructor of records, by telephone or other means.

(h) Graduate courses subject to the provisions of this subchapter must meet the standards and criteria described in Subchapter H, §5.152(d). Junior and Senior undergraduate courses subject to the provisions of this subchapter must meet the standards and criteria described in Subchapter H, §5.154(a).

(i) Course materials used in courses

subject to the provisions of this subchapter.

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 November 19, 1990.

TRD-9012437

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Effective date: December 11, 1990

Proposal publication date: June 8, 1990

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

Chapter 21. Student Services

Subchapter L. Paul Douglas Teacher Scholarship Program

• 19 TAC §§21.306, 21.307, 21.308, 21.310

The Texas Higher Education Coordinating Board adopts amendments to §§21.306, 21.307, 21.308, and 21.310, without changes to the proposed text as published in the June 8, 1990, issue of the *Texas Register* (15 TexReg 3300).

The amendments will allow more student participation in the Paul Douglas Teacher Scholarship Program.

The rules are the result of a change in federal guidelines. The change will permit recipients of Paul Douglas Teacher Scholarship Program to attend any institution of higher education.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §61.027 and §52.54, which provides the Coordinating Board with the authority to adopt rules regarding the Paul Douglas Teacher Scholarship Program.

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

Issued in Austin, Texas, on November 19, 1990.

TRD-9012439

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Effective date: December 11, 1990

Proposal publication date: June 8, 1990

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

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter E. Texas Catastrophe Property Insurance Association

Plan of Operation

• 28 TAC §5.4001

The State Board of Insurance adopts an amendment to §5.4001, without changes to the proposed text as published in the August 17, 1990, issue of the *Texas Register* (15 TexReg 4679).

Section 5.4001 concerns the plan of operation of the Texas Catastrophe Property Insurance Association (TCPIA). The amendment, which has been approved by the board of directors of the TCPIA, is necessary to enhance the rate of return on investments with appropriate safety for TCPIA and to provide a mechanism for assessment by TCPIA in the event of insolvencies of member companies.

The amendment to subsection (c)(1)(B) authorizes TCPIA to invest in certain money market funds as specified in the subsection. The amendment to subsection (c)(2)(D)(i) provides that the board of directors of TCPIA may offset assessments due from a delinquent member against any amounts in any account of such delinquent member. The amendment which adds subparagraph (E) to subsection (c)(2) provides for a reallocation among member companies of the aggregate net amount not able to be recovered from an insolvent member company for operating expenses and losses in the year such insurer is declared impaired. The amendment to subsection (c)(4) provides that, second in the sequence of required expenditure of funds collected by TCPIA, will be the reimbursement of members for amounts reallocated from insolvent insurers' inability to pay, to the extent such amounts are not recoverable as tax credits under the Insurance Code, Article 21.49.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 21.49, 5(d), which provides the State Board of Insurance with the authority to approve or disapprove any amendments to the plan of operation of the Texas Catastrophe Property Insurance Association.

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 November 20, 1990.

TRD-9012458
Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: December 11, 1990

Proposal publication date: August 17, 1990

For further information, please call: (512) 463-6327

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Parks and Wildlife Department

Chapter 57. Fisheries

Fish Farmers

• 31 TAC §§57.361-57.367

The Texas Parks and Wildlife Department adopts the repeal of §§57.361-57.367, without changes to the proposed text as published in the September 14, 1990, issue of the *Texas Register* (15 TexReg 5349).

The legislature transferred the regulatory authority concerning packaging, raising, identification, sale, transportation, and possession of redbelly (Sciaenops ocellata) and speckled seatrout (Cynoscion nebulosus) by the farmer to the Texas Department of Agriculture (Senate Bill 1507, Acts of the 71st Legislature).

The legislation provides that the existing rules of the department cease to be in effect when new rules by the Texas Department of Agriculture become effective, which occurred on January 26, 1990.

No comments were received regarding adoption of the proposed repeals.

The repeals are adopted under Senate Bill 1507, Act of the 71st Legislature, 1989, which provides that the existing rules are no longer in effect.

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 November 19, 1990.

TRD-9012399
Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: December 10, 1990

Proposal publication date: September 14, 1990

For further information, please call: 1-800-792-1112, ext. 4649 or (512) 389-4649

Chapter 59. Parks

Operation and Leasing of Park Concessions

• 31 TAC §59.105

The Texas Parks and Wildlife Department adopts an amendment to §59.105, without changes to the proposed text as published in the September 28, 1990, issue of the *Texas Register* (15 TexReg 5664).

The amendment to §59.105 is necessary due to increased growth of the commission agenda and will allow timely administration of park concession contracts.

The executive director will approve all concession contracts and their renewal, termination, amendment, transfer, or assignment.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Parks and Wildlife Code, §13.105, which provides the Texas Parks and Wildlife Department with the authority to regulate the granting of park concessions.

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 November 20, 1990.

TRD-9012457
Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: December 11, 1990

Proposal publication date: September 28, 1990

For further information, please call: 1-800-792-1112, ext. 4805 or (512) 389-4805

Part IX. Texas Water Commission

Chapter 293. Water Districts

The Texas Water Commission (TWC) adopts the repeal of §293.87, and new §§293.141-293.152, and the renumbering of §293.88 to §293.87. Sections 293.142, 293.144, 293.149, 293.151, and 293.152 are adopted with changes to the proposed text as published in the August 21, 1990, issue of the *Texas Register* (15 TexReg 4753) with corrections published in the October 12, 1990, issue of the *Texas Register* (15 TexReg 6043). These sections will not be republished. Sections 293.141, 293.143, 293.145-293.148, and 293.150 are adopted without changes and will not be republished.

In response to the publication of the proposed sections, the TWC received written comments from two organizations: the Texas Association of Builders and the law firm of Young, Bacon and Brooks. Based on the comments received, the TWC adopts new §§293.142, 293.149, and 293.151 with changes to the proposed text as set out below. In addition, the TWC adopts new §293.144 and §293.152 with corrections and clarifying changes to the proposed text as set out below. The following is a discussion of the comments received and the TWC's response.

The Texas Association of Builders commented that one of the considerations made when determining the amount of the fee should be whether an impact fee is being charged to finance the same facilities. The TWC agrees and has added language to §293.142(b)(7) to make it clear that the TWC will consider impact fee revenue when calculating standby fee. Additionally, the TWC has added language to §293.142(c)(1) to clarify what is meant by the phrase "combined debt service tax rate".

The Law firm of Young, Bacon and Brooks

commented that §293.142(c)(1) does not allow for any exception in the case of those districts whose bonds were issued at a time when the typical bond order required maintenance of a debt service fund balance larger than the 25% coverage contemplated by the proposed rule. The TWC was unable to identify any district which would be detrimentally impacted by the proposed rule; moreover, the TWC would note that the proposed rule does not limit the amount of debt service coverage that a district can maintain but rather only impacts the calculation of an appropriate standby fee. Accordingly, the TWC has not modified the proposed rule based on this comment.

Young, Bacon and Brooks further comments that §293.143(d)(1)(B) is unclear as to whether the district is required to levy the maximum maintenance tax authorized by the district's voters. The TWC does not believe that this section is unclear and adopts this section without change to the proposed language.

Young, Bacon and Brooks further comments that the 60-day time period provided in §293.149 for a district to prepare and submit an application is unreasonably short. The TWC agrees and has changed the 60-day time period in this section to a 90-day time period. In addition, the TWC has corrected the phrase "approves or disapproves" to read "approves or disapproves."

Young, Bacon and Brooks also comments that §293.151 is unclear as to which guidelines of the proposed rules are subject to a request for a variance. The TWC agrees and has added language to §293.151 to clarify this section.

Finally, the TWC has clarified and corrected certain language in §293.144 and §293.152 and the form of notice of a public hearing on adoption of standby fees. Specifically, in §293.144 the word "operating" has been replaced with the word "operation" throughout the section. In §293.152 an "of" has been added to the first sentence of the section where it had been inadvertently omitted. In the form of notice "Chapter 50, Subchapter A" has been changed to "Section 50.056", a "31" has been added before "Texas Administrative Code", the word "operating" has been changed to "operation", the phrase "is requested to file" has been changed to "should file" and the word "persons" has been corrected to "person's".

Other Actions Requiring Commission Consideration for Approval

• 31 TAC §293.87

The repeal is adopted under House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 13, and the Texas Water Code, §§5.103, 5.105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities' rates, fees, operations, and services.

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 November 20, 1990.

TRD-9012573

Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: December 17, 1990

Proposal publication date: August 21, 1990

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

Application for Approval of Standby Fees

• 31 TAC §§293.141-293.152

The new sections are adopted under the Texas Water Code, ^{TWC} §§5.103, 5.105, and 5.235, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policies of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.142. Application Requirements for Imposition of Standby Fees To Be Used to Supplement the Debt Service Account.

(a) Only those districts which meet the following criteria may seek approval from the commission to use standby fee revenues to supplement the debt service account:

(1) the district's combined debt service tax rate as defined under §293.59(f) of this title (relating to Economic Feasibility of Projects) and calculated as described in (c)(1) of this section, excepting standby fees and developer contribution, over the period over which standby fees are to be levied exceeds those limits defined under §293.59(k)(3) of this title (relating to Economic Feasibility of Projects), for the county in which the district is situated. Any increases in assessed valuation used in calculating the combined projected debt service tax rate shall be based on historical growth rates experienced in the district; and

(2) the district's actual buildout is less than the buildout projected under the most recent bond issue.

(b) In determining whether a district which meets the requirements of subsection (a) of this section is to be allowed to impose standby fees and the amount of the standby fees authorized to be imposed, the following factors may be considered:

(1) the tax rate projected in the district's most recent bond application;

(2) actual buildout compared to projected buildout;

(3) actual tax bill for various types of land uses compared to projected tax bills for such land uses, which have resulted from increases or decreases in appraised values or the granting or denial of exemptions or special valuations;

(4) historical tax rates of the district;

(5) whether the developer(s) or other landowner(s) have made or have agreed to make contributions;

(6) whether the developer(s) or other landowner(s) have materially reduced the value of their unimproved property from that projected in the district's bond application or other representations to the district;

(7) the availability of other funds such as impact fee revenue for debt service purposes or the availability of advance refunding to reduce debt service;

(8) a comparison of actual buildout to projected buildout as between various developers or landowners within the district; and

(9) evidence of an active building program not otherwise demonstrated by historical growth rates.

(c) Standby fee amounts shall be determined so that:

(1) the resultant combined projected debt service tax rate as defined under §293.59(f) of this title (relating to Economic Feasibility of Projects) is not less than those limits defined under §293.59(k)(3) of this title (relating to Economic Feasibility of Projects) when calculated based on:

(A) the current debt service fund balance, less 25% of the average annual debt service payment, being drawn down equally over the life of the outstanding bonds;

(B) interest earnings on the ending debt service fund balance being applied toward the next year's debt service payments for the first two years of a standby fee levy;

(C) the cumulative ending debt service fund balance not increasing to an amount greater than 25% of the next year's debt service payment; and

(D) not less than 90% collection of ad valorem taxes and standby fee(s) unless the district's historical collection rate(s) justify different percentage(s);

(2) the total taxes and standby fee assessment for debt service for water and wastewater facilities against undeveloped property does not exceed the amount of district taxes levied for water and wastewater facilities against a comparable lot or tract with completed improvements. In the absence of a comparable lot or tract with completed improvements, the projected value of the lot or tract with completed improvements as contained in the district's bond application(s) shall be used; and

(3) in the case of nonuniform standby fees, the relative standby fee assessments are consistent with the level of service available. A suggested form for calculating nonuniform fees may be obtained from the commission on request.

(d) Applications shall include the following items:

(1) a filing fee of \$100;

(2) a certified copy of a board resolution which shall contain a request for commission approval of the fee and shall state the designated fund to which standby fee revenues will be applied, the amount of the fee, the intervals or periods of billing for such standby fee, either monthly, quarterly or annually, and the projected debt service tax rate the district expects to achieve through the levy of the standby fee;

(3) a copy of the proposed notice of hearing;

(4) a map of the district (not larger than 24 inches by 36 inches) which shall clearly designate the properties against which the proposed standby fee will be levied. If such information cannot be located in commission files, the commission staff may require that water and/or wastewater facilities serving those properties and financed by the district be identified. An accounting of district-financed water supply and wastewater treatment facilities and capacity available in those facilities may also be required;

(5) a copy of the most recent tax appraisal roll by the Central Appraisal District accompanied by a table prepared by the district which delineates the districts assessed valuation. The table should list each component of the district's assessed valuation attributable to raw acreage and acreage with and without vertical improvements. The component attributable to acreage with vertical improvements should be further divided into single family residential sections according to similar home value, multi-family sections, commercial sections, industrial sections, and any other type of vertical development existing within the district;

(6) a table which compares the cumulative buildout for the current fiscal year to the cumulative buildout for the same fiscal year projected at the time of the bond issue. Indicate according to section, the number of lots, homes, commercial and industrial development, etc., and raw acreage within the district;

(7) a list by source of the following tax rates:

(A) the combined debt service tax rate projected at the time of the most recent bond issue;

(B) the actual combined debt service tax rate set for the current fiscal year; and

(C) the combined debt service tax rate projected over the period during which the standby fee will be levied. Any increases in assessed valuation for this calculation should be based on the district's historical growth rate;

(8) a debt service schedule for all bonds outstanding;

(9) a cash flow table based on the reduced combined projected debt service tax rate the district expects to achieve through the standby fee levy. Distinguish between debt service revenues obtained from taxes and other sources of debt service revenues. List as a separate column the additional revenues required to produce the reduced debt service tax rate. Any increases in assessed valuation shown on this table should be based on the historical buildout rate experienced in the district. If the district's assessed valuation has been declining, show the assessed valuation as fixed at the current value. The district shall use the latest certified assessed value or estimated assessed valuation provided by the central appraisal district;

(10) a comparison of the actual versus the approved cost summary from the district's most recent bond issue with separate costs shown for water, wastewater, and drainage projects;

(11) any other information as the executive director may require to assure that the fees are consistent with the criteria contained herein;

(12) in the event that a district provides the commission with a written consent of all landowners of undeveloped property in the district identified on the district's tax rolls and of all mortgagees of undeveloped property who have submitted a written request to be informed of any hearing pursuant to §293.145 of this title (relating to Public Hearing and Notice Requirements), to the proposed levy of standby fees, the district shall be exempted from the requirements of paragraphs (5) and (6) of this subsection except that the district shall provide a copy of the most recent tax appraisal roll by the central appraisal district.

§293.144. Application Requirements for Imposition of Standby Fees to Supplement the Debt Service Account and the Operation and Maintenance Account. Applications for standby fees to be used for both debt service costs and operation and maintenance costs should distinguish between that portion of the fee intended for debt service costs and that portion intended for operation and maintenance costs. Each application requirement listed under §293.142 of this title (relating to Application Requirements for Debt Service) and §293.143 of this title (relating to Application Requirements for Operation and Maintenance) should be ad-

ressed for that portion intended for debt service and that portion intended for operation and maintenance costs. Only one \$100 filing fee is required.

§293.149. Prior Standby Fees. Standby fees adopted by a district prior to August 28, 1989, are subject to review by the commission upon written request of a property owner. Upon receipt of such request the commission shall notify the district to submit an application in compliance with this chapter within 90 days. If such application is not submitted within such time period, the standby fees shall be terminated. If an application is submitted, the standby fees may be continued until the commission either approves or disapproves the standby fees contained in the application.

§293.151. Variance Provision. A district may request a variance to §293.142(a) and (c) of this title (relating to Application Requirements for Imposition of Standby Fees to be Used to Supplement the Debt Service Account) and §293.143(b), (c), and (d) of this title (relating to Application Requirements for Standby Fees to be Used to Supplement the Operation and Maintenance Fund) if it does not meet the guidelines contained in §293.142(a) of this title (relating to Application Requirements for Imposition of Standby Fees to be used to Supplement the Debt Service Account) or §293.143(b) of this title (relating to Application Requirements for Standby Fees to be Used to Supplement the Operation and Maintenance Fund); a majority of a district's board of directors finds by resolution that the district would be justified in requesting a variance if the fee was in place on August 28, 1989, and had been previously approved by the commission; and the elimination of the fee would cause a significant increase in the taxes or rates currently being assessed by the district. The district will be responsible for providing sufficient documentation to justify any request for a variance. The commission will only grant variances in exceptional cases and may deny any request for a variance.

§293.152. Form of Notice of a Public Hearing on Adoption of Standby Fees. The following form should be used to provide notice of the public hearing on the adoption of standby fees. Such notice should be published and mailed in accordance with §293.145 of this title (relating to Public Hearing and Notice Requirements).

Notice is hereby given that a Public Hearing will be held at _____ o'clock, on _____, before the Texas Water Commission (the "Commission"), in its office at the Stephen F. Austin State Office Building, 1700 N. Congress Avenue, Austin, Travis County, Texas, upon a Resolution Requesting Approval of Standby Fees for _____ District (the "District"). The resolution is filed and the hearing is held

under the authority of Section 50.056, Texas Water Code, 31 Texas Administrative Code Sections 293.141-293.152 and under the procedural rules of the Commission. The Resolution has been executed by the board of directors of the District.

The nature and purpose of standby fees is to distribute a fair portion of the cost burden for operation and maintenance of the District facilities and/or for financing capital costs of the District facilities to owners of property who have not constructed improvements but have water and/or wastewater facilities or capacity available. Any revenues collected from the standby fees shall be used to pay (operation and maintenance

expenses) (debt service on the bonds) (or both). The amount of the standby fee requested is \$_____ per_____.

The commission may approve the standby fee as requested or it may approve a lower standby fee but it will not approve a standby fee greater than that requested. The standby fee is a personal obligation of the person owning the undeveloped property on January 1 of the year for which the fee is assessed. A person is not relieved of the obligation on transfer of title to the property. On January 1 of each year, a lien attaches to undeveloped property to secure payment of any standby fee imposed and the interest, if any, on the fee. The lien has the

same priority as a lien for taxes of the District.

Any person wishing to appear at the hearing and protest the application for approval of the standby fees should file a written notice of such protest with the Chief Clerk of the Commission at least one week prior to the hearing date with copies furnished to the District, Executive Director, and Public Interest Counsel of the Commission. Such notice of protest should briefly state the person's interest in the standby fee and the reasons for the protest. Any person may appear at the hearing and present evidence and testify for or against the standby fee.

Issued:

TEXAS WATER COMMISSION

BY _____

Chief Clerk

(seal)

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 November 19, 1990.

TRD-9012574

Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: December 17, 1990

Proposal publication date: August 21, 1990

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 12. Child Nutrition Programs

Summer Food Service Program

• 40 TAC §12.102 §12.103

The Texas Department of Human Services (DHS) adopts amendments to §12.102 and §12.103, without changes to the proposed text as published in the October 16, 1990, issue of the *Texas Register* (15 TexReg 6061).

The purpose of the amendment to §12.102 is to delete those parts of 7 Code of Federal Regulations §225.2 that no longer apply to definitions of program terms. The purpose of the amendment to §12.103 is to extend eligibility and periods of participation. Private non-

profit organizations such as homeless feeding sites and year-round national youth sports programs are being added as eligible sponsors and will be able to participate in the Summer Food Service Program.

The amendments will function by enabling more children to be able to receive summer food service.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on November 20, 1990.

TRD-9012463

Cathy Rossberg
Agency liaison, Policy and

Effective date: December 15, 1990

Proposal publication date: October 16, 1990

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

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**Chapter 72. Memoranda of
Understanding with Other
State Agencies**

**Memorandum of Understanding
on Transition Planning for
Students Enrolled in Special
Education**

• **40 TAC §72.1001**

The Texas Department of Human Services (DHS) adopts new §72.1001, without changes to the proposed text as published in the October 16, 1990, issue of the *Texas Register* (15 TexReg 6502).

The purpose of the new section is to establish the respective responsibility of the Texas

Education Agency, the Texas Rehabilitation Commission, the Texas Commission for the Blind, the Texas Employment Commission, the Texas Department of Mental Health and Mental Retardation, and DHS for the provision of the services necessary to prepare students enrolled in special education for successful transition to life outside the public school system. The memorandum of understanding provides for the collaborative and individual responsibilities of the agencies for the development and annual review of an individual transition plan for each student enrolled in special education who is at least 16 years old.

The new section will function by coordinating the planned movement from the educational system of public school into the adult community with appropriate adult service support for students enrolled in special education.

Although no comments were received regarding the adoption of this new section, the department is changing the undesignated head from Memorandum of Understanding for the Office on Services to Persons with Disabilities to Memorandum of Understanding

on Transition Planning for Students Enrolled in Special Education.

The new section is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on November 20, 1990.

TRD-9012463

Cathy Rossberg
Agency liaison, Policy and
Document Support
Department
Texas Department of
Human Services

Effective date: December 15, 1990

Proposal publication date: October 16, 1990

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

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State Board 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 Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)

The State Board of Insurance in open meeting on November 14, 1990, adopted an amendment to the *Texas Basic Manual of Rules, Classifications and Rates for Workers' Compensation and Employers' Liability* pertaining to premium incentives for small employers as required in the Insurance Code, Article 5.55B, Premium Incentives for Small Employers.

The adopted rule provides that small employers that have been in existence for at least one year and carried Workers' Compensation insurance during that year, that are not experience rated for Workers' Compensation purposes and whose annual premium is less than \$5,000 receive a discount or surcharge as follows: a 10% discount if an employer has not experienced a compensable lost-time injury during the most recent one-year period for which statistics are available; a 15% discount if an employer has not experienced a compensable lost-time injury during the most recent one-year period for which statistics are available; a 1 0% surcharge if an employer has experienced

two or more compensable lost-time injuries during the most recent one-year period for which statistics are available. The discounts and surcharges are not cumulative but can be in addition to any lesser deviation in the rate at which the policy is written. A small employer may not receive a discount of more than 15% and may not be required to pay a surcharge of more than 10%. If a small employer's policy premium will clearly not exceed \$5,000, the discount or surcharge will normally be applied at policy inception. However, when circumstances indicate that the premium could exceed \$5,000, the discount or surcharge may be applied at audit.

The amended rule applies to all policies written on or after 12:01 a.m. January 1, 1991.

The board adopted the amended rule under the authority and jurisdiction of the Insurance Code, Articles 5.55-5.68-1, 5.77, 5.78, and 5.96.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirement of the Administrative Procedure and Texas Register 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 November 16, 1990.

