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Texas Register

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Information Available: The eight sections of the Texas Register represent various facets of state government. Documents contained within them include:

- Governor-Appointments, executive orders, and pronouncements
- Attorney General summaries of requests for opinions, opinions, and open records decisions
- Emergency Sections-sections adopted by state agencies on an emergency basis
- Proposed Sections-sections proposed for adoption
- Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after proposal publication date
- Adopted Sections-sections adopted following a 30-day public comment period
- Open Meetings-Notices of open meetings

In addition, miscellaneous information required to be published by statute or provided as a public service.

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

How to Cite: Material published in the Texas Register is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which the document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In order that readers may cite material more easily page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written "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."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the Texas Register office, Room 245, James Earl Rudder Building, Austin. Material can be found using Texas Register indexes, the Texas Administrative Code, sections number, or TRD number.

Texas Administrative Code

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

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

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

TAC stands for the Texas Administrative Code;

§27.15 is the section number of rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

Texas Register Publications

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Circulation/Marketing
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Dana Blanton
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7060--Announcement of Public Hearings on Proposed Rules-December 6
Name: Jeremy Weathers
Grade: 7
School: Richardson Junior High School, Richardson ISD
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40 TAC §48.2501—7030
40 TAC §72.2001—7030

◆ ◆ ◆
Name: Jimmerson Minor
Grade: 7
School: Richardson Junior High School, Richardson ISD
Emergency Sections

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

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

TITLE 16. ECONOMIC REGULATION
Part II. Public Utility Commission of Texas
Chapter 23. Substantive Rules
Customer Service and Protection
• 16 TAC §23.54

The Public Utility Commission of Texas is renewing the effectiveness of the emergency adoption of amended §23.54, for a 60-day period effective December 27, 1990. The text of amended §23.54 was originally published in the September 7, 1990, issue of the Texas Register (15 TexReg 5069).

Issued in Austin, Texas, on November 30, 1990.

TRD-9012869
Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Effective date: December 27, 1990
Expiration date: January 26, 1991
For further information, please call: (512) 458-0100

TITLE 19. EDUCATION
Part II. Texas Education Agency
Chapter 61. School Districts
Subchapter B. Waivers and Exemptions
• 19 TAC §61.30, §61.31

The Texas Education Agency adopts an emergency basis amendments to §61.30 and §61.31, concerning waivers and exemptions for school districts and campuses from various state laws and rules of the State Board of Education. The amendment to §61.30 provides a method for districts and campuses to apply to the board for waivers from general program and administrative requirements of laws and board rule. It also provides for exemptions via an application and approval process, from the statutory requirements for the use of state-adopted textbooks. As a result of the sunset review process required by Senate Bill 1, the repeal of §41.22, Commissioner of Education's Discretionary Authority to Waive State Board of Education Rules Under Certain Circumstances, is scheduled to be adopted in November 1990. This section has been proposed in its entirety as §61.31. Section 61.30 and §61.31 are being adopted on an emergency basis to ensure the continued availability of a waivers and exemptions process for both school districts and campuses.

The new sections are adopted on an emergency basis under the Texas Education Code, §11.273, which provides the State Board of Education with the authority to adopt rules granting waivers and exemptions of a requirement or prohibition imposed by law or rule for school districts or campuses that inhibits student achievement.

§61.30. Waivers and Exemption from Rules or Laws.

(a) General provisions. In accordance with the Texas Education Code, §11.273, the State Board of Education may grant waivers and exemptions to local school districts and campuses.

(b) Requirement for written plan. Each request for a waiver by a local school district or campus under this section must contain the following components:

(1) a section that includes the local goals and/or achievement objectives, the statute or rule that inhibits student achievement, and how student achievement is inhibited by this requirement or prohibition;

(2) a section that describes the proposed plan to be implemented in lieu of the current requirement;

(3) a section that describes how the waiver will remove the inhibitions to student achievement; and

(4) a section that describes how the district or campus will determine whether the proposed waiver is successful in removing the inhibitions;

(5) a section that describes and verifies that the requirements of this section are carried out through the campus and district level decision process required by the Texas Education Code, §21.7532 and §21.930.

(c) Textbook waivers. A school district or campus shall apply for a waiver to use a textbook that is not included on the state-adopted multiple list. A waiver under this section shall be for the same number of years for which the textbooks for the subject or course are adopted by the State Board of Education.

(1) To qualify for the waiver and receive state funds, in addition to the filing of the written plan required in subsection (b) of this section, the school district or campus shall apply by February 1 preceding the first year of the state-adopted textbook cycle for that subject or course.

(2) In addition to the written plan required by subsection (b) of this section, a school district or campus shall provide the following information:

(A) assurance of a six-year life expectancy of the textbook;

(B) coverage of essential elements by the textbook and sources of supplementary materials to address essential elements not covered by the textbook to ensure compliance with the Texas Education Code, §11.273(e)(1);

(C) involvement of campus instructional staff in the selection of textbook.

(3) Upon approval of the waiver, the school district or campus shall purchase the textbook.

(4) The school district shall provide selected textbooks not on the state-adopted multiple list in special formats, such as, but not limited to, Braille, large print, audio, and Spanish language as required by law if they are needed by any students in the district who would use the textbook.

(5) Student performance using the textbooks shall be reviewed on an annual basis using student testing and other performance data to determine whether the textbook is fulfilling the achievement objectives submitted to the board pursuant to the Texas Education Code, §11.273(b).

(6) Nothing in this section shall restrict the authority of a school district to purchase textbooks not adopted by the State Board of Education pursuant to the Texas Education Code, §12.01(d).