TRD-9012393

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: January 1, 1991

For further information, please call: (512) 463-6327

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The State Board of Insurance has approved a filing by Chrysler Insurance Company proposing new rules, rates, and forms for the

following miscellaneous liability coverages to be used only with the Garage Coverage Form as approved under the Insurance Code, Chapter 5, Subchapter A and B, in accordance with the Insurance Code, Article 5.81: Fire Legal Liability Coverage-Garages, endorsement form GL2000; Broadened Coverage-Garages, endorsement form GL 2010; Personal Injury-endorsement form GL2020; Owners of Garage Premises, endorsement form GL2030; Broad Form Products Coverage, endorsement form GL2040; \$100 Deductible for Completed Operations, endorsement form GL 2050.

This filing is approved to become effective February 1, 1991, in accordance with the following rule of application.

The changes are applicable to all policies effective on or after February 1, 1991. No policy effective prior to February 1, 1991, shall be endorsed or cancelled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and using the cancellation procedures applying on the date of such request.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register 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 November 20, 1990.

TRD-9012542

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: February 1, 1991

For further information, please call: (512) 463-6327

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Name: Amanda Farrar
Grade: 10

School: Richardson High School, Richardson ISD

Open Meetings

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

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

Posting of open meeting notices. All notices are posted on the bulletin board 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*.

Texas Department of Agriculture

Friday, November 30, 1990, 11 a.m. The Texas Peanut Producers Board of the Texas Department of Agriculture will meet at the Howard Johnson Hotel, 7800 North IH-35, Austin. According to the complete agenda, the board discussed funding for National Peanut Foundation Board; funding for National Peanut Council Export Program; promotion review; and other business.

Contact: Mary Webb, P.O. Box 398, Gorman, Texas 76454, (817) 734-2853.

Filed: November 20, 1990, 2:06 p.m.

TRD-9012452

Tuesday, December 4, 1990, 1 p.m. The Produce Recovery Fund Board of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Ninth Floor Conference Room, Austin. According to the complete agenda, the board will discuss and act on board procedures.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 21, 1990, 11:54 a.m.

TRD-9012515

Wednesday, December 4, 1990, 1:30 p.m. The Texas Department of Agriculture will meet at the Dawson County Courthouse, Second Floor, First and Main Streets, Lamesa. According to the complete agenda, the department will hold a public hearing to receive public comment regarding proposed special provisions for Dawson County under the Texas Herbicide Law.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 21, 1990, 11:53 a.m.

TRD-9012514

Tuesday, December 4, 1990, 2 p.m. The Produce Recovery Fund Board of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700

North Congress Avenue, Stephen F. Austin Building, Ninth Floor Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing before the board to review contest of determination issued by the department in the case of Ruiz Produce versus Travis Keith Venable.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 21, 1990, 11:55 a.m.

TRD-9012517

Tuesday, December 4, 1990, 4 p.m. The Produce Recovery Fund Board of the Texas Department of Agriculture will meet at The Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Ninth Floor Conference Room, Austin. According to the complete agenda, the board will hold an administrative hearing to review contest of determination issued by the department in the case of Honey-Do Farms versus Teddy Bertuca and Jack Rodde doing business as Teddy Bertuca Company, Inc.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 21, 1990, 11:54 a.m.

TRD-9012516

Tuesday, December 4, 1990, 7 p.m. The Southern Rolling Plains Cotton Producers Board of the Texas Department of Agriculture will meet at the Miles Co-operative Gin, 1 1/2 Miles Northwest of Miles. According to the agenda summary, the board will read and approve minutes; hear treasurer's report; report of activities; committee reports; and discuss old and new business.

Contact: Kenneth Gully, P.O. Box 30036, San Angelo, Texas 76903, (915) 469-3638.

Filed: November 26, 1990, 4:27 p.m.

TRD-9012648

Wednesday, December 5, 1990, 10 a.m. The Produce Recovery Fund Board of the Texas Department of Agriculture will meet at the Texas Department of Agriculture,

1700 North Congress Avenue, Stephen F. Austin Building, Ninth Floor Conference Room, Austin. According to the complete agenda, the board will hold an administrative hearing to review contest of determination issued by the department in the case of Richard C. Shelton doing business as Mid Valley Brokerage Company versus J. S. McManus Produce.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 21, 1990, 11:55 a.m.

TRD-9012518

Thursday, December 6, 1990, 9 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, 2626 South Loop West, Suite 130, Houston. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §103.001 et. seq. by International Farmers, Inc. as petitioned by J. S. McManus Produce Company, Inc.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: November 21, 1990, 11:55 a.m.

TRD-9012519

Monday, December 17, 1990, 11 a.m. (rescheduled from November 30, 1990). The Texas Peanut Producers Board of the Texas Department of Agriculture will meet at the Howard Johnson Hotel, 7800 North IH-35, Austin. According to the complete agenda, the board will discuss funding for National Peanut Foundation Board; funding for National Peanut Council Export Program; promotion review; and other business.

Contact: Mary Webb, P.O. Box 398, Gorman, Texas 76454, (817) 734-2853.

Filed: November 26, 1990, 2:06 p.m.

TRD-9012614

Texas Commission on Alcohol and Drug Abuse

Tuesday, December 4, 1990, 8:30 a.m.

The Board of Commissioners of the Texas Commission on Alcohol and Drug Abuse will meet at 720 Brazos Street, Eighth Floor Conference Room, Austin. According to the complete agenda, the board will approve August 28, 1990 minutes; hear public comments; report on the Texas Summit Committee; report on progress on insurance cost control standards; report from TAADAC Committee/TCADA being licensing agency; action on nominations for membership on statewide advisory council; report on the trademark of and the use restrictions on the agency's logo and slogan; action on approval of new signature authority; action on complaint resolution rules; proposed for adoption; action on proposed DWI rule revisions; report on FY90 performance report; discussion of legislative concerns for 72nd legislature; executive director's report; and chairman's report.

Contact: Becky Davis or David Tatum, 720 Brazos Street, Suite 403, Austin, Texas 78701, (512) 463-5510.

Filed: November 20, 1990, 10:05 a.m.

TRD-9012426

Tuesday, December 4, 1990, 8:30 a.m. The Board of Commissioners of the Texas Commission on Alcohol and Drug Abuse will meet at 720 Brazos Street, Eighth Floor Conference Room, Austin. According to the complete revised agenda, the board will act on TAADAC Committee/TCADA being licensing agency.

Contact: Becky Davis or David Tatum, 720 Brazos Street, Suite 403, Austin, Texas 78701, (512) 463-5510.

Filed: November 21, 1990, 10:25 a.m.

TRD-9012506

Battleship Texas Advisory Board

Thursday, December 6, 1990, 3 p.m. The Battleship Texas Advisory Board will meet at the Offices of Liddell, Sapp, Zivley, Hill and LaBoon, 600 Travis, 3200 Texas Commerce Tower, 32nd Floor Conference Room, Houston. According to the agenda summary, the board will discuss various items with respect to the Battleship Texas restoration.

Contact: Robert D. Miller, 3200 Texas Commerce Tower, Houston, Texas 77002, (713) 226-1186.

Filed: November 20, 1990, 10:30 a.m.

TRD-9012430

Texas School for the Blind and Visually Impaired

Friday, November 30, 1990, 9 a.m. The Board of Trustees, Personnel Committee of the Texas School for the Blind and Visually

Impaired met at 1100 West 45th Street, Room 116, Austin. According to the complete agenda, the committee gave a report and presentation of business requiring action by committee; and deliberations by personnel committee to hire internal auditor.

Contact: Jennifer Harris, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, Ext. 133.

Filed: November 21, 1990, 11:01 a.m.

TRD-9012507

Friday, November 30, 1990, 9:30 a.m. The Board of Trustees-Curriculum Committee of the Texas School for the Blind and Visually Impaired met at 1100 West 45th Street, Room 110, Austin. According to the complete agenda, the committee gave a report and presentation of business requiring action by committee: development of curriculum for life skills program; development of curriculum for orientation and mobility; implementation of curriculum guides for language arts; and reports by committee members.

Contact: Jennifer Harris, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, Ext. 133.

Filed: November 21, 1990, 11:02 a.m.

TRD-9012508

Friday, November 30, 1990, 10:30 a.m. The Board of Trustees of the Texas School for the Blind and Visually Impaired met at 1100 West 45th Street, Room 116, Austin. According to the agenda summary, the board approved minutes of September 27, 1990 meeting; audiences with individuals or committees wishing to make a report or request; report and presentation of business requiring board approval; discussion of personnel matters, pursuant to Article 6252-17, §2(g), Texas Civil Statutes; discussion of plan for drug-free school; discussion of policy regarding district wide educational improvement council; policies relating to superintendent's employment; business for informational purposes; report by personnel and curriculum committees; and discussion from board members.

Contact: Jennifer Harris, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, Ext. 133.

Filed: November 21, 1990, 11:02 a.m.

TRD-9012509

Daughters of the Republic of Texas

Monday, December 3, 1990, 9 a.m. The Board of Management of the Daughters of the Republic of Texas will hold an emergency meeting at the Best Western Quarters, 11th and San Jacinto Streets, Austin. According to the complete agenda, the board will give invocation; pledges to the

American and Texas Flags; open session: Alamo Committee-third five year plan; meet in closed session: museum committee pursuant to §2(e) and §2(g), private consultation between the body and its attorney on contemplated litigation; and open session to hear report on DRT historic pictures. The Daughters of the Republic of Texas, Inc., exercising an overabundance of caution, hereby notice a portion of the board of management meeting as an open meeting under the Texas Open Meeting Act with regard to all matters pertaining to the state-owned properties which are under the management or control of the Daughters of the Republic of Texas, Inc. The emergency status was necessary due to the Thanksgiving holidays.

Contact: June Franklin Naylor, 2706 East 17th Street, Odessa, Texas 79761, (915) 366-8360.

Filed: November 26, 1990, 11:33 a.m.

TRD-9012609

Texas State Board of Dental Examiners

Sunday, December 2, 1990, 1 p.m. The Texas State Board of Dental Examiners will meet at 3232 West Mockingbird Lane, Executive Inn, Dallas. According to the complete agenda, the board will discuss personnel matters regarding Crockett Camp and the salary of Tom Camp.

Contact: Crockett Camp, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

Filed: November 20, 1990, 10:20 a.m.

TRD-9012427

State Depository Board

Wednesday, December 12, 1990, 10:30 a.m. The State Depository Board will meet at 111 East 17th Street, LBJ Building, Office of the State Treasurer, Austin. According to the complete agenda, the board will consider additional depository applications received; consider adjusting the required level of deposits of funds in state depositories; and final adoption of amendments to State Depository Board Rule 171.1.

Contact: Anne L. Schwartz, 111 East 17th Street, Austin, Texas 78701, (512) 463-5971.

Filed: November 26, 1990, 2:44 p.m.

TRD-9012616

Texas Diabetes Council

Tuesday, December 4, 1990, 5:30 p.m. The Ad Hoc Committee of the Texas Diabetes Council will meet at the Thanksgiving

Tower, 48th Floor, 1601 Elm Street, Dallas. According to the complete agenda, the committee will consider council's history and mission; current funds and programs; current budget and fiscal year 1992-1993 appropriation request; long term and short term goals and focus; organizational structure; recommendations for changes concerning mission, organizational structure and legislation.

Contact: Charlene Laramey, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7534.

Filed: November 26, 1990, 4:18 p.m.

TRD-9012646

Texas Education Agency

Thursday, November 29, 1990, 9 a.m. The School Facilities Advisory Committee of the Texas Education Agency met at the William B. Travis Building, 1701 North Congress Avenue, Room 8-101, Austin. According to the complete agenda, the committee approved the minutes from the November 11, 1990 meeting; update on Building and Educational Technology Assessment (BETA) Project; presentation on efficient use of debt; discussion of options for financing facilities with cash or fund balances; options for transition funding; and determination of future meeting date(s).

Contact: Joe Wisnoski, 1701 North Congress Avenue, Room 3-101, Austin, Texas 78701, (512) 463-9704.

Filed: November 20, 1990, 2:40 p.m.

TRD-9012454

Friday, December 7, 1990, 7:30 a.m. The Academic Excellence Indicator Advisory Committee of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will give a report on State Board of Education meeting relative to academic excellence indicators and accreditation rules and criteria; suggested changes to rules; report to the committee on meeting with the Legislative Education Board (LEB); and discussion of academic excellence indicator grouping strategies, performance, and reporting measures.

Contact: Dr. Ruben D. Olivarez, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9519.

Filed: November 20, 1990, 2:41 p.m.

TRD-9012456

Thursday, January 3, 1991, 9 a.m. The Advisory Committee for Budgeting, Accounting, and Auditing of the Texas Education Agency will meet at the Texas Association of School Business Officials Headquarters, 1701 Directors Boulevard, Suite 770, Austin. According to the complete agenda, the committee will approve

minutes of November 14, 1990; review definitions of Bulletin 679 existing chart of accounts recommended by task force for Change 24; prepare a position statement on the Texas Education Agency concept paper relating to revision of the public school accounting system to be presented to the State Board of Education in January 1991.

Contact: Edward E. Randall, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9095.

Filed: November 20, 1990, 2:40 p.m.

TRD-9012455

Advisory Commission on State Emergency Communications

Thursday, November 29, 1990, 9:30 a.m. The Addressing Advisory Subcommittee of the Advisory Commission on State Emergency Communications met at the John H. Reagan Building, Room 106, West 15th Street and Congress Avenue, Austin. According to the complete agenda, the subcommittee will make introductions; hear resource committee report; public comment; and consider any new business.

Contact: Darla Parker, 1101 Capital of Texas Highway South, Suite 100B, Austin, Texas 78746, (512) 327-1911.

Filed: November 20, 1990, 11:26 a.m.

TRD-9012444

Employees Retirement System of Texas

Thursday, December 6, 1990, 9 a.m. The Group Insurance Advisory Committee of the Employees Retirement System of Texas will meet at the Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Room 1430, Austin. According to the agenda summary, the committee will recognize visitors and guests; approve minutes from previous meeting; update on Joint Select Committee for Employee Benefits; update by ERS staff regarding dental option; overview of strategic plan implementation; legislative subcommittee report; appointments to subcommittees; and other related insurance matters.

Contact: James W. Sarver, 18th and Brazos Streets, Austin, Texas 78701, (512) 476-6431.

Filed: November 26, 1990, 4:02 p.m.

TRD-9012642

Texas State Board of Registration for Professional Engineers

Tuesday, December 4, 1990, 10 a.m. The Ad Hoc Committee of the Texas State Board of Registration for Professional Engineers will meet at 1917 IH-35 South, Board Room, Austin. According to the complete agenda, the committee will recognize visitors; discuss future meetings with representatives of the Architect's board; consider and recommend a definition for "Engineering Services" proposed by TCEL, ASCE, and TSPE; consider and recommend policies regarding reference statements; and interpret the applicable exemptions for engineering work on federal projects.

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

Filed: November 20, 1990, 1:52 p.m.

TRD-9012448

Wednesday, December 5, 1990, 10 a.m. (rescheduled from December 4, 1990). The Ad Hoc Committee of the Texas State Board of Registration for Professional Engineers will meet at 1917 IH-35 South, Board Room, Austin. According to the agenda summary, the committee will discuss items which have been deferred to the Ad Hoc Committee on Rules interpretations.

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

Filed: November 27, 1990, 9:56 a.m.

TRD-9012653

Texas Public Finance Authority

Wednesday, November 28, 1990, 9:30 a.m. The Board of the Texas Public Finance Authority held an emergency meeting at 105 West 15th Street, Reagan Building, Room 104, Austin. According to the complete agenda, the board will reconsider request for financing from SPGSC to finance the purchase and renovation of office buildings. The emergency status was necessary to permit the finalization of a revenue bond issue that will provide funding for a contracted SPGSC purchase with a closing date of December 11, 1990.

Contact: Julie Jones, 1201 Brazos Street, Austin, Texas 78701, (512) 463-5544.

Filed: November 26, 1990, 3:34 p.m.

TRD-9012634

Office of the Governor

Tuesday, December 4, 1990, 2 p.m. The Metropolitan Transit Authorities Task Force of the Governor's Office will meet at the South Texas College of Law, 1303 San Jacinto Street, Joe M. Green Auditorium, Houston. According to the complete agenda, the office will hear public testimony.

Contact: Sheila W. Beckett, Sam Houston Building, Room 208, Austin, Texas 78701, (512) 463-1778.

Filed: November 26, 1990, 8:38 a.m.

TRD-9012568

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**Office of the Governor-
Criminal Justice Division**

Thursday, November 29, 1990, 10 a.m. The Texas Crime Stoppers Advisory Council's Conference Planning Committee of the Office of the Governor, Criminal Justice Division met at 801 University Drive East, College Station. According to the complete agenda, the committee approved minutes; conference bid guidelines; conference award guidelines; conference coordinator's report; training coordinator's report; conference notebooks/name tags; funding for conference; discussed budget; and set time and date of next meeting.

Contact: David M. Cobos, Sam Houston Building, Room 208, Austin, Texas 78701, (512) 463-1784.

Filed: November 21, 1990, 11:22 a.m.

TRD-9012510

Thursday, November 29, 1990, 1 p.m. The Texas Crime Stoppers Advisory Council of the Office of the Governor Criminal Justice Division met at 801 University Drive East, College Station. According to the complete agenda, the council approved minutes; gave update and status of grants; legislative activities and objectives for 72nd and 73rd legislatures; conference report and recommendations; and certification update.

Contact: David M. Cobos, Sam Houston Building, Room 208, Austin, Texas 78701, (512) 463-1784.

Filed: November 21, 1990, 11:22 a.m.

TRD-9012511

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Texas Department of Health

Saturday, December 1, 1990, noon. The Texas Radiation Advisory Board, Executive Committee of the Texas Department of Health will meet at 1212 East Anderson Lane, Austin. According to the complete agenda, the board and committee will hear chairman's report; approve minutes of previous meeting; discuss activities of board and department's bureau of radiation control.

Contact: L. Don Thurman, 1100 West 49th Street, Austin, Texas 78756, (512) 835-7000.

Filed: November 21, 1990, 3:21 p.m.

TRD-9012545

Saturday, December 1, 1990, 1 p.m. The Texas Radiation Advisory Board, NORM

and Waste Committee of the Texas Department of Health will meet at 1212 East Anderson Lane, Austin. According to the complete agenda, the committee will approve minutes of previous meeting; consider Texas Low-level Radioactive Waste Disposal Authority activities; and rules of department's bureau of radiation control.

Contact: L. Don Thurman, 1100 West 49th Street, Austin, Texas 78756, (512) 835-7000.

Filed: November 21, 1990, 3:20 p.m.

TRD-9012544

Wednesday, December 12, 1990, 10:30 a.m. The Advisory Committee on Mental Retardation of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room T-604, Austin. According to the complete agenda, the committee will introduce new members; consider updates on intermediate care facilities-related conditions (ICF-RC); architectural regulations for facilities serving persons with mental retardation; and licensure regulations for facilities serving individuals with mental retardation and related conditions.

Contact: Richard Butler, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7706.

Filed: November 21, 1990, 3:20 p.m.

TRD-9012543

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**Texas Health and Human
Services Coordinating
Council**

Tuesday, December 4, 1990, 1 p.m. The Treatment and Care Workgroup of the Texas Health and Human Services Coordinating Council will meet at 9101 Burnet Road, Suite 216, Conference Room, Austin. According to the complete agenda, the workgroup will approve minutes; hear subcommittee reports: monitoring subcommittee; technical subcommittee; cost of care subcommittee; and discuss old business and new business.

Contact: Ingrid De Coste, 9101 Burnet Road, Suite 216, Austin, Texas 78758, (512) 873-2400.

Filed: November 26, 1990, 10:55 a.m.

TRD-9012607

Tuesday, December 11, 1990, 11 a.m. The SLIAG Committee of the Texas Health and Human Services Coordinating Council will meet at 9101 Burnet Road, Suite 216, Conference Room, Austin. According to the complete agenda, the committee will review the minutes; hear public comment; approval of recommended spending priorities for SLIAG; recommendation for appointment to Advisory Committee on Immigration; policy recommendation for state participa-

tion in anti-discrimination education program; update on outreach campaign development; and discuss old and new business.

Contact: Marguerite Rivera-Houze, 9101 Burnet Road, Suite 216, Austin, Texas 78758, (512) 873-2400.

Filed: November 26, 1990, 9:48 a.m.

TRD-9012588

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**Texas Department of Human
Services**

Wednesday, November 28, 1990, 8 a.m. The Texas Board of Human Services of the Texas Department of Human Services met at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the agenda summary, the board approved the minutes of September 14, 1990; eligibility for post-employment child care services; medicaid coverage of services by family and pediatric nurse practitioners; ICF-MR standards; update on OBRA of 1987; medically dependent children waiver program; rate increase for home and community-based services waiver program; rate ceilings for emergency response; extension of vendor drug fee; medicaid eligibility for newborns; state-paid foster care for-profit facilities; supplemental disproportionate share program for state owned teaching hospitals; FY 90 and FY 91 budget adjustments; amendments to policies and procedures; commissioner's report; closed executive session on personnel matters; the board will recess to go into a closed executive session for the commissioner's annual performance evaluation; and board reconvenes in open session.

Contact: Bill Woods, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3047.

Filed: November 20, 1990, 10:31 a.m.

TRD-9012431

Thursday, November 29, 1990, 9:30 a.m. The Hospital Payment Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, West Tower, Conference Room 1 W, Austin. According to the complete agenda, the committee will hear opening comments; deputy commissioner's comments; SSI eligibility briefing; office on services to persons with disabilities briefing; update on federal legislation; observational stays limit; report of ad hoc committee on disproportionate share; open discussion by members; and selection of next meeting date.

Contact: Carolyn Howell, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3053.

Filed: November 20, 1990, 10:32 a.m.

TRD-9012433

Thursday, November 29, 1990, 10 a.m. The Post-Adoption Services Advisory Com-

mittee of the Texas Department of Human Services met at the Joe C. Thompson Center, Room 2.110, 26th and Red River Streets, Austin. According to the complete agenda, the committee heard welcome and introductions; reviewed minutes; post-adoption services status report; and regional information sharing.

Contact: Susan Klickman, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-9030.

Filed: November 20, 1990, 10:31 a.m.

TRD-9012432

Thursday-Friday, November 29-30, 1990, 1 p.m. The Family Violence Advisory Committee of the Texas Department of Human Services met at 701 West 51st Street, Third Floor, West Tower, Conference Room 3W, Austin. According to the complete agenda, the committee welcomed guests and members and made introductions; approved minutes; heard announcements; subcommittee meetings; reports; and discussed new business.

Contact: Anne Heiligenstein, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3365.

Filed: November 20, 1990, 10:32 a.m.

TRD-9012434

◆ ◆ ◆ Department of Information Resources

Friday, November 30, 1990, 9 a.m. The Board of the Department of Information Resources met at the John H. Reagan Building, 105 West 15th Street, Austin. According to the complete revised agenda, the board took roll call and witness registration; discussion and vote on approval of September 24, 1990 minutes; executive director's report; division reports; financial reports through October 31, 1990; November parity report; discussion and vote to adopt LAR-second submission; adopt agency strategic plan; adopt previously published rules; adopt emergency and proposed rules for specification verification; discussion and vote on legislative initiatives: partnerships between governmental agencies and vendors; board review of proprietary information; staff presentation of legislative issues; and discussion of future quarterly board meeting dates.

Contact: Molly Yates, 3307 Northland, Suite 300, Austin, Texas 78731, (512) 371-1120.

Filed: November 20, 1990, 11:35 a.m.

TRD-9012445

◆ ◆ ◆ State Board of Insurance

Thursday, November 29, 1990, 10 a.m. The State Board of Insurance will meet at

the State Insurance Building, 1110 San Jacinto Street, Room 460, Austin. According to the agenda summary, the board will consider emergency action of filing by Texas Department of Health of a Subscription program surety bond; emergency and proposed action on amendments to 28 TAC §§19.1001-19.1011; proposed action on amendment to 28 TAC §3.3040; final action on amendments to 28 TAC §§3.3701, 3.3702, 3.3704, 5.4201 and 21.105; limitation on amount of deviations for fire and allied lines; commercial multi-peril; homeowners; and farm and ranch owners insurance; board orders on several different matters; proposals for decision in the appeals of Juanita Myers and D. W. Grubb; personnel matters; litigation; solvency matters; and appointment to Board of Directors of Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: November 21, 1990, 3 p.m.

TRD-9012538

Tuesday, December 4, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 414, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Sam R. Feinhandler, Houston, who holds a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 10997.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 26, 1990, 3 p.m.

TRD-9012618

Tuesday, December 4, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Tom Alvarez Cisneros, Jr., San Marcos, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Group II, Insurance Agent's license. Docket Number 11039.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 26, 1990, 3 p.m.

TRD-9012619

Tuesday, December 4, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of American Credit Optical,

Inc. to acquire control of American Hallmark Insurance Company of Texas. Docket Number 11049.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 26, 1990, 3 p.m.

TRD-9012620

Wednesday, December 5, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Bryan Wilson Taylor, Dallas, for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11038.

Filed: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 26, 1990, 3:01 p.m.

TRD-9012621

Wednesday, December 5, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 414, Austin. According to the complete agenda, the section will conduct a public hearing to consider the reinsurance agreement whereby DuBose Burial Association, Terrell, will be reinsured by Mission American Life Insurance Company, Houston. Docket Number 11044.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 26, 1990, 3:01 p.m.

TRD-9012622

Wednesday, December 5, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 414, Austin. According to the complete agenda, the section will conduct a public hearing to consider the reinsurance agreement whereby Ham Bros.-Ricks Life Insurance Company, Teague, will be reinsured by Mission American Life Insurance Company, Houston. Docket Number 11045.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 26, 1990, 3:01 p.m.

TRD-9012623

Wednesday, December 5, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 414, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Wilbert Randolph Elder, Easton/Tyler, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Local Recording Agent's license. Docket Number

11033.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 26, 1990, 3:01 p.m.

TRD-9012624

Friday, December 7, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against James Lemuel Sullivan, Commerce, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Group II, Insurance Agent's license. Docket Number 10988.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 26, 1990, 3:02 p.m.

TRD-9012625

Friday, December 7, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Thomas C. Atkins, San Angelo; for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11037.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 26, 1990, 3:02 p.m.

TRD-9012626

Friday, December 7, 1990, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 414, Austin. According to the complete agenda, the section will reopen a public hearing to consider the application of Richard L. Kitchens, Whitehouse, for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 10933.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 26, 1990, 2:59 p.m.

TRD-9012617

Friday, December 7, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Don Ray Shields, Trenton, for a Resident Insurance Adjuster's license. Docket Number 11046.

Contact: J. C. Thomas, 1110 San Jacinto

Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 26, 1990, 3:02 p.m.

TRD-9012627

Tuesday, January 15, 1991, 10 a.m. The State Board of Insurance will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-100, Austin. According to the complete agenda, the board will hold a public hearing to consider revision of commercial automobile insurance rates and rating plans.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: November 21, 1990, 3:01 p.m.

TRD-9012539

Tuesday, January 15, 1991, 10 a.m. The State Board of Insurance will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-100, Austin. According to the complete agenda, the board will hold a public hearing to consider revision of private passenger automobile insurance rates and rating plans.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: November 21, 1990, 3:02 p.m.

TRD-9012540

Texas Board of Professional Land Surveying

Friday, December 7, 1990, 9 a.m. The Texas Board of Professional Land Surveying will meet at 7701 North Lamar Boulevard, Suite 400, Austin. According to the complete agenda, the board will approve the minutes of the previous meeting; discuss correspondence, conduct interviews; discuss October, 1990 examination; hear committee reports; discuss future board meeting dates; reconsider old applications; discuss standards; and consider new business.

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

Filed: November 20, 1990, 10:28 a.m.

TRD-9012428

Texas Commission on Law Enforcement Officer Standards and Education

Tuesday, December 11, 1990, 9 a.m. The Law Enforcement Management Institute of the Texas Commission on Law Enforcement Officer Standards and Education will meet at the Doubletree Hotel, 6505 North IH-35, Austin. According to the complete agenda, the commission will call to order

and recognize visitors; approve minutes of the August 17, 1990 board meeting; discussion and adoption of State of the Institute report to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) Commissioners; testing-discussion and recommendations; task analysis; validation studies; and use of Pre-TASP; staff activities; and recess for lunch to reconvene in joint meeting with TCLEOSE Commissioners at 1:30 p.m.

Contact: Jack L. Ryle, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: November 26, 1990, 9:39 a.m.

TRD-9012583

Tuesday, December 11, 1990, 1:30 p.m. The Texas Commission on Law Enforcement Officer Standards and Education will meet at the Doubletree Hotel, 6505 IH-35 North, Austin. According to the agenda summary, the commission will call to order and recognize visitors; purpose of work session; recognition of appointees to the LEMI Board of Directors; LEMI report; discussion of six proposed new rules; academy license application of Cedar Valley College; evaluation of Lower Rio Grande Valley Development Council; report on waivers issued: psychological; fingerprint, and provisional licenses; and discussion of three proposed amendments to rules.

Contact: Johanna McCully-Bonner, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: November 26, 1990, 9:39 a.m.

TRD-9012584

Tuesday, December 11, 1990, 1:30 p.m. The Texas Peace Officers' Memorial Advisory Committee of the Texas Commission on Law Enforcement Officer Standards and Education will meet at the Doubletree Hotel, 6505 IH-35 North, Austin. According to the complete agenda, the committee will call to order; roll call of members, and recognition of visitors; approval of the minutes of the August 9, 1990 meeting; report from Design Subcommittee (Pfluger), discussion and action; report from funding subcommittee; discussion and action; staff report: present goals; policies; tasks and criteria, discussion and action, and delegation of authority.

Contact: James Ball, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: November 26, 1990, 9:39 a.m.

TRD-9012582

Wednesday, December 12, 1990, 9 a.m. The Texas Commission on Law Enforcement Officer Standards and Education will meet at the Doubletree Hotel, 6505 North IH-35, Austin. According to the agenda summary, the commission will meet in executive session to consider pending litigation; (Article 6252-17 Texas Civil Statutes, §2(e)); recognize visitors; approval of min-

utes of September 11-12, 1990 meetings; take action on academy license application of Cedar Valley College; final adoption of six proposed new rules; discussion and final adoption of four proposed amendments to existing rules; Peace Officer Memorial Committee report; status report-achievement awards; presentation of certificates of appreciation; consider license actions in revocations, suspensions, and voluntary surrenders; and staff activities.

Contact: Johanna McCully-Bonner, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: November 26, 1990, 9:40 a.m.

TRD-9012585

Texas Council Risk Management Fund

Friday, November 30, 1990, 7 a.m. The Executive Committee of the Texas Council Risk Management Fund met at the Embassy Suites Hotel, Mockingbird Room, Austin. According to the complete agenda, the committee will take roll call; appointment of Nicholas G. Nides to Place Seven-information only; consideration of KPMG Peat Marwick performance audit engagement; report on annual membership meeting; and discuss other business.

Contact: Spencer McClure, Westpark Building Three, Suite 240, 8140 Mopac, Austin, Texas 78759, (512) 794-9268.

Filed: November 21, 1990, 11:28 a.m.

TRD-9012512

Friday, November 30, 1990, 8 a.m. The Board of Trustees of the Texas Council Risk Management Fund met at the Embassy Suites Hotel, Library, Austin. According to the agenda summary, the board discussed organizational items; member communications; consent items; committee reports; administrator's report; general counsel's report; benefits trust administrator's report; and fix (or reaffirm) date of next meeting.

Contact: Spencer McClure, Westpark Building Three, Suite 240, 8140 Mopac, Austin, Texas 78759, (512) 794-9268.

Filed: November 21, 11:29 a.m.

TRD-9012513

Texas State Board of Medical Examiners

Monday, December 3, 1990, 8 a.m. The Reciprocal Endorsement Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Suite 201, Austin. According to the agenda summary, the committee will meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of

Attorney General 1974, Number H-484; review of SPEX statistical analysis; review of reciprocal endorsement applicants; reciprocal endorsement applicants to be considered for permanent licensure.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: November 21, 1990, 4:53 p.m.

TRD-9012560

Monday, December 3, 1990, 8:30 a.m. The Disciplinary Process Review Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Suite 201, Austin. According to the agenda summary, the committee will meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05 (d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484; approval of minutes from October meeting; orientation of new committee members; October, November 1990 enforcement reports; report on current investigator vacancies and recruitment activities; update on TMA's plan for enhancement of Physician Health Rehabilitation Program; and executive session to review files and cases dismissed by informal settlement conferences.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: November 21, 1990, 4:57 p.m.

TRD-9012564

Monday, December 3, 1990, 9:30 a.m. The Examination Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Suite 201, Austin. According to the agenda summary, the committee will meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484; review of examination applicant; review of federation's response to Dr. Robert Reyes' request; review of examination applicants complete for consideration of licensure.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: November 21, 1990, 4:55 p.m.

TRD-9012562

Monday, December 3, 1990, 11:15 a.m. The Finance Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino LaCosta, Suite 201, Austin. According to the agenda summary, the committee will meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484; and financial statements and budgets.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: November 21, 1990, 4:56 p.m.

TRD-9012563

Monday-Tuesday, December 3-4, 1990, 11:30 a.m. and 8 a.m. respectively. The Texas State Board of Medical Examiners will meet at 1101 Camino La Costa, Austin. According to the agenda summary, the board will meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484; exams-approval, administration; hearings-cancellations, alleged act violations; proposed rules regarding: district review committees and emergency medical services; probationers and panels; reinstatements; proposals for decisions; committee organization; approvals-agreed orders; minutes; duplicate licenses; medical schools; training programs; director's report-DIR progress; meetings; remedial courses; jurisprudence exam and meetings progress; exam category breakdowns; licensure; computer; enforcement; and disciplinary guidelines.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: November 21, 1990, 4:50 p.m.

TRD-9012559

Texas Council on Offenders with Mental Impairments

Friday, November 30, 1990, 8:30 a.m. The Executive Committee of the Texas Council on Offenders with Mental Impairments met at the Texas Juvenile Probation Commission, 2015 South IH-35, Austin. According to the agenda summary, the committee approved the minutes; received a training proposal; discussed legislative recommendations; heard/discussed misdemeanor report/recommendations; heard the executive director's report; and discussed any old and/or new business.

Contact: Pat Hamilton, P.O. Box 12546, Austin, Texas 78711, (512) 459-2720.

Filed: November 20, 1990, 4:10 p.m.

TRD-9012472

Friday, November 30, 1990, 10 a.m. The Texas Council on Offenders with Mental Impairments met at the Texas Juvenile Probation Commission, 2015 South IH-35, Austin. According to the agenda summary, the council approved the minutes; heard public comments; receive an annual report from Project CHANCE; heard reports from TDCJ-CJAD and Parole; reviewed Legislative recommendations; a misdemeanor report; heard reports from the executive committee; mentally ill offenders committee; mentally retarded/developmentally disabled offenders committee; an executive director's report; and discussed old and new business.

Contact: Pat Hamilton, P.O. Box 12546, Austin, Texas 78711, (512) 459-2720.

Filed: November 20, 1990, 4:10 p.m.

TRD-9012473

Texas Motor Vehicle Commission

Wednesday, December 5, 1990, 2 p.m. The Texas Motor Vehicle Commission will meet at 815 Brazos Street, Suite 302, (Brazos Building), Austin. According to the agenda summary, the commission will approve minutes of October 24, 1990; hold a public hearing to receive comments on proposed amendments to agency rules 16 TAC §103.5, concerning time for filing protests of new motor vehicle dealer license applications and 16 TAC §101.13, concerning the filing of documents by mail; consideration of adoption of amendments; discussion and consideration of adoption of agency policy on deferred adjudication of advertising rules enforcement actions; adoption of agency policy of changing certain license renewal periods for FY 1991; review of agency budget status; review consumer complaint recap report; review litigation status report; and schedule future meeting dates.

Contact: Russell Harding, 815 Brazos Street, Suite 300, Austin, Texas 78701, (512) 476-3587.

Filed: November 26, 1990, 3:43 p.m.

TRD-9012635

University of North Texas/Texas College of Osteopathic Medicine

Thursday, November 29, 1990, 1 p.m. The Role and Scope Committee, Board of Regents of the University of North Texas College of Osteopathic Medicine met at the Rare Book Room, Medical Education Building I, Texas College of Osteopathic Medicine, Fort Worth. According to the complete agenda, the committee appointed vice president of academic affairs and dean and promotion of executive director of governmental affairs; reappointments to the TCOM Foundation Board of Directors; emeritus professor recommendation; status of affiliation agreements. At UNT routine academic reports; personnel transactions; professor emeritus/librarian emeritus recommendations; regents' faculty lecture series; athletic update; coordinating board issues; tenure issues; and facilities at TWU.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: November 21, 1990, 8:47 a.m.

TRD-9012489

Thursday, November 29, 1990, 2 p.m. The Facilities Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met at the

Board Room, Eighth Floor, Medical Education Building I, Texas College of Osteopathic Medicine, Fort Worth. According to the complete agenda, the committee added to Department of Medicine Clinic; renovation, exterior facade, and landscaping of clinical facilities; and project status report; UNT: renovation of historical building; renovation of Oak Street Hall; renovation of journalism building, renovation of Willis Library; status of Sheraton Hotel; project status report; and deferred maintenance.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: November 21, 1990, 8:46 a.m.

TRD-9012488

Thursday, November 29, 1990, 3 p.m. The Budget and Finance Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met at 810 Medical Education Building I, Texas College of Osteopathic Medicine, Fort Worth. According to the complete agenda, the TCOM will hear gift report; interest earnings report; and higher education assistance funds transactions. UNT: gift report; signature authority; waiver of publication and computer fees; tuition fees installment payments; computing hardware and data communications upgrade; internal audit issues; interest earnings report; higher education assistance fund activities; and chancellor's office funding.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: November 21, 1990, 8:46 a.m.

TRD-9012486

Thursday, November 29, 1990, 4 p.m. The Advancement Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met at the Board Room, Eighth Floor, Medical Education Building I, Texas College of Osteopathic Medicine, Fort Worth. According to the complete agenda, the committee hear an advancement update on TCOM; and report on capital campaign on UNT.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: November 21, 1990, 8:46 a.m.

TRD-9012487

Friday, November 30, 1990, 8 a.m. The Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met at the Texas College of Osteopathic Medicine, Board Room, Eighth Floor, Medical Education Building I, Fort Worth. According to the complete agenda, the board approved minutes; executive session (legislative update; affiliation agreements; strategic planning; North Texas Research Institute: update on TCOM and UNT lawsuits; acting internal auditor: dean searches, business, education, community services; associate VP, marketing and communications; advancement leadership; ath-

letic personnel; police officer issue); VP, academic affairs and dean; promotion, executive director, governmental affairs; TCOM Foundation Board of Trustees; emeritus professor; acting internal auditor, UNT; gift report; medical services, research and development plan; medicine clinic addition; renovation, exterior facade, and landscaping, clinical facilities; project status report; sister cities; United Way. UNT: approval of minutes; routine academic reports; personnel; professor/librarian emeritus; regents' faculty lecture; gift report; signature authority; publication and computer use fees; tuition fee payments; computing hardware and data communications upgrade; renovation of historical building, Oak Street Hall, Journalism Building, Willis Library; project status report; deferred maintenance; and 1989-1990 objectives.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: November 21, 1990, 8:45 a.m.

TRD-9012485

Texas Board of Licensure for Nursing Home Administrators

Wednesday, November 21, 1990, 10 a.m. The Texas Board of Licensure for Nursing Home Administrators held an emergency meeting (rescheduled from November 6, 1990), at 4800 North Lamar Boulevard, Suite 310, Austin. According to the complete agenda, a hearing officer approved by the Attorney General will conduct a formal hearing in the matter of Carlos Ray Turner, #5793 to receive testimony regarding possible violation of the Nursing Home Administrator's Licensure Act, Article 4442d of Texas Civil Statutes, §11(1)(f).

Contact: Janet E. McNutt, 4800 North Lamar Boulevard, Austin, Texas 78756, (512) 458-1955.

Filed: November 20, 1990, 4:23 p.m.

TRD-9012475

Texas State Board of Physical Therapy Examiners

Monday, December 3, 1990, 10 a.m. The Texas State Board of Physical Therapy Examiners will meet at 313 East Rundberg Lane, Suite 113, Austin. According to the agenda summary, the board will give invocation; recognize guests; approve minutes of September 11, 1990 meeting; special request from Peter Covert; hear committee reports, (investigation disciplinary Cases #90082 and 90093); executive director's report; chairperson's report; and meet in executive session on personnel matter.

Contact: Sherry L. Lee, 313 East Rundberg Lane, Suite 113, Austin, Texas 78753,

(512) 835-1846.

Filed: November 20, 1990, 1:51 p.m.

TRD-9012447

Public Utility Commission of Texas

Wednesday, November 28, 1990, 9 a.m. The Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the commission will consider the following dockets: 8585 and 8218, 9619, 9119, and 9592. The commission will consider the extension of emergency Substantive Rule §23.54-private pay telephone service (Project Number 9687). The commission will also consider for publication Substantive Rule §23.54-private pay telephone service (Project Number 9875).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 20, 1990, 3:48 p.m.

TRD-9012469

Wednesday, November 28, 1990, 9:05 a.m. The Administrative Committee of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the committee will discuss reports; discussion and action on budget and fiscal matters, including a monthly financial report; consideration of plans and cost estimates for construction of attorneys' tables in CHR; review of termination procedures in PUC employee manual; approval of contract with UT Center for Energy Studies; comments to NRC regarding policy statement on "Possible Safety Impacts of Economic Performance Incentives"; discussion and action on request for proposals for utility information system requirements analysis; adjournment for executive session to consider litigation and personnel matters including consideration and possible action on hiring a permanent special counsel; reconvene for discussions and decisions on matters considered in executive session; and set time and place for next meeting.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 20, 1990, 3:48 p.m.

TRD-9012470

Monday, December 3, 1990, 10 a.m. The Hearings Division will hold an emergency meeting at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda, the division will hold a prehearing conference in Docket Number 9862-complaint of University Communications against GTE Southwest, Inc. The emergency status was necessary as company is threatening to disconnect service so meeting needs to be held

on this date.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 26, 1990, 3:30 p.m.

TRD-9012629

Monday, December 3, 1990, 11:45 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 set the rate of interest on deposits held by utilities for calendar year 1991, pursuant to Texas Civil Statutes Annotated Article 1440a (Vernon Supplementary 1990). In addition, the commission will set the interest rate to be applied in calendar year 1991 to overcharges and certain undercharges by a utility, pursuant to P.U.C. Substantive Rule §23.45(g).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 21, 1990, 2:58 p.m.

TRD-9012536

Tuesday, December 4, 1990, 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 9825-application of GTE to provide Centranet sm service for two hundred-sixty-seven (267) lines in the city of Baytown.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 26, 1990, 3:31 p.m.

TRD-9012630

Tuesday, December 4, 1990, 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, the division will conduct a prehearing conference in Docket Number 9695-application of Southwestern Bell Telephone Company for approval of call control options and selective call forwarding under Substantive Rule §23.26.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 20, 1990, 3:47 p.m.

TRD-9012468

Monday, December 10, 1990, 10 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 9824-application of GTE to establish rates for a central office digital

interface to work exclusively with GTE-5 Centranet service and GTE'S featurephone.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 21, 1990, 2:58 p.m.

TRD-9012537

Thursday, December 13, 1990, 10 a.m. The Hearings Division of the Public Utility Commission 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 9826-application of Guadalupe Valley Electric Cooperative, Inc. for revision to rate schedule G-6 to allow for interruptible service.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 21, 1990, 2:57 p.m.

TRD-9012535

Texas Department of Public Safety

Thursday, November 29, 1990, 11 a.m. The Public Safety Commission of the Texas Department of Public Safety met at the DPS Headquarters (Commission Room), 5805 North Lamar Boulevard, Austin. According to the complete emergency revised agenda, the commission approved minutes; discussed personnel matters; pending and contemplated litigation; miscellaneous and other unfinished business (discharge appeal hearing of employee Ronald Butler has been postponed to a later date).

Contact: Joe E. Milner, 5805 North Lamar Boulevard, Austin, Texas 78773, (512) 465-2000, Ext. 3700.

Filed: November 26, 1990, 3:04 p.m.

TRD-9012628

Texas Racing Commission

Thursday, November 29, 1990, 2 p.m. The Texas Racing Commission met at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider and vote on the November 5, 1990 formal meeting minutes; rules and regulations for horse and greyhound racing; and exercising the option for the third year of the consultant contract with Deloitte & Touche. The Greyhound Racing Section will ratify the subcommittee actions regarding exemption requests by Corpus Christi Greyhound Racing Associates and Valley Racing Association. The Greyhound Racing Section will meet in executive session to consider an amendment to the management/concession agreement

for Corpus Christi Greyhound Racing Associates. The Horse Racing Section will vote on the license renewal of South Texas Race Association doing business as La Bahia Downs; financing and facilities of Lubbock Downs, Inc.; financing of Trinity Meadows Raceway, Inc.; the reconfiguration of race dates for Gillespie County Fair and Festivals Association; the application to reconfigure race dates by Bandera Downs, Inc.; and Texas Racing Commission Cause Number 90-02-0031, appeals of stewards' ruling.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78711, (512) 794-8461.

Filed: November 21, 1990, 12:17 p.m.

TRD-9012520

Railroad Commission of Texas

Monday, December 3, 1990, 9 a.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor, Room 126, Austin. Agendas follow.

The commission will consider category determinations under §102(c)(1)(B), 102(c)(1)(C), 103, 107 and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: November 21, 1990, 10:11 a.m.

TRD-9012498

The commission will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78711, (512) 463-7251.

Filed: November 21, 1990, 10:13 a.m.

TRD-9012499

The commission will consider and act on the Administrative Services Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7257.

Filed: November 21, 1990, 10:13 a.m.

TRD-9012500

The commission will consider and act on the Investigation Division Director's report on division administration, investigations, budget, and personnel matters.

Contact: Mary Anne Wiley, P.O. 12967, Austin, Texas 78711, (512) 463-6828.

Filed: November 21, 1990, 10:13 a.m.

TRD-9012501

The commission will consider and act on the Office of the Executive Director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors. Consideration of reorganization of the well plugging program. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Brenda Loudermilk, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7254.

The commission will consider and act on the Personnel Division Director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-7187.

Filed: November 21, 1990, 10:15 a.m.

TRD-9012503

The commission will consider and act on the Office of Information Services Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-6710.

Filed: November 21, 1990, 10:15 a.m.

TRD-9012504

The commission will consider various matters within the 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 action, including but not limited to scheduling an item in its entirety or for particular action at a future time or date. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session to receive legal advice regarding pending and/or contemplated litigation.

Contact: Cue D. Boykin, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7033.

Filed: November 21, 1990, 10:16 a.m.

TRD-9012505

The Texas Real Estate Commission

Monday, December 3, 1990, 9 a.m. The Texas Real Estate Appraiser Certification Committee of the Texas Real Estate Commission will meet at the Sheraton Gunter Hotel, Yellow Rose Room, 205 East Houston Street, San Antonio. According to the agenda summary, the committee will approve minutes of the November 9, 1990 meeting; hear comments from visitors; staff presentation on disciplinary procedures; review and possible action on proposed orders; staff reports; report on hearing before Sunset Advisory Commission; update on Title XI, Real Estate Appraisal Reform Amendments of 1989, FIRREA; discussion of proposed amendment to 22 TAC §535.17 concerning appraisals by real estate licensees and proposed repeal of §§531.10-531.17 concerning minimum appraisal standards; discussion of possible legislation; review and possible recommendations concerning application process for appraiser certification; discussion and possible action to approve appraisal related courses; and date and place of subsequent meetings.

Contact: Renil C. Liner, 1101 Camino La Costa, Austin, Texas 78752, (512) 465-3950.

Filed: November 20, 1990, 1:52 p.m.

TRD-9012449

Texas County and District Retirement System

Friday, December 7, 1990, 9 a.m. The Board of Trustees of the Texas County and District Retirement System will meet at the Hyatt Regency Hotel, On Town Lake, 208 Barton Springs, Austin. According to the agenda summary, the board will approve minutes of September 7, 1990 regular board meeting and November 15, 1990 special board meeting; consider and pass on applications for service and disability retirement benefits; consider applications for TCDRS participation; review and act on reports from actuary, investment counsel, legal counsel and director; consideration of proposed amendments to Texas County and District Retirement System Act; consider proposed budget for the year 1991; election of officers for the year 1991; and set date for March 1991 regular board meeting.

Contact: J. Robert Brown, 400 West 14th Street, Austin, Texas 78701, (512) 476-6651.

Filed: November 26, 1990, 4:31 p.m.

TRD-9012649

School Land Board

Tuesday, December 4, 1990, 10 a.m. The

School Land Board will meet at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 831, Austin. According to the agenda summary, the board will approve previous board meeting minutes; opening and consideration of bids received for the December 4, 1990 sealed bid land sale; pooling applications, Balmorhea Ranch Field, Reeves Co.; Wildcat Field, Chambers County; West Ranch Field, Jackson County; pooling agreement amendment, Alabama Ferry Unit, Leon County; consideration of land sale for highway right of way, El Paso County to the State Department of Highways and Public Transportation; coastal public lands-easement applications, Carancahua Bay, Jackson County; Aransas Bay, Aransas County; consideration of proposed memorandum of agreement on Matagorda Island; consideration of assignment of Packery Channel options; meet in executive session-pending and proposed litigation.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: November 26, 1990, 4:25 p.m.

TRD-9012647

State Securities Board

Thursday, December 6, 1990, 10 a.m. The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda summary, the commissioner or his authorized representative will hold a hearing to determine whether the registration of Momentum Securities, Inc. should be revoked or suspended.

Contact: Denise Voight Crawford, P.O. Box 13167, Austin, Texas 78711-3167, (512) 474-2233.

Filed: November 20, 1990, 3:59 p.m.

TRD-9012471

State Committee of Examiners for Speech-Language Pathology and Audiology

Friday, December 7, 1990, 9 a.m. The State Committee of Examiners for Speech-Language Pathology and Audiology will meet at the Hawthorn Suites Hotel Central/Airport, Southwest Room, 935 La Posada, Austin. According to the agenda summary, the committee will approve minutes of previous meeting; consider complaints; rule changes; fees/budget; public relations; continuing education; applications/renewals; agenda/meeting arrangements; correspondence; related standards/regulations; legislative review; exemptions to speech-language pathology and audiology act; supportive personnel guidelines; supervisor's role; ethics; sunset

review; executive secretary's report; and other matters requiring no committee action.

Contact: Dorothy Cawthon, 1100 West 49th Street, Austin, Texas 78756, (512) 459-2935.

Filed: November 21, 1990, 3:22 p.m.

TRD-9012546

Board of Tax Professional Examiners

Tuesday, December 11, 1990, 1:30 p.m. The Board of Tax Professional Examiners will meet at 4301 Westbank Drive, Austin. According to the agenda summary, the board will approve minutes of October 19, 1990; act on certification and recertification of registrants; hearing in the case of Andrew J. Carr; discussion of draft of board rules on ethical conduct and comments received; preliminary discussion of board policy matters regarding re-instatement and CEU credits for course audits or chapter meetings; hear public comments; information items are registrant population and National Appraisal Certification content outlines; and planning calendar.

Contact: Sam H. Smith, 4301 Westbank Drive, Suite 140, Austin, Texas 78746-6565, (512) 329-7981.

Filed: November 26, 1990, 10:55 a.m.

TRD-9012606

Teacher Retirement System of Texas

Friday, December 7, 1990, 1 p.m. The Retirees Advisory Committee of the Teacher Retirement System of Texas will meet at the National Rx Services, Inc., 15001 Trinity Boulevard, Fort Worth. According to the complete agenda, the committee will introduce guests; approve minutes of June 7, 1990 meeting; summary statement-financial condition of Medco Containment Services; summary statement-financial condition of Aetna life Insurance Company; report on legislative affairs; report on results for 1989-1990 plan year; report on status of TRS-Care Fund; tentative schedule for rebid process; and administrative remarks.

Contact: Stan Blake, 1000 Red River, Austin, Texas 78701-2698, (512) 370-0550.

Filed: November 20, 1990, 3:50 p.m.

TRD-9012639

The Texas A&M University System

Saturday, November 24, 1990, 9 a.m. The Committee to Search for the Chancellor of

the Texas A&M University System met at the Board of Regents Meeting Room, Texas A&M University, College Station. According to the complete agenda, the committee considered any and all things leading to the selection of the Chancellor of the Texas A&M University System.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: November 21, 1990, 9:55 a.m.

TRD-9012494

Thursday, November 29, 1990, 9:30 a.m. and on each business day thereafter through December 12, 1990 The Board of Regents (Telephonic Board Meeting) of the Texas A&M University System will meet at the Board of Regents Meeting Room, College Station. According to the complete agenda, the board will consider and act upon any lawful subject which may come before it, including, among others, to consider authorizing a bond purchase agreement relating to one or more series of the Board of Regents of the Texas A&M University System revenue financing system refunding bonds, Series 1990A, Series 1990B, and Series 1990C, between the board and the purchasers of said bonds and escrow agreement between the board and NCNB Texas National Bank, approving the preliminary official statement relating to the bonds and taking any additional actions relating thereto. (The meeting or meetings will be held at such time on one or more of such days finalization of the terms of sale of one or more series of the bonds by the underwriters. Financial market conditions make it impossible to know the exact date the bond may be sold on the most advantageous terms to the system.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: November 26, 1990, 10:01 a.m.

TRD-9012599

University of Texas System

Wednesday, November 28, 1990, 9 a.m. The Land and Investment Committee of the Board of Regents of the University of Texas System met at the Regents' Room, Ashbel Smith Hall, Ninth Floor, 201 West Seventh Street, Austin. According to the complete agenda, the committee will hear an update on the operation of the Master Trust Custodian Agreement as well as to consider guidelines for the ongoing investment of the Permanent University Fund and Common Trust Fund in privately placed securities.

Contact: Arthur H. Dilly, P.O. Box N, U. T. Station, Austin, Texas 78713-7328, (512) 499-4402.

Filed: November 21, 1990, 2:18 p.m.

University of Texas at Arlington

Friday, December 14, 1990, noon. The Institutional Animal Care and Use Committee of the University of Texas at Arlington will meet at UT Arlington, Psychology Department, Room 323, Life Sciences Building, Arlington. According to the complete agenda, the committee will approve minutes of August 29, 1990 meeting; and discuss findings of facility inspection.

Contact: Verne C. Cox, P.O. Box 19125, Arlington, Texas 76019, (817) 273-3164.

Filed: November 26, 1990, 3:46 p.m.

TRD-9012636

University of Texas Health Center at Tyler

Thursday, December 6, 1990, noon. The Animal Research Committee of the University of Texas Health Center at Tyler will meet at the Chaplain's Conference Room, U. T. Health Center, Highways 155 South and 271 North, Tyler. According to the complete agenda, the committee will approve minutes from November meeting; hear chairman's report on activities since last meeting-Dr. Peterson; veterinarian's report-Dr. Thedford; discuss old business; new protocols and addenda; and Protocol 84: use of rats in studies of genetic control of enzyme related to emphysema.

Contact: Dr. Barry Peterson, P.O. Box 2003, Tyler, Texas 75710, (903) 877-7012.

Filed: November 26, 1990, 3:46 p.m.

TRD-9012637

Texas Water Commission

Wednesday, November 28, 1990, 3 p.m. The Texas Water Commission met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the revised agenda summary, the commission considered various matters within the regulatory jurisdiction of the commission. In addition, the commission considered items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission took various actions, including but limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Gloria Barrera, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: November 20, 1990, 4:57 p.m.

TRD-9012478

Wednesday, November 28, 1990, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the 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: Gloria Barrera, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: November 26, 1990, 4:17 p.m.

TRD-9012645

Tuesday, December 4, 1990, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1149A, Austin. According to the complete agenda, the commission will hold a public hearing to consider an application by Alfred J. Davenport, and wife, Nancy Davenport, Application Number 5304 for a water use permit.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Wednesday, December 12, 1990, 3 p.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the office will hold a hearing to determine whether Emergency Order Number 90-42E, issued by the commission on November 14, 1990, involving Liberty Hill Water Supply Corporation and Jenks Branch Water Supply Company should be affirmed, modified or set aside by the commission. The order authorizes Liberty Hill WSC to immediately provide an emergency interconnection with Jenks Branch WSC in order to provide continuous and adequate water utility service to its customers in Williamson County.

Contact: D. Diane Smith, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: November 20, 1990, 4:57 p.m.

TRD-90122477

Monday, December 17, 1990, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1028A, Austin. According to the complete agenda, the commission will hold a public hearing concerning rate increase of WWSW Company. Docket Number 8478-G.

Contact: Sally Colbert, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: November 21, 1990, 3:23 p.m.

TRD-9012548

Wednesday, January 9, 1991, 9 a.m. The

Office of Hearings Examiner of the Texas Water Commission will meet at the Oak Ridge Town Hall, Highway 82, Oak Ridge. According to the agenda summary, the office will consider an application by the Town of Oak Ridge for Proposed Permit Number 13514-01 authorizing discharge of treated domestic wastewater effluent to Indian Creek; thence to Lake Kiowa; thence to Indian Creek; thence to Ray Roberts Lake in Segment Number 0840 of the Trinity River Basin.

Contact: Kerry Sullivan, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: November 20, 1990, 4:59 p.m.

TRD-9012484

Wednesday, January 9, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the complete agenda, the commission will consider an application by Northwestern Resources Company, Application Number 5319, for an 11.121 Water Use Permit to impound water in fifteen existing reservoirs on tributaries of the Navasota River in the Brazos River Basin, for industrial purposes in Leon and Freestone Counties, Centerville.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 371-6386.

Filed: November 20, 1990, 4:57 p.m.

TRD-9012479

Wednesday, January 9, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the complete agenda, the commission will consider an application by Northwestern Resources Company, Application Number 5318, for an 11.121 water use permit to impound water in five reservoirs created by existing dams located on tributaries of Buffalo Creek, tributary of Upper Keechi Creek, tributary of the Trinity River, Trinity River Basin and use of not to exceed 130 acre-feet of water per annum from the reservoirs for industrial use in Freestone and Leon Counties.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 371-6384.

Filed: November 20, 1990, 4:58 p.m.

TRD-9012480

Tuesday, January 15, 1991, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1028A, Austin. According to the agenda summary, the office will consider an application by Howell Hydrocarbons Inc. for renewal of Permit Number 02921 which authorizes flow variable discharges of stormwater via Outfall 001 and treated groundwater via Outfall 002 from its petroleum refinery. The effluent via Outfall 001 is discharged into a drainage ditch;

thence to an unnamed tributary; thence to the San Antonio River, Segment Number 1911 of the San Antonio River Basin. The effluent via Outfall 002 is discharged into the San Antonio River, Segment Number 1911 of the San Antonio River Basin.

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: November 20, 1990, 4:59 p.m.

TRD-9012483

Wednesday, January 16, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider an application by William I. Dubel, Application Number 5323 for diversion and use of not to exceed 100 acre-feet of water per annum from the San Antonio River, San Antonio River Basin, to irrigate 50 acres of land in Kames County.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 371-6386.

Filed: November 20, 1990, 4:59 p.m.

TRD-9012481

Wednesday, January 16, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider an application by the City of Denison, Application Number 24-4910 for an extension of time to complete construction of the dam authorized by Certificate of Adjudication Number 024910 which authorizes the construction and/or update an existing dam (locally known as Waterloo Lake Dam) creating a 684 acre-foot reservoir (SCS Site 38, Choctaw Creek Watershed Project) on an unnamed tributary of Iron Ore Creek, tributary of Choctaw Creek, tributary of the Red River, Red River Basin, in Grayson County, for recreational purposes.

Contact: Mark Evans, P.O. Box 13087, Austin, Texas 78711, (512) 371-6389.

Filed: November 20, 1990, 4:59 p.m.

TRD-9012482

Wednesday, January 16, 1991, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider an application by Leroy W. Rabius and wife, Georgia Mae Rabius, Application Number 5324 for water use permit to divert 87 acre-feet of water per annum from the Old Channel of the San Bernard River, tributary of the San Bernard River, Brazos-Colorado Coastal Basin to irrigate 54 acres of corn and grasses in Wharton County, approximately 18 miles northeast of Wharton.

Contact: Lann Bookout, P.O. Box 13087,

Austin, Texas 78711, (512) 371-6385.

Filed: November 21, 1990, 3:23 p.m.

TRD-9012549

Thursday, January 17, 1991, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1149A, Austin. According to the complete agenda, the commission will hold a public hearing on application by West Lakeview Water Supply Corporation to discontinue water utility service and cancel its certificate of convenience and-necessity Number 11829-Docket Number 8443-A.

Contact: Jim Murphy, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: November 26, 1990, 4:16 p.m.

TRD-9012644

Friday, January 25, 1990, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 512, Austin. According to the complete agenda, the commission will hold a public hearing on appeal by ratepayers concerning rate increase of Gastonia-Scurry Water Supply Corporation-Docket Number 8747-W.

Contact: Clay Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: November 26, 1990, 4:17 p.m.

TRD-9012643

Texas Water Development Board

Tuesday, December 4, 1990, 2 p.m. The Texas Water Development Board will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the complete agenda, the board will hold a hearing on the final draft of the 1990 update of the Texas Water Plan to determine whether the proposed plan gives adequate consideration to protection of existing water rights in the state; whether the proposed plan takes into account modes and procedures for equitable adjustment of water rights affected by the plan; and accept comments concerning other aspects of the plan and discuss possible modification of the draft plan.

Contact: G. E. Kretzschmar, P.O. Box 13231, Austin, Texas 78701, (512) 463-7847.

Filed: November 26, 1990, 2:10 p.m.

TRD-9012615

Texas Workers' Compensation Commission

Wednesday-Thursday, November 28-29, 1990, 9 a.m. The Texas Workers' Compen-

sation Commission met at 200 East Riverside Drive, Room 255, Austin. According to the agenda summary, the commission approved minutes; discussed rules process; discussion and consideration of proposed rules: Chapter 102, Practice and Provisions; Chapter 110, Required Notice of Coverage; Chapter 120, Employers; Chapter 133, General Medical Provisions; Chapter 140, Dispute Resolution/General Provisions; Chapter 141, Requesting and Setting Benefit Review Conference; Chapter 145, Dispute Resolution/Hearings under Administrative Procedure and Texas Register Act; Chapter 150, Representation of Parties Before the agency; Chapter 160, Work Health and Safety/General Provisions; Chapter 164, Extra-Hazardous Employer Program; Chapter 168, Work Health and Safety Back Injury Prevention Training Program; Chapter 169, Drugs in Workplace; Discussion and consideration of rules for adoption: Chapter 120 Employers; Chapter 122, Claimants; Chapter 128, Calculation of Average Weekly Wage; Chapter 133, General Medical Provisions; Chapter 166, Accident Prevention Services; report on rules to Texas Register; progress report on the implementation of Senate Bill 1; and discussion of future meetings and agenda.

Contact: George E. Chapman, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7962.

Filed: November 21, 1990, 4:23 p.m.

TRD-9012557

Regional Meetings

Meetings Filed November 20, 1990

The Ellis County Appraisal District Appraisal Review Board met at 406 Sycamore Street, Waxahachie, November 27, 1990, at 9 a.m. Information may be obtained from Kathy A. Spencer, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9012476.

The Middle Rio Grande Development Council Texas Review and Comment System met at Fort Clark Springs, Highway 90, Brackettville, November 28, 1990, at 10 a.m. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9012450.

The Panhandle Ground Water Conservation District Number Three Board of Directors met at the Water District Office, 300 South Omohundro, White Deer, November 26, 1990, at 8 p.m. Information may be obtained from C. E. Williams, P.O. Box 637, White Deer, Texas 79097, (806) 883-2501. TRD-9012442.

The Trinity River Authority of Texas Resources Development Committee met at 5300 South Collins Street, Arlington, No-

ember 26, 1990, at 11 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9012436.

The Trinity River Authority of Texas Central Regional Wastewater System Right-of-Way Committee met at 5300 South Collins Street, Arlington, November 29, 1990, at 11 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9012435.

The Wise County Appraisal District Appraisal Review Board met at 206 South State Street, Decatur, November 29, 1990, at 9 a.m. Information may be obtained from Peggy Price, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9012451.

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Meetings Filed November 21, 1990

The Alamo Area Council of Governments Area Judges met at 118 Broadway Street, Suite 420, San Antonio, November 28, 1990, at 11:30 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway Street, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9012566.

The Alamo Area Council of Governments Board of Directors met at 118 Broadway Street, Suite 420, San Antonio, November 28, 1990, at 1 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway Street, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9012558.

The Angelina and Neches River Authority Board of Directors met at the Raguest Room at the Fredonia Hotel, 200 North Fredonia Street, Nacogdoches, November 27, 1990, at 10 a.m. (revised agenda). Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, Texas 75902-0387, (409) 632-7795. TRD-9012531.

The Brazos Valley Solid Waste Management Agency Board of Trustees met at the City of College Station Council Chambers, 1101 Texas Avenue, College Station, November 27, 1990, at 2:30 p.m. Information may be obtained from Cathy Locke, 1101 Texas Avenue, College Station, Texas 77843, (409) 764-3507. TRD-9012551.

The Dallas Area Rapid Transit Board and Staff Ad Hoc Committee met at 601 Pacific Avenue, Board Conference Room, Dallas, November 27, 1990, at 10 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9012555.

The Dallas Area Rapid Transit Economic and Business Development Ad Hoc Committee met at 601 Pacific Avenue, Board Conference Room, Dallas, November 27, 1990, at 1 p.m. Information may be ob-

tained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9012554.

The Dallas Area Rapid Transit Minority Affairs Committee met at 601 Pacific Avenue, Board Conference Room, Dallas, November 27, 1990, at 2 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9012556.

The Dallas Area Rapid Transit Governmental Relations Committee met at 601 Pacific Avenue, Board Conference Room, Dallas, November 27, 1990, at 3 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9012553.

The Dallas Area Rapid Transit Board of Directors met at 601 Pacific Avenue, Board Conference Room, Dallas, November 27, 1990, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9012567.

The Golden Crescent Regional Review Committee will meet at the GCRPC Board Room, Regional Airport, Building 102, Victoria, November 30, 1990, at 1:30 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9012565.

The Lubbock Regional Mental Health and Mental Retardation Center Board of Trustees met at 3801 Avenue J, Board Room, Lubbock, November 26, 1990, at noon. Information may be obtained from Gene Meneff, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 766-0202. TRD-9012534.

The Mental Health and Mental Retardation of Brazos Valley Board of Trustees will meet at 804 South Texas Avenue, Bryan, November 29, 1990, at 1:30 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77803, (409) 822-6467. TRD-9012523.

The Pecan Valley Mental Health and Mental Retardation Region Board of Trustees will meet at the Pecan Valley MHMR Region Clinical Office, 104 Charles Street, Granbury, November 28, 1990, at 9 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806. TRD-9012524.

The San Antonio River Industrial Development Authority Board of Directors will meet at the SARA General Offices, 100 East Guenther Street, San Antonio, December 3, 1990, at 1:30 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (512) 227-1373. TRD-9012530.

The Texas Rural Communities Board of Directors will meet at 500 Highland Mall Boulevard, Austin, December 6, 1990, at 9

a.m. Information may be obtained from Leslie Janca, 314 Highland Mall Boulevard, Austin, Texas 78752, (512) 458-1016. TRD-9012552.

The Trinity River Authority of Texas Utility Services Committee met at 5300 South Collins, Arlington, November 27, 1990, at 10:30 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9012496.

The Trinity River Authority of Texas Legal Committee met at 5300 South Collins, Arlington, November 28, 1990, at 10:30 a.m. Information may be obtained from Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9012495.

The West Central Texas Municipal Water District met at 401 Cypress Street, Suite 300, Abilene, November 29, 1990, at 9:30 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604. TRD-9012532.

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Meetings Filed November 26, 1990

The Bosque Central Appraisal District Board of Directors will meet at the Bosque Central Appraisal District Office, 104 West Morgan Street, Meridian, November 29, 1990, at 7 p.m. Information may be obtained from Don Whitney, P.O. Box 393, Meridian, Texas 76665, (817) 435-2304. TRD-9012598.

The Brazos River Authority Board of Directors, Water Resource Development Committee will meet at 4400 Cobbs Drive, Waco, December 20, 1990, at 11 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9012592.

The Central Appraisal District of Taylor County Appraisal Review Board will meet at 1534 South Treadaway, Abilene, December 5, 1990, at 2:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9012612.

The Deep East Texas Council of Governments Board of Directors met at the Rayburn Country Club, Rayburn Country, Jasper County, November 29, 1990, at 1 p.m. Information may be obtained from Louis J. Johnson, P.O. Box 661, Nacogdoches, Texas 75963, (409) 384-9091. TRD-9012608.

The Deep East Texas Private Industry Council will meet at the City Hall, Room 202, Lufkin, December 5, 1990, at 2 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-4432. TRD-9012604.

The Denton Central Appraisal District

Appraisal Review Board will meet at 3911 Morse Street, Denton, December 3, 1990, at 9 a.m. Information may be obtained from Joe Rogers, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904. TRD-9012611.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, December 14, 1990, at 9 a.m. Information may be obtained from Joe Rogers, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904. TRD-9012610.

The Fisher County Appraisal District Board of Directors will meet at the Fisher County Appraisal/Tax Office, Roby, December 11, 1990, at 7:30 p.m. Information may be obtained from Teddy Kral, P.O. Box 516, Roby, Texas 79543, (915) 776-2733. TRD-9012602.

The Hale County Appraisal District Board of Directors will meet at the Holiday Inn, 4005 Olton Road, Plainview, December 6, 1990, at 7 p.m. Information may be obtained from Linda Jaynes, 302 West Eighth Street, , P.O. Box 29, Plainview, Texas 79072, (806) 293-4226. TRD-9012578.

The Hays County Appraisal District Appraisal Review Board will meet at 632 "A" East Hopkins Street, Municipal Building, San Marcos, December 4, 1990, at 9 a.m. Information may be obtained from Lynnell Sedlar, 632 "A" East Hopkins, Municipal Building, San Marcos, Texas 78666, (512) 754-7400. TRD-9012600.

The Lampasas County Appraisal District Board of Directors met at 109 East Fifth Street, Lampasas, November 29, 1990, at 7 p.m. Information may be obtained from Henry Stoneham, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9012576.

The Lower Rio Grande Valley Development Council Board of Directors met at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, November 29, 1990, at 1:30 p.m. Information may be obtained from Kenneth N. Jones, Jr., 4900 North 23rd Street, McAllen, Texas 78504, (512) 682-3481. TRD-9012575.

The Martin County Appraisal District Appraisal Review Board will meet at the Appraisal Office, 308 North St. Peter, Stanton, December 11, 1990, at 7:30 p.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823. TRD-9012579.

The Martin County Appraisal District Board of Directors will meet at the Appraisal Office, 308 North St. Peter, Stanton, December 4, 1990, at 7:30 p.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823. TRD-9012580.

The Region 18 Education Service Center Board of Directors will meet at 2811 La Force Boulevard, Midland, December 6, 1990, at 7:30 p.m. Information may be obtained from Vernon Stokes, P.O. Box 60580, Midland, Texas 79711, (915) 563-2380. TRD-9012590.

The Sabine River Authority of Texas Board of Directors will meet at the Westin Oaks Hotel, Houston, December 8, 1990, at 9 a.m. Information may be obtained from Sam F. Collins, P.O. Box 579, Orange, Texas 77630, (409) 746-3200. TRD-9012638.

The Tarrant Appraisal District Board of Directors met at 2301 Gravel Road, Fort Worth, November 30, 1990, at 9 a.m. Information may be obtained from Olive Miller, 2301 Gravel Road, Fort Worth, Texas 76118, (817) 595-6005. TRD-9012601.

The Wheeler County Appraisal District Board of Directors will meet at the District's Office, Courthouse Square, Wheeler, December 3, 1990, at 2 p.m. (revised schedule). Information may be obtained from Larry M. Schoenhals, P.O. Box 1200, Wheeler, Texas 79096. TRD-9012603.

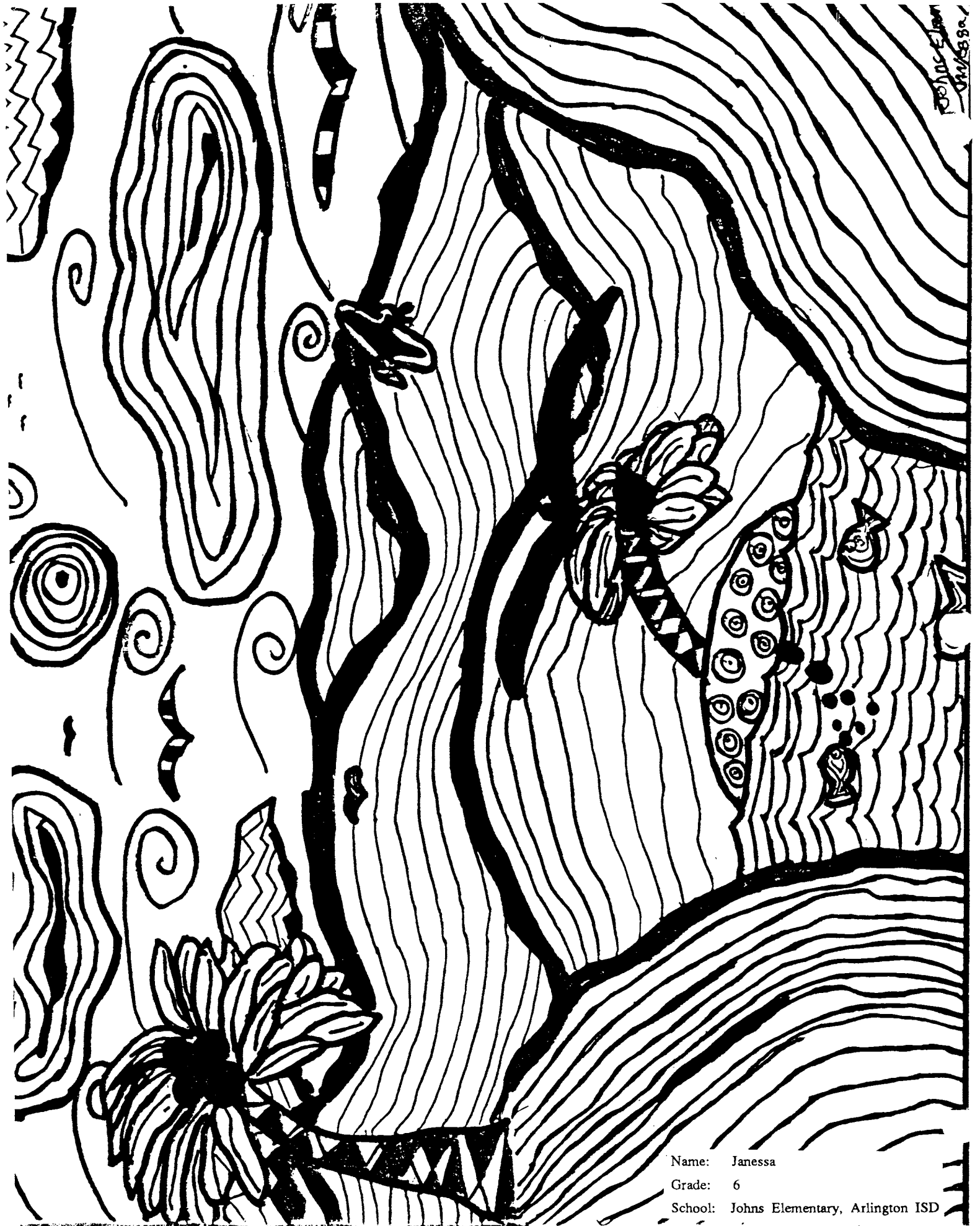
The Wheeler County Appraisal District Board of Directors will meet at the District's Office, Courthouse Square, Wheeler, December 3, 1990, at 2 p.m. Information may be obtained from Larry M. Schoenhals, P.O. Box 1200, Wheeler, Texas 79096. TRD-9012577.

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**Meetings Filed November 27,
1990**

The Dallas Area Rapid Transit DART Board Retreat will meet at the Garrett Creek Ranch, Route 1, Box 177, Paradise, Friday-Saturday, November 30, and December 1, 1990, at 9:30 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9012652.

The Lee County Appraisal District Appraisal Review Board will meet at 218 East Richmond Street, Giddings, December 4, 1990, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942. TRD-9012650.

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Name: Janessa
Grade: 6
School: Johns Elementary, Arlington ISD

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

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

Texas Air Control Board Notice of Public Hearing

Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act, §382.017; the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5; and the Texas Air Control Board (TACB) Procedural Rules, §103.11(4), the TACB will conduct a public hearing to receive testimony on proposed revisions to the TACB Regulation IV, Control of Air Pollution from Mobile Sources.

The proposed amendments to Regulation IV include adding a new §114.11, concerning alternative fuel requirements for transit authorities, in response to the requirements of Senate Bill 769. The new section defines alternative fuels and requires transit authorities in consolidated metropolitan statistical areas or metropolitan statistical areas which are nonattainment for one or more criteria pollutants and which have populations on 350,000 or more to ensure that their vehicles are capable of running on alternative fuels by specified schedule. The new rule also requires compliance with applicable safety standards, establishes the circumstances under which an exemption may be obtained, and requires the maintenance of written records.

The public hearing will be held at 10 a.m. on December 19, 1990, in the TACB Auditorium in Austin. Public comments, both oral and written, on the proposals are invited at the hearing. Hearings are structured for the receipt of narrative comments. Interrogation or cross-examination is not permitted. Persons desiring to testify should examine the materials on file beforehand and prepare statements for presentation at the hearing.

Written comments not presented at the hearing may be submitted to the TACB central office in Austin until December 20, 1990. Comments received by 4 p.m. on that date will be considered prior to any final decision on the proposed revisions.

Copies of the proposal are available for inspection at the central office on the TACB located at 6330 Highway 290 East, Austin, Texas 78723 and at all TACB regional offices. For further information, call Lynn Wright at (512) 451-5711.

Issued in Austin, Texas, on November 16, 1990

TRD-9012492 Lane Hartsock
Director, Planning and Development
Program
Texas Air Control Board

Filed: November 21, 1990

For further information, please call: (512) 451-5711, ext.354

Office of the State Auditor Consultant Proposal Request

Notice of Invitation for Proposal. Pursuant to Texas Civil Statutes, Article 6252-11c, the Office of the State Auditor invites offers from consultant firms for the purpose of obtaining a review of specific aspects of the Highway Performance Monitoring System (system) administered by the State Department of Highways and Public Transportation (department). The Highway Performance Monitoring System is an analytical process that was developed in the late 1970's by the Federal Highway Administration. This software package is designed to analyze a highway system inventory and develop relationships between various levels of capital investment and the resultant performance of that highway system. The State Department of Highways and Public Transportation has used this system to project highway needs relating to rehabilitation, reconstruction, and some new construction for the department's Strategic Mobility Plan. In order to adapt the system to Texas, the department increased the number of sample sites included in the data base. Changes were also made to system parameters to reflect Texas design standards, practices, costs, and demographic trends.

Description of Project. The consulting services are intended to provide a review of specific aspects of the Highway Performance Monitoring System administered by the State Department of Highways and Public Transportation. The objectives of the consulting services include assessment of the appropriateness and applicability of system logic to Texas, identification of system limitations and the steps the department has taken to adjust or compensate for those limitations, assessment whether modifications made to the system are in accordance with Texas standards and practices, assessment of the impact of other highway and bridge planning and analysis systems developed or being developed by the Federal Highway Administration, and assessment of the applicability of the System to shorter-range planning and analysis.

Contact Person/RFP Instructions. The Office of the State Auditor will provide contract management for the consulting engagement. Detailed specifications concerning this project, including the anticipated limit on contract amount for this engagement, will be made available in proposal preparation instructions, which may be obtained on or after December 10, 1990, by submitting a written request to: Review of Highway Performance Monitoring System Project, Office of the State Auditor, P.O. Box 12067, Austin, Texas 78711-2067, attention: Linda Sherrard. In order to ensure that all offerors have the same information and instructions concerning the preparation of proposals, all communication between offerors and the Office of the State Auditor prior to the submission of proposals shall be in writing.

Closing Date for Receipt of Offers. Written proposals offering to provide the requested consulting services may be hand delivered between the hours of 8 a.m. and 5 p.m., Monday-Friday, or sent by certified mail, to Linda Sherrard, Assistant State Auditor, at the address specified above. Proposals must be received by the Office of the State Auditor no later than 5 p.m. on January 11, 1991, except that proposals postmarked on or before January 9, 1991, and received subsequent to the closing date, will also be considered.

Selection Process. The State Auditor will consider the following in selecting the consultant: the demonstrated competence, knowledge, and qualifications of each individual who will work on the project and of the consultant firm as a whole, the extent to which the proposed consulting services accomplish the purposes and specifications of the RFP, the reasonableness of the proposed fee for the proposed consulting services, and when other considerations are equal, a consultant firm whose principal place of business is within the State of Texas, or who will manage the engagement wholly from one of its offices within the State of Texas, will be given preference. Final selection will be made by the Office of the State Auditor at its sole discretion.

Project Timing and Cost. Contingent upon negotiation of a contract with the offeror selected, the period of performance for the consulting services is anticipated to be from January 28, 1991-March 15, 1991. The consultant firm selected for the engagement may be required to submit progress reports to the Office of the State Auditor, according to a schedule and format to be specified by the contract.

General Information. The Office of the State Auditor reserves the right to accept or reject any (or all) proposals submitted. The information contained in this proposal request is intended to serve only as a general description of the services desired. Additional terms and conditions relating to this proposal request will be provided in the proposal preparation instructions. The Office of the State Auditor intends to use responses hereto as a basis for further negotiation of specific project details with offerors. Issuance of this Consultant Proposal Request creates no obligation to award a contract or to pay any costs incurred in the preparation of a proposal.

Issued in Austin, Texas, on November 20, 1990.

TRD-9012493 Lawrence F. Alwin, CPA
State Auditor
Office of the State Auditor

Filed: November 21, 1990

For further information, please call: (512) 479-4900

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Texas Department of Aviation
Consultant Proposal Request

The following consultant proposal request for providing professional engineering services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The Texas Department of Aviation will solicit and receive proposals for professional engineering services for the design and construction administration phases at the Waco-TSTI Airport, TDA Project Number 92/17-2-1, for runway reconstruction.

Those interested consulting engineers should submit four copies of brief proposals consisting of the minimum number of pages sufficient to provide necessary information to: Texas Department of Aviation, Attention: Wayne Travis

TDA Project Number 92/17-2-1, (Mailing Address): P.O. Box 12607, Austin, Texas 78711, (512) 476-9262; (Delivery Address): Anson Jones State Building, 410 east Fifth Street, Austin, Texas 78701.

Proposals must be received by 1 p.m., December 14, 1990.

Procedures for award will be in accordance with FAA Advisory Circular AC 150/5100-14B.

The total estimated project cost is approximately \$1,500,000.

Texas State Technical Institute, Waco, reserves the right to reject any or all proposals received and to conduct new consulting engineer selection procedures for future projects.

The proposals shall include: 1. Firm name, address, phone number, and person to contact regarding the proposal; 2. Proposed project management structure identifying key personnel and subconsultants (if any); 3. Qualifications and recent experience of the firm, key personnel, and subconsultants relative to the performance of similar services for FAA or TDA (TAC) projects; 4. Proposed project schedule, including major task and target completion dates; 5. Technical approach—a brief discussion of the tasks or steps to accomplish the project; 6. List of in-state references including the name, address, and phone number of the person most closely associated with the firm's prior project performance; 7. Statement regarding an 'Affirmative Action Program; 8. For projects with an estimated cost of \$250,000 or more, plans to utilize disadvantage business enterprises (DBEs) in contracting, subcontracting, and procurement efforts associated with this project including: a. the names and addresses of DBE firms that will participate in the contract; b. a description of the work each names DBE firm will perform; and c. percentage of the contract amount to be contracted by each named DBE; 9. Certification that all franchise taxes are paid or that consultant is not subject to franchise taxes.

Proposals will be reviewed by a consultant selection committee in order to identify from three to five consultants who will be interviewed by the committee. The final consultant selection will be made following completion of interviews.

Issued in Austin, Texas, on November 26, 1990.

TRD-9012586 Lydia Scarborough
Director, Support and Services
Texas Department of Aviation

Filed: November 26, 1990

For further information, please call: (512) 476-9262

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Consumer Credit Commissioner
Correction of Error

The Office of Consumer Credit Commissioner submitted a Notice of Rate Ceilings, which was published without the table of rate ceilings in the November 23, 1990, issue of the *Texas Register* (15 TexReg 6763). The notice should read as follows.

Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

*Percent % Copay:	60%	70%	80%	90%	100%
Family Size	130% of Median	135% of Median	140% of Median	145% of Median	150% of Median
1	\$21,931	\$22,775	\$23,618	\$24,462	\$25,305
2	28,679	29,782	30,885	31,988	33,092
3	35,428	36,790	38,153	39,515	40,878
4	42,175	43,797	45,419	47,041	48,663
5	48,923	50,805	52,686	54,568	56,450
6	55,670	57,811	59,952	62,093	64,235
For additional member, add:	\$ 2,548	\$ 2,646	\$ 2,744	\$ 2,842	\$ 2,940
Maximum Copayment Amount	\$ 4,320	\$ 5,040	\$ 5,760	\$ 6,480	\$ 7,200

*For annual income that falls between the amounts listed use the lower copayment percentage.]

Issued in Austin, Texas, on November 13, 1990.

TRD-9012262 Al Endsley
Consumer Credit Commissioner

Filed: November 15, 1990

For further information, please call: (512) 479-1280

Texas Education Agency Notice of Contract Award

Filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

After publication of a consultant proposal request (#701-91-030) in the September 25, 1990, issue of the *Texas Register* (15 TexReg 5618) and the September 28, 1990, issue of the *Texas Register* (15 TexReg 5762) for a search firm to assist in the identification of candidates to nominate for the position of commissioner of education, the Texas Education Agency has awarded a contract to Heidrick and Struggles, Inc., 1999 Bryan Street, Suite 1919, Dallas, Texas 75201.

The contract will begin on November 3, 1990, and the contract will end January 31, 1991.

The amount of the contract is \$34,250. Payments in excess of the amounts identified by contractor and deemed reasonable and necessary to the purposes of this contract may be processed for payment upon prior approval by W. N. Kirby, Commissioner of Education.

A preliminary study and recommendations are to be completed by January 3, 1991. The final study and recommendations are to be completed by January 31, 1991.

Issued in Austin, Texas, on November 19, 1990.

TRD-9012453 W. N. Kirby
Commissioner of Education

Filed: November 20, 1990

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

Notice of Public Forum

The Texas Education Agency, in collaboration with the Texas Higher Education Coordinating Board, will conduct a public forum on Tuesday, November 27, 1990, at 9:30 a.m. in Room 1-111 of the William B. Travis Building, 1701 North Congress Avenue, Austin.

The purpose of the forum is to receive testimony regarding the development of measurable objective criteria for assessing the quality of vocational and applied technology education programs in the state. Such criteria shall be developed in consultation with representatives of the following groups: organized labor, business, superintendents, community-based organizations, private industry councils, parents, special populations, correctional institutions, the Texas Council on Vocational Education, the state administrator of programs for students with limited English proficiency, and guidance counselors.

In public schools, the assessment will address the quality of programs for secondary students enrolled in vocational and applied technology education and for adults enrolled in training programs under the jurisdiction of the local education agency. In postsecondary institutions, the assessment will address the quality of postsecondary and adult vocational and applied technology programs.

Representatives of the groups identified above are invited to participate. Each organization desiring to present testimony is requested to contact Dr. R. D. Bristow, Director, Vocational Education Funding and Compliance, at (512) 463-9311, prior to the public forum. The representative speaking for the organization is requested to provide 20 copies of written testimony. Each speaker will be allotted five minutes for the presentation.

Issued in Austin, Texas, on November 16, 1990.

Filed: November 19, 1990

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

Texas Department of Health

Correction of Error

The Texas Department of Health submitted an adopted amendment to 25 TAC §133.21, which contained an error in the department's submission for the November 6, 1990, issue of the *Texas Register* (15 TexReg 6402).

The effective date of the adopted amendment is January 1, 1991, not November 20, 1990, as published.

Texas Health and Human Services

Coordinating Council

Request for Public Comments

The Texas Information and Referral Task Force (Task Force) requests public comments on its report entitled "Information and Referral in Texas: A Plan to Improve Services." The Task Force began meeting in April 1990, with the charge to develop a plan for a comprehensive, generic, statewide health and human services information and referral system. This plan is currently in draft form. After public comments are received and reviewed, and the needed alterations made, the Task Force will approve the final plan in January, 1991.

The information and referral project is jointly sponsored by the Texas Health and Human Services Coordinating Council, the Interagency Council on Early Childhood Intervention, and the Texas Planning Council for Developmental Disabilities. The plan was prepared for the Texas Information and Referral Task Force by Ilene Gray and Andersen Consulting.

After a thorough review of the current state of the practice in information and referral in Texas as well as throughout the nation, the Task force developed five recommendations. These recommendations, which focus on building a network using current systems as a foundation, will both improve services and provide a basis upon which to evaluate and plan for additional future enhancements.

To request a copy of the executive summary or the entire plan, contact Terry Karow at: (512) 873-2400, or write to: the Texas Health and Human Services Coordinating Council, 9101 Burnet Road, Suite 216, Austin, Texas 78758.

For consideration in the final plan, all comments must be received at the Texas Health and Human Services Coordinating Council Office at 9101 Burnet Road in Austin, by 5 p.m. on January 4, 1991. All persons providing written comments will receive copies on the final plan.

Issued in Austin, Texas, on November 30, 1990.

TRD-9012587

James P. Smothermon
Executive Director
Texas Health and Human Services
Coordinating Council

Filed: November 26, 1990

For further information, please call: (512) 873-2400

Texas Department of Human Services

Correction of Error

The Texas Department of Human Services (DHS) submitted a proposed amendment that included two copayment charts, one being revised and one to be deleted, concerning the In-home and Family Support Program.

The chart to be deleted was erroneously omitted in the November 13, 1990, issue of the *Texas Register* (15 TexReg 6481).

On page 6482, §48.2703 should include the copayment chart proposed for deletion.

[Copayments are figured according to the following table:

*Percent (%) Copay:		10%	20%	30%	40%	50%
Family Size	Median Income	105% of Median	110% of Median	115% of Median	120% of Median	125% of Median
1	\$16,870	\$17,714	\$18,557	\$19,401	\$20,244	\$21,088
2	22,061	23,164	24,267	25,370	26,473	27,576
3	27,252	28,615	29,977	31,340	32,702	34,065
4	32,442	34,064	35,686	37,308	38,930	40,553
5	37,633	39,515	41,396	43,278	45,160	47,041
6	42,823	44,364	47,105	49,246	51,388	53,529

FOR ADDITIONAL MEMBERS ADD 3% TO 135% AND MULTIPLY NEW PERCENT BY 4 PERSON FAMILY

For additional member, add:	\$ 1,960	\$ 2,058	\$ 2,156	\$ 2,254	\$ 2,352	\$ 2,450
Maximum Copayment Amount	0	\$ 720	\$ 1,440	\$ 2,160	\$ 2,880	\$ 3,600

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (3)/Agricultural/ Commercial (4) thru \$250,000</u>	<u>Commercial(4) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	11/19/90-11/25/90	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(1)	11/01/90-11/30/90	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	10/01/90-12/31/90	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11(3)	10/01/90-12/31/90	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d)(3)	10/01/90-12/31/90	15.02%	N.A.
Standard Annual Rate - Art. 1.04(a)(2)(2)	10/01/90-12/31/90	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11(3)	10/01/90-12/31/90	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail and Lender Credit Card Balances with Annual Implementation Dates from:	10/01/90-12/31/90	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	11/01/90-11/30/90	10.00%	10.00%

(1)For variable rate commercial transactions only. (2)Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. (3)Credit for personal, family or household use. (4)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas this the 13th day of November, 1990.

Public Notice of Closed Solicitation

Pursuant to 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5315), Title 2, Chapters 22 and 32, of the Human Resources Code, the Texas Department of Human Services (TDHS) is closing the solicitation for new Medicaid beds in La Salle County, County Number 142, which appeared in the July 14, 1989, issue of the *Texas Register* (14 TexReg 3428) and Bexar County, County Number 015, Precinct Number 4, identified in the November 6, 1990, issue of the *Texas Register* (14 TexReg 6419). The solicitation is being closed effective the date of this public notice.

Issued in Austin, Texas, on November 20, 1990.

TRD-9012462 Cathy Rossberg
Agency Liaison, Policy and Document
Support Department
Texas Department of Human Services

Filed: November 20, 1990

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

State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

1. Application for admission to do business in Texas of the Explorer Insurance Company, a foreign casualty insurance company. The home office is in San Diego, California.
2. Application for incorporation in Texas of Titan Lloyds Insurance Company, a domestic lloyds plan insurer. The home office is in San Antonio.
3. Application for admission to do business in Texas of The Pennsylvania Reinsurance Company, a foreign casualty insurance company. The home office is in Broomall, Pennsylvania.
4. Application for name change by American Combined Life Insurance Company, a foreign life insurance compa-

ny. The home office is in Lincoln, Nebraska. The proposed new name is Federated Investors Life Insurance Company.

5. Application for name change by Life of Mid-America Insurance Company, a foreign life insurance company. The home office is in Minnetonka, Minnesota. The proposed new name is UHC Insurance Company, (Assumed name is Texas for United Health and Life Insurance Company).

6. Application for admission to do business in Texas of DBL Services, Inc., a foreign third party administrator. The home office is in St. Louis, Missouri.

7. Application for incorporation in Texas of MHN, Inc., a domestic third party administrator. The home office is in Irving.

8. Application for admission to do business in Texas of Direct Response Insurance Administrative Service Inc., a foreign third party administrator. The home office is in Bloomington, Minnesota.

9. Application for admission to do business in Texas of Hilb, Rogal and Hamilton Employee Benefits, Inc., a foreign third party administrator. The home office is in Savannah, Georgia.

Issued in Austin, Texas, on November 20, 1990.

TRD-9012541 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: November 21, 1990

For further information, please call: (512) 463-6327

Legislative Budget Board

Tax Relief Amendment

Implementation—Limit on Growth of Certain State Appropriations

The Legislative Budget Board is required by statute to publish in the *Texas Register* specific items of information together with a description of the methodology and sources used in the calculation of the constitutional limit on the growth of appropriations from non-dedicated state taxes. This memorandum is published to fulfill that requirement.

Legal References. The Texas Constitution, Article VIII, §22, approved by the voters in November 1978, states that: In no biennium shall the rate of growth of appropriations from state tax revenues not dedicated by this constitution exceed the estimated rate of growth of the state's economy. The Legislature shall provide by general law procedures to implement this subsection.

This provision does not alter, amend, or repeal the Texas Constitution, Article III, §49a, the well known "pay-as-you-go" provision.

To implement this provision of the Texas Constitution, the 66th Legislature enacted Article 9, Chapter 302, Laws 1979 (Texas Government Code, §316) which placed with the Legislative Budget Board the responsibility for initial approval of a limitation on the growth of certain state appropriations. A part of the procedure for approving the limitation is set forth in §316.003 and §316.004 as follows.

Section 316.003. Before the Legislative Budget Board approves the items of information required by §316.002, the board shall publish in the *Texas Register* the proposed

items of information and a description of the methodology and source used in the calculations.

Section 316.004. Not later than December 1 of each even-numbered year, the Legislative Budget Board shall hold a public hearing to solicit testimony regarding the proposed items of information and the methodology used in making the calculations required by §316.002.

The items of information mentioned above are identified as follows in §316.002: (1) the estimated rate of growth of the state's economy from the current biennium to the next biennium; (2) the level of appropriations for the current biennium from state tax revenues not dedicated by the constitution; and (3) the amount of state tax revenues not dedicated by the constitution that could be appropriated for the next biennium within the limit established by the estimated rate of growth of the state's economy.

In this memorandum, each item of information is taken up in the order listed above.

Estimated Rate of Growth of the State's Economy. A definition of the "estimated rate of growth of the state's economy" is set forth in paragraph (b) of §316.002 in the following words.

(b) Except as provided by subsection (c), the board shall determine the estimated rate of growth of state's economy by dividing the estimated Texas total personal income for the next biennium by the estimated Texas total personal income for the current biennium. Using standard statistical methods, the board shall make the estimate by projecting through the biennium the estimated Texas total personal income reported by the United States Department of Commerce or its successor in function.

(c) If a more comprehensive definition of the rate of growth of the state's economy is developed and is approved by the committee established by §316.005, the board may use that definition in calculating the limit on appropriations.

The Commerce Department's Bureau of Economic Analysis defines state personal income as follows: ...the income received by persons from all sources, that is, from participation in production, from both government and business transfer payments, and from government interest. Personal income is the sum of wage and salary disbursements, other labor income, proprietors' income, rental income of persons, personal dividend income, personal interest income and transfer payments, less personal contributions for social insurance.

Table 1 displays the Commerce Department's personal income account for Texas for calendar year 1989. The largest component of Texas personal income is wage and salary disbursements, estimated at \$156.5 billion during calendar 1989. Salary and wage disbursements are added with other labor income—primarily employer contributions to private pensions and welfare funds—and proprietors' income to arrive at total earnings by place of work. Texas total earnings by place of work reached an estimated \$196.6 billion in calendar 1989.

In deriving Texas total personal income, two adjustments are made to total earnings by place of work. Personal contributions for social insurance contributions—principally social security payroll taxes paid by employees and self-employed—are deducted. A place-of-resident adjustment is also made to reflect the earnings of workers who cross state borders to live or work. Dividends, interest and rent income are then added, along with transfer payments. The major types of transfer payments include social security, various retirement and unemployment insurance benefits, welfare, and disability and health insurance payments.

Texas total personal income is estimated to be \$263.1 billion for calendar 1989.

The United States Department of Commerce reports personal income estimates by calendar quarter and year. Since the state's fiscal year begins on September 1 and ends August 31, an adjustment is required to present these data on a biennial basis. The Legislative Budget Office uses the data for the first three calendar quarters of a year plus the fourth quarter of the preceding year to represent the state's fiscal year. A biennium is the sum of two fiscal years. The historical record of the rate of growth in Texas personal income for the past fourteen completed biennial using data published by the United States Department of Commerce is shown in Table 4.

Forecasting Texas Personal Income

In reviewing standard statistical techniques for forecasting or projecting Texas personal income, the Legislative Budget Office has obtained the latest economic forecasts from the following sources: (1) Wharton Econometric Forecasting Associates; (2) the Texas Comptroller of Public Accounts; and (3) Data Resources, Inc. These forecasts are based on econometric models developed and maintained by the forecasting services listed.

While each forecasting service brings its own approach to the development of economic projections, there are several characteristics common to the econometric models from which the Texas total personal income estimates are derived. First, each assumes that the United States economy is the driving force behind Texas economic activity. As a result, forecasts of United States economic variables are needed to drive each model. Secondly, each of the econometric models is structural in nature, representing certain assumptions about the structure of the Texas economy,

consistent with economic theory. Structural models normally entail detailed modeling of key sectors of the state's economy, followed by statistical testing to establish relationships with other sectors of the economy. Previous memoranda published on the constitutional limit include more detailed discussion of the forecasting methods used. See the following issues of the *Texas Register*: (5 TexReg 4272), (7 TexReg 3727), (9 TexReg 5219), (11 TexReg 4590) and (13 TexReg 4599).

Table 2 details the Texas personal income growth rates of the various forecasting services for the 1992-1993 biennium over the 1990-91 biennium. These forecasts range from 1.123 or 12.3% to 1.154 or 15.4%.

Table 5 outlines briefly the sources and dates for the Texas personal income growth rates presented in Table 2.

The personal income growth rates shown in Table 2 or any more recent forecasts will be presented to the Legislative Budget Board for its consideration in adopting this item of information. The board is not limited to one or any combination of the growth rates shown in adopting a Texas personal income growth rate for the 1992-1993 biennium.

Appropriations from State Tax Revenue Not Dedicated by the Constitution: 1990-1991 Biennium. The amount of appropriations from state tax revenue not dedicated by the Constitution in the 1990-1991 biennium—the base biennium—is the second item of information to be determined by the Legislative Budget Board. As of October 1, 1990, the staff estimates this amount to be \$24,465,187,784. This item multiplied by the estimated rate of growth of Texas personal income from the 1990-1991 biennium to the 1992-1993 biennium produces the limitation on appropriations for the 1992-1993 biennium under the Texas Constitution, Article VIII, §22.

TABLE 1
U.S. DEPARTMENT OF COMMERCE PERSONAL
INCOME ACCOUNT FOR TEXAS, CALENDAR YEAR 1989
(In Millions of Current Dollars)

	Amount	Percent of Total
Earnings by Place of Work		
Wage and Salary Disbursements	\$156,515	79.6%
Other Income	15,784	8.0
Proprietors' Income		
Farm	\$ 2,955	
Nonfarm	<u>21,305</u>	
Subtotal	<u>24,260</u>	<u>12.4</u>
Total Earnings by Place of Work	\$196,559	100.0%

Derivation of Total Personal Income

Earnings by Place of Work (from above)	\$196,559	
Less: Personal Contribution for Social Insurance	-11,936	
Plus: Adjustment for Residence	<u>-532</u>	
Equals: Net Earnings by Place of Residence	\$184,091	70.0
Plus: Dividends, Interest and Rent	45,189	17.2
Plus: Transfer Payments	<u>33,792</u>	<u>12.8</u>
Total Personal Income	<u>\$263,072</u>	<u>100.0%</u>

Source: U.S. Department of Commerce, Bureau of Economic Analysis, Quarterly Personal Income By Major Source and Earnings by Industry, April 1990. Totals may not add due to rounding.

TABLE 2
ESTIMATED GROWTH RATES FOR TEXAS PERSONAL INCOME
USING THREE ECONOMETRIC MODELS
1990-91 BIENNIUM TO 1992-93 BIENNIUM

Source of Forecast	1992-93 Texas Personal Income Growth Rate
1. Wharton Econometric Forecasting Associates	1.1233
2. Comptroller of Public Accounts	1.1541
3. Data Resources, Inc. (DRI)	1.1411

Note: The growth rates shown above can be interpreted in percentage terms. For example, the growth rate of 1.1233 for the WEFA forecast of Texas personal income indicates estimated personal income growth of 12.33% for the 1992-93 biennium.

TABLE 3
LIMIT ON 1992-93 BIENNIUM APPROPRIATIONS
OF STATE TAX REVENUE NOT DEDICATED BY
THE TEXAS CONSTITUTION

1. 1990-91 Base	\$ 24,465,187,784	\$ 24,465,187,784
2. Illustrative Growth Rates	X <u>1.1233</u>	X <u>1.1541</u>
3. 1992-93 Limitation on		
Growth in Appropriations	<u>\$ 27,481,745,438</u>	<u>\$ 28,235,273,222</u>

TABLE 4
BIENNIUM-TO-BIENNIUM GROWTH RATES IN TEXAS PERSONAL INCOME
1960-61 TO 1988-89 BIENNIA

Base Biennium	Target Biennium	Growth Rate	Percent Increase
1960-61	1962-63	1.102	10.2%
1962-63	1964-65	1.131	13.1
1964-65	1966-67	1.187	18.7
1966-67	1968-69	1.225	22.5
1968-69	1970-71	1.199	19.9
1970-71	1972-73	1.219	21.9
1972-73	1974-75	1.291	29.1
1974-75	1976-77	1.285	28.5
1976-77	1978-79	1.313	31.3
1978-79	1980-81	1.332	33.2
1980-81	1982-83	1.234	23.4
1982-83	1984-85	1.156	15.6
1984-85	1986-87	1.082	8.2
1986-87	1988-89	1.104	10.4

TABLE 5
SUMMARY OF SOURCES AND METHODS FOR
TEXAS PERSONAL INCOME GROWTH RATES FOR THE
1992-93 BIENNIUM

Source	Type of Forecast	Date	Source U.S. Variables
1. Wharton Econometric Forecasting Associates	Econometric	Fall 1990	Wharton
2. Comptroller of Public Accounts	Econometric	Spring 1990	Wharton
3. Data Resources, Inc.	Econometric	August 1990	DRI

Source: Compiled by the Legislative Budget Office, October 1990.

Calculating the 1992-1993 Limitation. The limitation on appropriations of state tax revenue not dedicated by the State Constitution in the 1992-1993 biennium may be illustrated by selecting a growth rate and applying it to the 1990-91 appropriations base. This is shown in Table 3, using the lowest and highest growth rates shown in Table 2. Depending on which personal income growth rate is adopted, current estimates suggest a limitation on 1992-1993 biennial appropriations from non-dedicated state taxes ranging from \$27.5 billion to \$28.2 billion.

Method of Calculating the 1990-1991 Appropriations from State Tax Revenue not Dedicated by the Constitution. The amount of appropriations from state tax revenue not dedicated by the Constitution in the 1990-1991 biennium—the base biennium—is the second item of information to be determined by the Legislative Budget Board. As of October 1, 1990, the staff estimates this item to be \$24,465,187,784. This section details the sources of information used in this calculation.

Most of the appropriations for the 1990-1991 biennium were contained in the General Appropriations Act, Senate Bill Number 222, 71st Legislature, Regular Session. Additional appropriations were made in seven Regular Session bills and in the First, Second, and Sixth Called Sessions of the 71st Legislature. (See Table 9.)

Section I of Table 6, shows for the General Revenue Fund the total amount of appropriations, the amount financed from constitutionally dedicated tax revenue, from non-tax revenue and the remainder—the amount financed from non-dedicated tax revenue—which is the amount subject to the limitation. The transactions of the Available School Fund, the State Textbook Fund, the Foundation School Fund, the State Highway Fund, the Mixed Drinks Gross Receipts Tax Fund and the Bank Franchise Tax Allocation Fund which affect the limitation are also shown. In addition, State Board of Insurance maintenance taxes are included in the calculation of the limitation.

I. General Revenue Fund

A. Appropriations are classified in this table as the following: (1) revenue allocations; (2) priority allocations; (3) line items; (4) related appropriations; and (5) appropriations from motor fuels taxes.

1. Revenue allocations:

a. The Comptroller's Operating Fund 062 receives a percentage of the taxes on oil and gas production, cigarette sales and motor fuels for tax administration. The amount shown is the sum of actual 1990 and estimated 1991 for tax enforcement less the motor fuels tax enforcement transfer which is shown separately below.

b. The State Parks Fund 064 receives a portion of the cigarette tax—one cent per pack. The amount shown is calculated, based on the actual transfer in fiscal year 1990 and the estimated cigarette tax for 1991. The estimated cigarette tax for 1991 is the sum of the Comptroller's November 1989 estimate and the estimated revenue gain from the cigarette tax increase contained in House Bill 6, 71st Legislature, Sixth Called Session.

c. The Local Parks Fund 467 also receives one cent per pack of the cigarette tax. The amount is calculated based on actual 1990 revenues plus the estimated cigarette tax for 1991. The estimated tax for 1991 is the sum of the Comptroller's November 1989 estimate and the estimated revenues gain from the cigarette tax increase in House Bill 6, 71st Legislature, Sixth Called Session.

d. The amounts for restricted fees collected by the Health Department are based on actual 1990 fees and estimated appropriations for Fiscal Year 1991 shown on page II-16 and in rider 28, page II-23 of Senate Bill 222.

e. The dollar amount of occupation tax revenue transferred to the Foundation School Fund is calculated, based on the sum of actual 1990 revenues and the Comptroller's November 1989 revenue estimate for occupation taxes for fiscal year 1991.

f. The amount of Hotel-Motel tax allocated to the Department of Commerce is based on the sum of actual 1990 revenues and the Comptroller's November 1989 revenue estimate.

2. Priority Allocations:

a. The estimated transfer to the Teacher Retirement System, shown in Senate Bill 222 (p. III-29, rider 5), was adjusted for the Fiscal Year 1989 and Fiscal Year 1990 underpayment. [Note: The full amount of the 1990-1991 Teacher Retirement System appropriations are included as part of the base for calculating the spending limit. However, House Bill 1279, 71st Legislature, Regular Session, delayed three months (190.5 million) of Teacher Retirement System transfers from fiscal year 1991 to fiscal year 1992. These delayed payments of 1990-1991 appropriations will be financed with revenue collected in the 1992-1993 biennium. For the purpose of this calculation of the spending limit, the delayed payments were attributed to non-tax and non-dedicated tax revenue based on the apportionment of 1990-1991 revenue. When the official Comptroller's 1992-1993 revenue estimate is published, the payments will be reapportioned on the basis on 1992-1993 revenue to more accurately reflect the actual source of funding]. The appropriations in Senate Bill 222 for group insurance for retired teachers (p. III-28) were also adjusted to account for Fiscal Year 1989 and Fiscal Year 1990 underpayment.

b. The appropriated state contribution for the Optional Retirement Program is based on actual 1990 state contributions and the 1991 appropriation as shown in Senate Bill 222, P. III-28.

c. The general revenue share of the cost of the Foundation School Program, including rider appropriations and special session appropriations, is estimated to be \$7,559,661,538 for the 1990-1991 biennium. The amount of Available School Fund apportionment and occupation tax transfers to the Foundation School Fund are shown separately.

3. Line Item Appropriations. Each of these items under the subheading "estimated-to-be" may change under certain circumstances. For purposes of this calculation, the Fiscal Year 1990 amounts are based on actual 1990 expenditures. Amounts for 1991 are taken from Senate Bill 222. The amount shown for the Employees Retirement System includes the financing from the General Revenue Fund, the Comptroller's Operating Fund, and that portion of the Department of Human Services' Welfare Administration Operating Fund financed by transfers from the General Revenue Fund. The figure shown for "All Other Line Items" is the difference between total Senate Bill 222, as adjusted in Fiscal Size-up line item appropriations from the General Revenue Fund, and the items listed separately. (See Table 7.)

4. Related Appropriations:

a. The amount for unexpended balances reappropriated in Senate Bill 222 totals \$64,108,494 for the 1990-1991 biennium. The calculation of this amount is outlined in Table 8.

b. In addition to the line items, a number of appropriations are made by rider. The estimate for riders in the appropriations bill is \$342,581,147.

c. The Governor's vetoes totaled \$8,760,601. Items vetoed by the Governor for Fiscal Year 1990-1991 include certain appropriations to the following agencies. \$1,738,688 from the Aeronautics Commission; \$2,725,456 from the Department of Agriculture; \$500,000 from the Texas Employment Commission; \$1,100,000 from the Advisory Commission on Intergovernmental Relations; \$2,484,555 from

the Commission on Law Enforcement Officer Standards and Education; \$48,600 from the Purchasing and General Services Commission; and \$163,302 from the Texas Conservation Foundation.

d. Table 9 lists other bills which make appropriations in addition to the General Appropriations Act. Included are bills appropriating additional funds during the 71st Legislature, Regular Session and the First, Second and Sixth Called Sessions. The additional appropriations, excluding appropriations to the Foundation School Program and the Judiciary (accounted for above) total \$94,419,328.

5. Highway Motor Fuels Tax Transfer to Other Funds: Motor fuels taxes are deposited in the General Revenue Fund. The following allocations are then made to other funds.

a. To County Road and District Highway Fund 57: This amount is fixed in Texas Civil Statutes, §153.503(a)(3)(A).

b. The transfer to the State Highway Fund is calculated using actual 1990 revenue and the Comptroller's November 1989 estimate for 1991 fuel tax revenue.

c. The amount transferred for enforcement to the Comptroller's Operating Fund 062 is calculated from the sum of actual 1990 revenue and the amounts in the Comptroller's November 1989 revenue estimate for 1991 fuel taxes.

d. The allocation of 75% of Unclaimed Motorboat refunds to the Game, Fish, and Water Safety Fund 009 is calculated from the sum of actual 1990 revenues and the Comptroller's November 1989 revenue estimate for 1991 unclaimed motorboat refunds.

e. The amount transferred to the Available School Fund is shown in the table at line II. B. 1.

B. Source of Funding: This table shows that of the \$29,031,247,774 of General Revenue Fund appropriations, \$24,209,906,824 is subject to the limitation because it is financed from state tax revenue not dedicated by the Constitution.

The appropriations for enforcement are financed from the non-dedicated portion of taxes on oil and gas production and taxes on cigarette sales (non-dedicated). The appropriations for parks are from cigarette taxes.

The fiscal year 1990 beginning balance in the General Revenue Fund, excluding oil overcharge revenue, was zero. However, under the provisions of House Bill 1279, 71st Legislature, Regular Session, \$167,007,000 was transferred from the General Revenue Fund to the Emergency Appropriation Fund on August 31, 1989, and back to the General Revenue Fund on September 1, 1989. For the purpose of the spending limit, the transfer is treated as a fund balance. It is apportioned between non-dedicated tax revenue and non-tax revenue on the basis of the composition of 1988-1989 revenue in the General Revenue Fund. (See item 6.c.)

The beginning balance of Fund 62 is apportioned on the basis of 1988-1989 revenue to that fund from motor fuels taxes (dedicated), fees for collection of city sales taxes and other miscellaneous non-tax sources, and a percentage of revenue from taxes on oil, natural gas production and cigarette sales. By subtracting the appropriations financed from these known sources from the total of \$29,031,247,774, it can be established that appropriations totaling \$24,934,628,105 remain to be financed (see item 8).

Dedicated state tax revenues deposited in the General Revenue Fund, not including motor fuels taxes dedicated to Fund 002 which are shown in the next section, are

estimated to total \$2,948,700,000 during the 1990-1991 biennium. When the apportioned Fund 62 balance is added, appropriations from the General Revenue Fund financed from dedicated state taxes total \$2,955,061,962 for the 1990-1991 biennium. Non-tax revenue in the General Revenue Fund is estimated at \$1,853,519,540 (see the third column). With the apportioned beginning balance of the Comptroller's Operating Fund 062 added, appropriations from the General Revenue Fund financed from non-tax revenue are estimated at \$1,866,278,989 for the 1990-1991 biennium.

General Revenue Fund appropriations to be financed from non-dedicated tax revenue are shown in column 4. This amount totals \$24,209,906,824 for the 1990-1991 biennium.

II. Available School Fund 002

A. The appropriations from the Available School Fund finance the per capita distribution to school districts and the State schools and the transfer to the State Textbook Fund 003. The amount of per capita aid to school districts depends upon the average daily attendance count for students in Texas public schools during the preceding year and estimates by the State Comptroller of the amount of revenue that will flow into the Available School Fund. The estimates used in calculating the limitation are based on actual 1990 revenue and the Comptroller's November 1989 estimate of 1991 Available School Fund revenue. The amount of per capita aid to be distributed to school districts during the 1990-1991 biennium is estimated at \$1,855,829,022.

B. Source of Funding: The transfer from motor fuel taxes originates with tax revenue dedicated to public schools by the Texas Constitution. Interest and dividend income is earned from the investment activity of the Permanent School Fund and is classified as non-tax revenue. The beginning balance in the Available School Fund is apportioned among the three sources in the same percentage as revenue received by the Fund in the 1988-1989 biennium.

The Comptroller's Fiscal Year 1989 Annual Report showed a beginning cash balance of \$56,177,540 for Fiscal Year 1990. Subtracting the prior-year apportionment of \$36,581,000 leaves \$19,596,540 available for the Fiscal Year 1990-1991 biennium. This amount is allocated among the three revenue categories on the basis of the actual 1988-1989 biennial receipts of the Fund. In the 1988-1989 biennium, 38.1% of the Available School Fund revenue came from state tax revenue dedicated by the Constitution and 61.7% came from sources other than taxes, while .2% came from state tax revenue not dedicated by the Constitution.

The projected ending balance for the 1990-1991 biennium is estimated to be \$1,810,000. This balance is apportioned on the basis of 1990-1991 biennial receipts and shown as a deduction.

III. State Textbook Fund 003. The State Textbook Fund retains interest on its deposits and receives income from the sale of used textbooks. The revenue received by the Fund is deducted from the textbook appropriation in determining how much Available School Fund revenue must be transferred in order to fund the textbook program. The revenue for the 1990-1991 biennium is based on actual

1990 revenues and the Comptroller's November 1989 revenue estimate for fiscal year 1991 receipts.

IV. Foundation School Fund 193

In addition to the occupation tax transfers shown under the General Revenue Fund, the Foundation School Fund receives a distribution of escheated estate income each year. The FSF has received additional revenue during the 1990-1991 biennium from late payment of 1988-1989 temporary professional fees.

V. State Highway Fund 006. Of the revenue that flows directly into the State Highway Fund, only the motor lubricants sales tax and motor vehicle registration fees are included in the calculation of the limitation. Both are dedicated for highway construction and maintenance by the State Constitution. Motor fuels tax transfers are shown under the General Revenue Fund.

VI. Mixed Drinks Gross Receipts Fund 068. The state levies a fourteen percent gross receipts tax on the sale of mixed drinks, of which 78.57% is deposited into the General Revenue Fund and the remaining 21.43% is distributed among the cities and counties in which the sale occurred. The local share of this tax is included in the non-dedicated state tax revenue category.

VII. Bank Franchise Tax Allocation Fund 535. The corporate franchise tax was extended to banks by the passage of House Bill Number 122, 68th Legislature, Second Called Session, June 1984. The tax is collected by the State Comptroller and deposited in a separate fund before it is distributed to the local jurisdictions in which the banks are located. The State Comptroller is allowed to retain 2.0% of the amount received for tax collection and enforcement purposes. The bank franchise tax is classified as a non-dedicated state tax. The amount shown is taken from the actual 1990 revenues and the Comptroller's November 1989 revenue estimate of 1991 bank franchise tax collections.

VIII. Board of Insurance Taxes. There are a number of taxes paid by insurance companies, the rates of which are set by the Board of Insurance with the statutory intent of producing the revenue necessary to help pay the administrative costs of the board. Over a period of years, the revenue from these taxes should match the portion of the board's administrative costs that is subject to the limitation on the growth of appropriations. In specific years this match may be imperfect because of additions to or reductions in balances in the various funds controlled by the board. The amount shown is based on actual 1990 revenues and the Comptroller's November 1989 revenue estimate of 1991 maintenance tax collections.

Grand Total. A grand total of \$32,763,214,447 in 1990-1991 biennial appropriations is included in this analysis. Of this amount, \$3,778,468,984 is financed out of taxes dedicated by the State Constitution. Another \$4,519,557,679 is financed out of non-tax revenue. The remaining \$24,465,187,784 is financed out of tax revenue not dedicated by the State Constitution. This is the amount which serves as a base for calculating the limitation on 1992-1993 biennial appropriations from non-dedicated state taxes, as required by Article VIII, §22, of the Texas Constitution.

TABLE 6
1990-91 BIENNIAL APPROPRIATIONS
INCLUDED IN THE CALCULATION OF
THE LIMITATION BASE

	<u>1990-1991</u> <u>Appropriations</u>
I. General Revenue	
A. Appropriations	
1. Revenue Allocation	
a. Comptroller Operating Fund 62	
Enforcement (Motor Fuels shown	
below)	\$ 19,438,098
b. State Parks Fund 64	28,188,750
c. Local Parks Fund 467	28,188,750
d. Restricted Fees-Department of	
Health	\$ 7,173,663
e. Occupation Tax Revenues to	
Foundation School Fund	1,488,866,000
f. Hotel-Motel Tax to Department	
of Commerce	<u>19,282,383</u>
Subtotal (Revenue Allocations)	<u>1,591,137,644</u>
2. Priority Allocations	
a. Teacher Retirement System Fund 960	
(1) Retirement Program	\$ 1,568,257,103
(2) Retired Employees Group	
Insurance Program	90,558,127
b. Optional Retirement Program Fund 963	252,824,385
c. Foundation School Program	
Fund 193	<u>7,559,661,538</u>
Subtotal (Priority Allocations)	<u>\$ 9,471,301,153</u>
3. Line Item Appropriations	
a. Appropriations "estimated to be"	
(1) Employees Retirement System	\$ 584,967,905
(2) Voter Registration	780,161
(3) County Taxes on University Land	1,805,094
(4) Ranger Pensions	52,400
(5) Judiciary (Comptroller's	
Department)	78,896,872
(6) Comptroller: Social Security	690,696,535
(7) Miscellaneous Claims	605,316
(8) Physical Therapy Examination	91,515
b. All Other Line Items	<u>13,802,086,811</u>
Subtotal, ("Estimated to be")	<u>\$15,159,982,609</u>

TABLE 6
1990-91 BIENNIAL APPROPRIATIONS
INCLUDED IN THE CALCULATION OF
THE LIMITATION BASE
 (continued)

4. Related Appropriations		
a. Unexpended Balances		
Reappropriated	\$ 64,108,494	
b. Riders in General Appropriations Act	342,581,147	
c. Less Governor's Vetoes	(8,760,601)	
d. Construction Reappropriations	0	
e. Other Appropriations Act		
(1) Regular Session (71st)	7,312,314	
(2) First Called Session	6,922,323	
(3) Second Called Session	29,630,890	
(4) Sixth Called Session (excluding FSP)	<u>50,553,801</u>	
Subtotal (Related Appropriations)		<u>\$ 492,348,368</u>
5. Highway Motor Fuels Taxes		
Transfer to Other Funds		
a. To County Road and District Highway Fund 57	\$ 14,600,000	
b. To State Highway Fund 006	2,252,248,000	
c. Enforcement to Fund 062 (1%)	31,461,000	
d. Refund 75% to Motorboat Fund 009	18,169,000	
e. To Available School Fund 002 (amount accounted @ line II.B.1.)	<u> </u>	
Subtotal (Highway Motor Fuels Taxes)		<u>\$ 2,316,478,000</u>
SUBTOTAL (General Revenue Fund Appropriations)		<u>\$29,031,247,774</u>

TABLE 6
1990-91 BIENNIAL APPROPRIATIONS
INCLUDED IN THE CALCULATION OF
THE LIMITATION BASE
(continued)

	<u>Total</u> <u>Appropriations</u>	<u>Dedicated</u> <u>State Tax</u> <u>Revenues</u>	<u>Non Tax</u> <u>Revenues</u>	<u>Non-Dedicated</u> <u>State Tax</u> <u>Revenue</u>
B. Source of Funding				
1. Enforcement	\$ 19,438,098			\$ 19,438,098
2. Parks	56,377,500			56,377,500
3. Restricted Fees	7,173,663		7,173,663	
4. Occupation Tax Revenue for Public Schools	1,488,866,000	650,391,000		838,475,000
5. Hotel-Motel Tax to the Department of Commerce	19,282,383			19,282,383
6. Appropriations from Beginning Balances				
a. General Revenue Book Balance	296,828,020		296,828,000	
b. General Revenue less Oil Overcharge Amount	(296,828,020)		(296,828,020)	
c. Emergency Appropriation Fund Transfer	167,007,061		10,554,846	156,452,215
d. Fund 062	21,996,964	6,361,962	12,759,559	2,875,443
7. Motor Fuels Taxes	2,316,478,000	2,298,309,000		18,169,000
8. Appropriations from Other Revenue	<u>24,934,628,105</u>	<u>0</u>	<u>1,835,790,921</u>	<u>23,098,837,185</u>
SUBTOTAL (General Revenue)	<u>\$29,031,247,774</u>	<u>\$ 2,955,061,962</u>	<u>\$ 1,866,278,989</u>	<u>\$24,209,906,824</u>

1990-1991
Appropriations

II. Available School Fund

A. Appropriations

1. Per Capita Distribution to School Districts	\$ 1,855,829,022
2. Distribution to State Schools	874,000
3. Transfer to Textbook Fund and Administration	<u>247,472,629</u>
Subtotal (Fund 002 Appropriation)	\$ 2,104,175,651

TABLE 6
1990-91 BIENNIAL APPROPRIATIONS
INCLUDED IN THE CALCULATION OF
THE LIMITATION BASE
(continued)

	<u>Total</u> <u>Appropriations</u>	<u>Dedicated</u> <u>State Tax</u> <u>Revenues</u>	<u>Non Tax</u> <u>Revenues</u>	<u>Non-Dedicated</u> <u>State Tax</u> <u>Revenue</u>
B. Source of Funding				
1. Transfer from Motor Fuels Taxes	\$ 761,672,000	\$ 755,616,000		\$ 6,056,000
2. Investment Income and Non-Tax Revenue	1,330,831,498		1,330,831,498	
3. Beginning Balance of A.S.F. No. 002	19,596,540	7,464,126	12,086,950	45,464
4. Less Ending Balance	<u>(1,810,000)</u>	<u>(721,104)</u>	<u>(1,088,896)</u>	
Subtotal (Available School Fund)	<u>\$ 2,110,290,038</u>	<u>\$ 762,359,022</u>	<u>\$ 1,341,829,552</u>	<u>\$ 6,101,464</u>
III. State Textbook Fund 003	<u>\$ 8,565,000</u>		<u>\$ 8,565,000</u>	
IV. Foundation School Fund 193	<u>\$ 42,500,000</u>		<u>\$ 42,500,000</u>	
Beginning Balance (unencumbered)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal (Fund 193)	<u>\$ 42,500,000</u>	<u>0</u>	<u>\$ 42,500,000</u>	<u>0</u>
V. State Highway Fund 006				
1. Motor Lubricants Sales Tax	\$ 61,048,000	\$ 61,048,000		
2. Motor Vehicle Registration Fee	<u>1,259,832,665</u>		<u>1,259,832,665</u>	
Subtotal (Fund 006)	<u>\$ 1,320,880,665</u>	<u>\$ 61,048,000</u>	<u>\$ 1,259,832,665</u>	
VI. Mixed Drinks Gross Receipts Tax Fund 068				
(Grants to Cities & Counties only; General Revenue Transfer shown above)	\$ 95,973,331			\$ 95,973,331
3777 Voided Warrants	<u>2,134</u>		<u>2,134</u>	
Subtotal	<u>\$ 95,975,465</u>		<u>\$ 2,134</u>	<u>\$ 95,973,331</u>
VII. Bank Franchise Tax Allocation Fund 535	<u>\$ 69,160,501</u>			<u>\$ 69,160,501</u>
3130 Service Fee (to Fund 062)	<u>549,340</u>		<u>549,340</u>	
Subtotal, (Bank Franchise Tax Allocation)	<u>\$ 69,709,841</u>		<u>\$ 549,340</u>	<u>\$ 69,160,501</u>
VIII. Board of Insurance Taxes	<u>\$ 84,045,664</u>			<u>\$ 84,045,664</u>
GRAND TOTAL	<u><u>\$32,763,214,447</u></u>	<u><u>\$ 3,778,468,984</u></u>	<u><u>\$ 4,519,557,679</u></u>	<u><u>\$24,465,187,784</u></u>

TABLE 7
CALCULATION OF "ALL OTHER LINE ITEMS"
FOR THE 1990-91 BIENNium

	<u>1990</u>	<u>1991</u>	<u>1990-91 Biennium</u>
General Revenue "Recap" Amount (S.B. 222 as adjusted in Fiscal Size-up)	\$13,699,880,393	\$13,855,251,942	\$27,555,132,335
Less:			
Available School Fund-Programs (S.B. 222, Art. III, p. 4)	857,625,133	889,050,248	1,746,675,381
Available School Fund-Administration (S.B. 222, Art. III, p. 12)	959,997	634,997	1,594,994
Textbook Fund-Programs (S.B. 222, Art. III, p. 2)	121,179,809	122,234,139	243,413,948
Textbook Fund-Administration (S.B. 222, Art. III, p. 12)	<u>1,957,761</u>	<u>1,897,616</u>	<u>3,855,377</u>
Subtotal, Net General Revenue	<u>\$12,718,157,693</u>	<u>\$12,841,434,942</u>	<u>\$25,559,592,635</u>
Less:			
Comptroller's Operating Fund 062 Transfer (S.B. 222, Art. I, p. 69)	25,455,540	25,506,648	50,962,188
State Parks Fund 064 Transfer (S.B. 222, Art. I, p. 213)	8,427,044	8,481,180	16,908,224
State Parks Fund 064 Transfer (S.B. 222, Art. VII, p. 1)	6,000,956	5,965,820	11,966,776
Local Parks Fund 467 Transfer (S.B. 222, Art. I, p. 213)	12,428,000	12,447,000	24,875,000
Local Parks Fund 467 Transfer (S.B. 222, Art. VII, p. 1)	2,000,000	2,000,000	4,000,000
Health Department Fees (S.B. 222, Art. II, p. 16)	1,566,389	1,566,389	3,132,778
Health Department Fees (S.B. 222, Art. II, p. 15, part of 1.20)	3,833,589	3,833,589	7,667,178
Hotel-Motel Tax to Dept. of Commerce (S.B. 222, Art. I, p. 59)	8,233,000	8,608,000	16,841,000
Teacher Retirement System Fund 960 (S.B. 222, Art. III, p. 28)	769,763,000	797,013,000	1,566,776,000
Texas Public School Retired Employee Group Insurance Program			

TABLE 7
CALCULATION OF "ALL OTHER LINE ITEMS"
FOR THE 1990-91 BIENNIUM
(continued)

(S.B. 222, Art. III, p. 28)	42,245,000	43,775,000	86,020,000
Optional Retirement System			
(S.B. 222, Art. III, p. 28)	118,675,000	122,235,000	240,910,000
Foundation School Fund 193			
(S.B. 222, Art. III, p. 4)	4,167,641,371	4,213,984,808	8,381,626,179
Employees Retirement System			
(S.B. 222, Art. I, p. 112)	268,445,700	313,060,800	581,506,500
Voter Registration			
(S.B. 222, Art. I, p. 77)	3,000,000	500,000	3,500,000
County Taxes on University Lands			
(S.B. 222, Art. I, p. 81)	900,000	900,000	1,800,000
Ranger Pensions			
(S.B. 222, Art. I, p. 81)	30,000	30,000	60,000
Judiciary (Comptroller's Department)			
(S.B. 222, Art. I, p. 31)	30,425,251	30,103,251	60,528,502
Miscellaneous Claims			
(S.B. 222, Art. I, p. 78)	500,000	500,000	1,000,000
Comptroller: Social Security			
(S.B. 222, Art. I, p. 76)	328,193,878	336,185,621	664,379,499
County Road and District Highway			
Fund 057			
(S.B. 222, Art. I, p. 294)	7,300,000	7,300,000	14,600,000
Unclaimed Motorboat Refunds to			
Fund 009			
(S.B. 222, Art. I, p. 213)	<u>9,166,000</u>	<u>9,280,000</u>	<u>18,446,000</u>
Subtotal, Line Items shown			
Separately	<u>5,814,229,718</u>	<u>5,943,276,106</u>	<u>11,757,505,824</u>
Total, Other Line Items	<u>\$ 6,903,927,975</u>	<u>\$ 6,898,158,836</u>	<u>\$13,802,086,811</u>

TABLE 8
UNEXPENDED BALANCES REAPPROPRIATED FROM
THE GENERAL REVENUE FUND FOR THE 1990-91 BIENNium

<u>Agency</u>	<u>S.B. 222 Reference</u>	<u>Amount</u>
Air Control Board	(Art. 1, p. 23, No. 7)	\$ 1,000,000
Commission on the Arts	(Art. 1, p. 41, No. 2)	30,000
Commerce Department	(Art. 1, p. 63, No. 18)	500,000
Comptroller of Public Accounts	(Art. 1, p. 72, No. 13)	1,500,000
Department of Corrections	(Art. 1, p. 87, No. 4)	10,000,000
Governor's Office	(Art. 1, p. 142, No. 12)	5,500,000
Governor's Office	(Art. 1, p. 142, No. 13)	50,000
Historical Commission	(Art. 1, p. 156, No. 6)	100,000
Historical Commission	(Art. 1, p. 157, No. 8)	15,000
Department of Labor and Standards	(Art. 1, p. 179, No. 9)	3,000
Department of Mental Health and Mental Retardation	(Art. 2, p. 60, No. 8)	2,800,000
Texas Youth Commission	(Art. 2, p. 76, No. 8)	100,000
Texas Youth Commission	(Art. 2, p. 79, No. 21)	1,000,000
Texas Education Agency	(Art. 3, p. 8, No. 12)	300,000
Coordinating Board	(Art. 3, p. 33, No. 12)	21,210,494
Senate	(Art. 6, p. 1, No. 1)	4,000,000
House of Representatives	(Art. 6, p. 2, No. 2)	4,000,000
Legislative Council	(Art. 6, p. 6, No. 1)	8,000,000
State Auditor	(Art. 6, p. 8, No. 4)	<u>4,000,000</u>
Total		<u>\$ 64,108,494</u>

TABLE 9
OTHER APPROPRIATIONS OF THE 71ST LEGISLATURE
FROM THE GENERAL REVENUE FUND
FOR THE 1990-91 BIENNIUM

<u>Bill Agency</u>	<u>1990</u>	<u>1991</u>	<u>1990-91 Biennium</u>
Regular Session			
S.B. 489			
Department of Agriculture	\$ 100,000	\$ 100,000	\$ 200,000
H.B. 2260			0
Alcoholic Beverage Commission	3,687,212	2,783,490	6,470,702
H.B. 1689			0
Comptroller of Public Accounts	454,112	0	454,112
Trusted Funds			0
S.B. 73			0
Water Development Board	187,500	0	187,500
H.B. 101, H.B. 2211, S.B. 1379			
Judiciary (Comptroller's Dept.)	<u> *</u>	<u> *</u>	<u> *</u>
Subtotal Regular Session	\$ 4,428,824	\$ 2,883,490	\$ 7,312,314
First Called Session			
H.B. 94			
Department of Aviation	\$ 2,197,444	\$ 4,291,744	\$ 6,489,188
S.B. 86			
University of North Texas	<u>433,135</u>	<u>0</u>	<u>433,135</u>
Subtotal First Called Session	\$ 2,630,579	\$ 4,291,744	\$ 6,922,323
Second Called Session			
S.B. 1			
Worker's Compensation Commission	<u>4,618,791</u>	<u>25,012,099</u>	<u>29,630,890</u>
Subtotal Second Called Session			\$29,630,890
Sixth Called Session			
S.B. 11			
Central Education Agency (excluding FSP)	5,000,000	5,080,000	10,080,000
Department of Health and Human Services	44,700,000	55,300,000	100,000,000
Employee Retirement System		(11,700,000)	(11,700,000)

TABLE 9
OTHER APPROPRIATIONS OF THE 71ST LEGISLATURE
FROM THE GENERAL REVENUE FUND
FOR THE 1990-91 BIENNium
(continued)

Department of Corrections	(9,700,000)		(9,700,000)
Adult Probation Commission	(3,200,000)		(3,200,000)
National Research Lab Commission	(11,226,199)		(11,266,199)
State Comptroller's Office	(8,000,000)		(8,000,000)
Public Finance Authority	(11,600,000)		(11,600,000)
Office of the Governor	(1,000,000)		(1,000,000)
Legislative Agencies	(3,100,000)		(3,100,000)
S.B. 13			
Texas Department of Criminal			
Justice	(3,000,000)		(3,000,000)
Public Utilities Commission	<u> </u>	<u>3,000,000</u>	<u>3,000,000</u>
Subtotal Sixth Called Session	<u>(\$ 1,126,199)</u>	<u>\$51,680,000</u>	<u>\$50,553,801</u>
Total	<u>\$10,551,995</u>	<u>\$83,867,333</u>	<u>\$94,419,328</u>

* Totals for H.B. 101, H.B. 2211, and S.B. 1379 are accounted for in "Line Item Appropriations", Table C1, line 3(a)5.

Issued in Austin, Texas, on November 20, 1990.

TRD-9012446 Jack W. Huffman
Assistant Director for Estimates and
Operations
Legislative Budget Board

Filed: November 20, 1990

For further information, please call: (512) 463-1166

Texas Parks and Wildlife Department

Correction of Error

The Texas Parks and Wildlife Department submitted proposed amendments to new sections which contained a publication error in the October 9, 1990, issue of the *Texas Register* (15 TexReg 5906).

In 31 TAC §57.113, text was omitted from subsection (d), which should read as follows. "(d) A fish farmer who holds an exotic species permit, a shellfish culture license and an exotic shellfish culture permit in compliance with §§57.191-57.193 of this title (relating to Exotic Shellfish Culture Permit Insurance Procedures) may possess, propagate, transport or sell *Penaeus vannamei*, *P. monodon*, *P. braziliensis*, *P. semisulcatus*, *P. stylirostris*, *P. japonicus*, *P. schmitti*, *P. orientalis*, *P. penicillatus*, *P. chinensis*, *P. kerathurus* and species listed in subsection (c) as provided by conditions of both permits and these rules."

Public Utility Commission of Texas

Notice of Applications to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on November 12, 1990, to amend a Certificate of Convenience and Necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number. Application of Southwestern Electric Power Company for a certificate of convenience and necessity for a proposed transmission line within Harrison County, Docket Number 9857 before the Public Utility Commission of Texas.

The Application. In Docket Number 9857, Southwestern Electric Power Company requests approval of its application to rebuild 3.49 miles of 69kV transmission line in Harrison County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas, on November 19, 1990.

TRD-9012402 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: November 19, 1990

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

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on November 9, 1990, to amend a Certificate of Convenience and Necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number. Application of West Texas Utilities Company for a certificate of convenience and necessity for a proposed transmission line within Taylor County, Docket Number 9851 before the Public Utility Commission of Texas.

The Application. In Docket Number 9851, West Texas Utilities Company requests approval of its application to construct 1.06 miles of 69kV transmission line in Taylor County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas, on November 19, 1990.

TRD-9012401 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: November 19, 1990

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

Railroad Commission of Texas

Notice of Intent

The Railroad Commission of Texas is submitting a request for funds under Title IV of the Federal Surface Mining Control and Reclamation Act of 1977 to reclaim the Manka Abandoned Uranium mine located three miles south of Falls City, Texas in Karnes County. The uranium mine consists of a pit with nearly vertical highwalls approximately 115 feet in depth located within 200 feet of a county road. The pit contains water at an average depth of 45 feet. Two poorly vegetated spoil piles consisting of overburden from the pit remain on site. Work on the project would be accomplished in accordance with the Texas Abandoned Mine Land Program administered by the Railroad Commission of Texas.

Proposed reclamation of the site would include the following: Regrade approximately 90 acres of pit and spoil; alter slopes associated with the pit highwalls to 5H:1V; alter all remaining slopes to 7H:1V; soil treatment, fertilize, seed, and mulch with grasses. Details of the proposed reclamation can be found at the Austin address following.

Interested persons are invited to comment on any possible impact this proposed project might have on the area or community. Comments or inquiries are to be received no later than January 1, 1991, and may be submitted to Melvin B. Hodgkiss, P.E., Director, Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Box 12967, Austin, Texas 78711.

Issued in Austin, Texas, on November 20, 1990.

TRD-9012497 Brenda Loudermilk
Hearings Examiner, Legal Division-General
Law
Railroad Commission of Texas

Filed: November 21, 1990

For further information, please call: (512) 463-6901

Teacher Retirement System of Texas Request for Proposals

The Teacher Retirement System of Texas (TRS) is issuing a request for proposals (RFP) to assist TRS in employing a chief investment officer. TRS will engage a consultant to conduct an extensive nationwide search for candidates for the position, identifying qualified persons interested in accepting the position, identifying qualified persons interested in accepting recommending 5-10 such persons to TRS for consideration, and conducting background checks, evaluating, and developing resumes for each of the recommended candidates.

In identifying and evaluating candidates the consultant must work closely with TRS to develop and apply approved criteria and qualifications for the position. The consultant must report regularly on its progress and be available through a designated contact to consult with TRS by telephone, in writing, or in person as requested during the contract period.

Activities under an accepted proposal should begin in or about January 21, 1991, and should terminate on or about April 15, 1991.

Persons who respond to the RFP (applicants) should obtain a copy of the complete RFP, which may be obtained by writing or calling Mary Godzik, Teacher Retirement System of Texas, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Answers to questions about the RFP may be obtained in writing from Bruce Hineman, Executive Secretary, Teacher Retirement System of Texas, 1000 Red River, Austin, Texas 78701-2698.

The deadline for receipt of proposals in response to the RFP is 5 p.m., January 7, 1991.

To be considered, applicants should demonstrate superior recognized expertise in conducting searches for investment personnel for large insurance firms, pension plans, trust funds, or similar institutions. It is anticipated that applicants may be private companies or partnerships, non-profit organizations, or individuals.

Proposals must include complete descriptions of services and activities to be undertaken, the costs of such services and activities, and the relevant experiences and qualifications of the applicant.

The RFP encourages applicants to include different levels of services at varying costs.

A proposal will be selected based upon the conformance of the proposal with the RFP; an evaluation of the quality and appropriateness of the proposal; an evaluation of the experience, qualifications, and capability of the applicant; and the cost of the services and activities.

The TRS reserves the right to reject any or all proposals submitted. The selected consultant must execute a contract acceptable to TRS. The TRS specifically reserves the right to vary any or all provisions set forth at any time prior to execution of the contract where TRS deems it to be in the best interest of TRS. The TRS shall not be responsible for costs of applicants in responding to the RFP or in negotiating project terms.

Issued in Austin, Texas, on November 26, 1990.

TRD-9012591

Bruce Hineman
Executive Secretary
Teacher Retirement System of Texas

Filed: November 26, 1990

For further information, please call: (512) 370-0524

Texas Water Commission Call for Case Studies

The Waste Minimization Unit of the Texas Water Commission is developing a case study book on industrial source reduction and waste minimization techniques. Types of projects for case studies may include source reduction, recycling, waste exchanges, reuse, or reclamation.

Please submit case studies by January 15, 1991. To prepare a case study, submit a two-page typed 8 1/2-inch-by-11-inch summary of the project in the format following: summaries format: (limit-two pages), General Information: Company name:, Location: City, County, Number of employees:, SIC number:, Contact person:.

Description of the project. Describe and explain the source reduction or waste minimization process.

Innovative Application of Technology. Describe the techniques, processes, equipment, or procedures developed or utilized to attain waste minimization. Especially describe novel or innovative advances in technology or management that has been developed.

Environmental Impact. Describe the environmental benefits resulting from the implementation of the project.

Cost Savings. Quantify the financial benefits of the project in terms of reduced disposal costs, savings or energy or materials, reduced environmental liability, and other economic considerations. Please quantify the pay-back period of the project.

All case studies will be public information and may be summarized in the book. Additional details on the project may be requested from Jeff Voorhis, P.E. at (512) 463-7761.

Please mail case studies to Waste Minimization Unit, Hazardous and Solid Waste Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, Attention: Jeff Voorhis.

Issued in Austin, Texas, on November 21, 1990.

TRD-9012572

Jim Haley
Director, Legal Division
Texas Water Commission

Filed: November 26, 1990

For further information, please call: (512) 463-7761

Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of November 12, 1990, to November 21, 1990.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester,

would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

City of Hubbard; wastewater treatment facilities; located south of Hubbard, approximately two miles south of intersection of State Highways 31 and 171 in Hill County; 10534-01; renewal.

Markham Municipal Utility District; wastewater treatment facilities; located approximately 500 feet southwest of intersection of FM Roads 1468 and 2431 in Matagorda County; 10580-01; renewal.

Thomas McCulloch; Houston; Hartwick Green Wastewater Treatment Facilities; located approximately 1,600 feet northwest of the intersection of Aldine-Westfield Road and Hartwick Road and approximately 2,300 feet south of Halls Bayou in Harris County; 13084-01; renewal.

City of Pecan Gap; wastewater treatment facilities; located approximately 0.5 mile west and 0.3 mile south of the intersection of FM Road 64 and FM Road 128 and immediately west of South Third Street in Delta County; and FM Road 1921 in Willacy County; 12217-01; renewal.

City of Lyford; wastewater treatment facilities; located approximately east of Lyford, approximately 0.8 miles East and 0.6 miles South of the intersection of state Highways 448 and FM Road 1921 in Willacy County; 11210-01; renewal.

City of Morgan; wastewater treatment facilities; located adjacent to Steele Creek, approximately 0.5 miles southeast of the intersection of state Highway 174 and FM Road 927 in Bosque County; 12217-01 renewal.

Union Carbide Chemicals and Plastics Company, Inc.; Texas City; an organic chemicals manufacturing plant; located at 3301 5th Avenue South in the City of Texas City, Galveston County; 00448; renewal.

City of Galveston; Seawolf Park Wastewater Treatment Facilities; located at Seawolf Park on Pelican Island, approximately 3.5 miles northeast of the Pelican Island Bridge in Galveston County; 10 688-04; renewal.

Texas Utilities Electric Company; Granbury; DeCordova Steam Electric Station; located on the south shore of Lake Granbury along County Road 312, approximately seven miles southeast of the U.S. Highway 377-State Highway 144 intersection in the City of Granbury, Hood County; 01481; renewal.

Texas A&M University; College Station; Research and Extension Center Plant; located on the south portion of the Texas A&M University Research and Extension Center (formerly Bryan Air Force Base), approximately three miles southeast of the intersection of State Highway 21 and FM Road 50 in Brazos County; 10968-02; amendment.

Freddie Chamness; Yantis; dairy; located on the south side of County Road 1192 at the intersection of County Road 1192 and FM 2297 in Hopkins County; 03254; new.

Roy Kennedy; Rusk; dairy; located approximately one mile southeast of the intersection of U.S. Highway 69 and FM Road 241, approximately 6.0 miles south of Rusk, adjacent to FM Road 241 in Cherokee County; 03236; new.

Willard Howle; Stephenville; dairy; located on the north side of State Highway 67, approximately three miles east of the intersection of FM Road 248 1 and State Highway 67 in Erath County; 03269; new.

Delzon Elenburg; Lakeside City; dairy; located approximately one mile west of the southerly intersection of U.S. Highway 281 and State Loop 187 in Jack County; 03293; new.

Disposal Systems, Inc. (DSI); Deer Park; commercial hazardous industrial solid waste storage and processing facility; located on a 20-acre tract of land adjacent to State Highway 134 (Battleground Road), approximately 1.1 miles southwest of the San Jacinto Monument in Deer Park, Harris County; HW-500558, EPA I.D. Number TXD-000719518; new; 45-day.

United States Department of Energy-Pantex Plant; Amarillo; industrial solid waste storage and processing facility; located on 16,000 acres of land 17 miles northeast of Amarillo, north of U.S. Highway 60, and adjacent to State Highway 2373 in a rural area of Carson County; HW-50284; new; 45-day.

Carswell Air Force Base; Fort Worth; non-commercial hazardous industrial solid waste storage facility; located on 2751 acres of land, along the south shore of Lake Worth and bordered by the cities of Fort Worth and White Settlement on the south and east, White Settlement on the southwest, and Fort Worth and Air Force Plant 4 on the northwest, Tarrant County; HW-50289; new; 45-day.

Joe Cordell; Stephenville; dairy; located on the south side of FM Road 847 approximately 3.5 miles east of the intersection of FM Road 847 and State Highway 6 in Erath County; 03278; new.

Carl A. Lueck; Dublin; dairy; located adjacent to and east of FM Road 1702, approximately 1.5 miles south of the intersection of FM Road 1702 and FM Road 219 in Erath County; 03264; new.

City of Waller; wastewater treatment facilities; located at 102 Walnut Street, approximately 4,500 feet southeast of the intersection of U.S. Highway 290 and FM Road 362 in Waller County; 10 310-01; renewal.

Houston County Water Control and Improvement District 1; Crockett; surface water treatment facilities; located approximately one mile southwest of Latexo, approximately 1.75 miles northwest of the intersection of U.S. Highway 290 and FM Road 362 in Waller County; 1-31--01; renewal.

Shell Offshore, Inc.; Galveston; wastewater treatment facilities; located in the southeast portion of Pelican Island, adjacent to the Galveston Channel, approximately 6,000 feet east of the Todd Shipyards in Galveston County; 1 0931-01; renewal.

Opal Durant doing business as Ridge Utilities; Granbury; Sealy Ridge Wastewater Treatment Facilities; located approximately 1,700 feet northeast of the intersection of Hood County Road 311-A and FM Road 3210, southeast of the City of Granbury in Hood County; 13025-01; renewal.

Houston Lighting and Power Company; Bay City; South Texas Project Electric Generating Station; located approximately 10 miles north of Matagorda Bay and 12 miles south-southwest of the City of Bay City, Matagorda County; 01908; renewal.

Merichem Company; Houston; Greens Bayou Industrial Chemicals Plant; located at 1914 Haden Road, on the east side of Greens Bayou in the City of Houston, Harris County; 00485; amendment.

Issued in Austin, Texas, on November 21, 1990.

TRD-9012550 Brenda W. Foster
Chief Clerk
Texas Water Commission

Filed: November 21, 1990

For further information, please call: (512) 463-7906

Notice of Award

The Texas Water Commission (TWC) furnishes this notice of a consulting contract award for the location of above ground storage tanks for the State of Texas, under the provisions of Texas Civil Statutes, Article 6252-11c.

The notice for request for proposals was published in the July 17, 1990, issue of the *Texas Register* (15 TexReg 4134).

Description of Services. The consultant will review all pertinent legislation and regulations pertaining to above-ground storage tanks (ASTs), obtain information regarding potential owners and operators of ASTs from existing databases available from state agencies, and compile a list of all potential AST owners not currently included on the TWC's list of AST owners.

Effective Date and Value of Contract. The contract will be effective from approximately December 3, 1990, until approximately February 4, 1991. The total cost of the contract will be \$84,000.

Name of Consultant. The contract has been awarded to KPMG Peat Marwick, NCNB Center, 700 Louisiana, P.O. Box 4545, Houston, Texas 77210-4545.

Persons who have questions concerning this award may contact Jacqueline Hardee, Chief, Registration Section, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3987, (512) 371-6212.

Issued in Austin, Texas, on November 26, 1990.

TRD-9012571

Jim Haley
Director, Legal Division
Texas Water Commission

Filed: November 26, 1990

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

Texas Workers' Compensation Commission

Correction of Error

The Texas Workers' Compensation Commission submitted proposed sections which were published with typographical errors in the October 2, 1990, issue of the *Texas Register* (15 TexReg 5790), and in the October 26 issue (15 TexReg 6175).

In §128.3(b) the word "on" between "benefits" and "seasonal" should read "of".

In §126.5(a), the word "and" should be inserted between "§4.16," and "whether".

In the section heading to §124.3, "payment" should be plural to read as follows. "§124.3 Carriers' Filing of Wage Statement for Payments of Less Than The Maximum Benefit".

Correction of Error

The Texas Workers' Compensation Commission submitted proposed sections which contained an error in the fiscal note as submitted by the agency, and an error in subsection (a) as published by the *Texas Register* in the October 26, 1990, issue (15 TexReg 6175).

In the fifth paragraph of the preamble to §§126.4, 126.5, and 126.6, the fiscal note should read as follows.

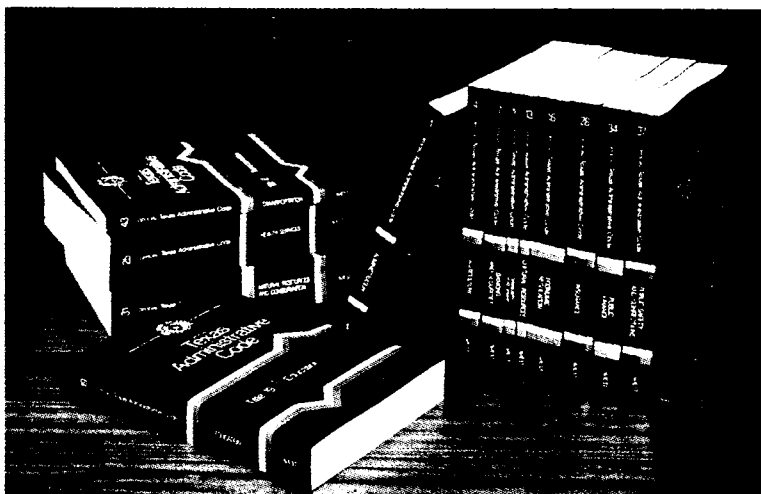
"R. Glenn Looney has determined that, for the first five-year period the proposed sections 126.4 and 126.5 are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. For the first five years that proposed section 126.6 is in effect, R. Glenn Looney estimates the following additional cost to the Texas Workers' Compensation Commission for sending the order certificate by mail: 1991-\$78,000, 1992-\$78,000, 1993-\$69,000, 1994-\$69,000, 1995-\$69,000"

1990-'91 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for upcoming 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. 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.
Friday, November 23	Monday, November 19	Thursday, November 20
*Tuesday, November 27	NO ISSUE PUBLISHED	
Friday, November 30	Monday, November 26	Tuesday, November 27
Tuesday, December 4	Wednesday, November 28	Thursday, November 29
Friday, December 7	Monday, December 3	Tuesday, December 4
Tuesday, December 11	Wednesday, December 5	Thursday, December 6
Friday, December 14	Monday, December 10	Tuesday, December 11
Tuesday, December 18	Wednesday, December 12	Thursday, December 13
Friday, December 21	Monday, December 17	Tuesday, December 18
Tuesday, December 25	Wednesday, December 19	Thursday, December 20
*Friday, December 28	NO ISSUE PUBLISHED	
*Tuesday, January 1	Friday, December 21	Thursday, December 27
Friday, January 4	NO ISSUE PUBLISHED	
Tuesday, January 8	Wednesday, January 2	Thursday, January 3
Friday, January 11	Monday, January 7	Tuesday, January
Tuesday, January 15	Wednesday, January 9	Thursday, January 10
Friday, January 18	Monday, January 14	Tuesday, January 15
Tuesday, January 22	Wednesday, January 16	Thursday, January 17
Friday, January 25	1990 ANNUAL INDEX	
Tuesday, January 29	Wednesday, January 23	Thursday, January 24
Friday, February 1	Monday, January 28	Tuesday, January 29
Tuesday, February 5	Wednesday, January 30	Thursday, January 31
Friday, February 8	Monday, February 4	Tuesday, February 5
Tuesday, February 12	Wednesday, February 6	Thursday, February 7
Friday, February 15	Monday, February 11	Tuesday, February 12
Tuesday, February 19	Wednesday, February 13	Thursday, February 14
*Friday, February 22	Friday, February 15	Tuesday, February 19
Tuesday, February 26	Wednesday, February 20	Thursday, February 21
Friday, March 1	Monday, February 25	Tuesday, February 26
Tuesday, March 5	Wednesday, February 27	Thursday, February 28
Friday, March 8	Monday, March 4	Tuesday, March 5
Tuesday, March 12	Wednesday, March 6	Thursday, March 7

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