(d) Exemptions. Pursuant to the Texas Education Code, §11.273(d), a district may be granted an exemption from a requirement or prohibition imposed by law or regulation, excluding textbook requirements, if:

* Emergency Sections December 7, 1990 15 TexReg 6971
TITLE 34. PUBLIC FINANCE
Part I. Comptroller of Public Accounts
Chapter 5. Funds Management
(Fiscal Affairs)
Deferred Compensation-Internal Revenue Code, §457 Plan
34 TAC §5.122
The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amended §5.122, for a 60-day period effective December 5, 1990. The text of amended §5.122 was originally published in the August 14, 1990, issue of the Texas Register (15 TexReg 4615).
Issued in Austin, Texas, on November 28, 1990.
TRD-0012722 Wade Anderson
Rules Coordinator
Comptroller of Public Accounts
Effective date: December 5, 1990
Expiration date: February 3, 1991
For further information, please call: (512) 463-4004

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 an open meeting on November 29, 1990, adopted an amendment to Article XII of the By-Laws of the Texas Workers’ Compensation Assigned Risk Pool pertaining to the Small Premium Policy Plan by amending §5d. The amended rule requires that the designated insurer shall pay the same rate of commission to agents writing policies through the Small Premium Policy Plan as the designated insurer pays to agents writing any other Workers’ Compensation policy in the voluntary market.
The amended rule is effective 12:01 a.m. November 30, 1990.
The Board adopted the amended rule under the authority and jurisdiction of the Insurance Code, Articles 5.55-5.68-1, 5.76, and 5.96 and on an emergency basis as provided in Article 5.96, §(l).
This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.
Issued in Austin, Texas, on November 29, 1990.
TRD-0012862 Nicholas Murphy
Chief Clerk
State Board of Insurance
Effective date: November 30, 1990
For further information, please call: (512) 463-6327

The State Board of Insurance has adopted a filing submitted by the Texas Department of Health of a Subscription Program Surety Bond.
In accordance with the provisions of the Insurance Code, Article 5.97, a text of the proposed filing has been filed in the office of the chief clerk of the State Board of Insurance since October 26, 1990.
The Subscription Program Surety Bond will be filed with the Texas Department of Health by an emergency medical services provider that creates or operates a subscription program for the provision of emergency medical services. The bond is required by the Emergency Medical Services Act, §3.21c; Texas Civil Statutes, Article 4447c. (Health and Safety Code, Chapter 773) and 25 TAC §157.16.
The bond will be used to benefit any subscriber of the emergency medical services provider who suffers a financial loss due to the insolvency, failure to operate or cessation of operation of the emergency medical service. The penal amount of the bond will be equal to the total amount of fees to be collected from the subscribers.
The State Board of Insurance, adopted a rate of $10 per M per annum for this bond. The Class Code is 480.
Under the Insurance Code, Article 5.97(j) the board finds that the interest of the public welfare in the proper functioning of administrative regulation of subscription programs, in compliance with the Emergency Medical Services Act, has created a clear and compelling necessity that requires this bond form and rate to be effective immediately upon filing of notification of the board’s action in the Office of the Secretary of State and thereafter for 120 days.
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.
Issued in Austin, Texas, on November 30, 1990.
Effective date: November 30, 1990
For further information, please call: (512) 463-6327

◆ ◆ ◆
Name: Steve Hernandez
Grade: 11
School: Del Rio High School, San Felipe Del Rio CISD
TITLE 16. ECONOMIC REGULATION
Part II. Public Utility Commission of Texas
Chapter 23. Substantive Rules
Customer Service and Protection
• 16 TAC §23.54

The Public Utility Commission of Texas proposes an amendment to §23.54, concerning private pay telephone service. The proposed amendment addresses problems associated with private pay telephones located in confinement facilities, address prior problems concerning the rate cap on local calls on private pay telephones, and address the availability of certain services and the posting of information pertaining to such services at private pay telephones.

Martin Wilson, deputy general counsel, 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.

Mr. Wilson 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 include greater access by consumers to their operator service provider of choice, greater information about the identity of the company handling the calls, and statewide uniformity in private pay telephone offerings. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed will be minimal.

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

Comments on the proposal may be submitted to Mary Ross McDonald, Secretary of the Commission, 7600 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days after publication.

The amendment is proposed under Texas Civil Statutes, Article 1444c, §16, which provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably necessary in the exercise of its powers and jurisdiction.

§23.54. Private Pay Telephone Service.

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

  (1) Private Pay Telephone—Any [Except as herein provided, a private pay telephone includes any] coin, coinless, credit card reader, or cordless instrument that is accessible by members of the general public, business patrons, employees, and/or visitors of the private pay telephone provider [service customer], provided that the end user pays for local or toll calls from such instrument on a per call basis. For purposes of this section, coinless telephones provided in guest rooms by a hotel/motel are not private pay telephones. A telephone that is primarily used by business patrons, employees, and/or visitors of the local exchange carrier customer is not a private pay telephone if:

  (A) M[1] the primary use of such telephone is for local calls or toll-free "1-800" calls;

  (B) [2] all local calls and "1-800" calls from such telephone are free to the end user; and

  (C) [3] the telephone is not accessible by members of the general public.

  (2) Operator service—Any service using live operator or automated operator functions for the handling of telephone service, such as toll calling via collect, third number billing, and calling card services. The transmission of 800 numbers, where the called party has arranged to be billed, is not operator service.

  (3) Operator service provider (OSP)—Any person or entity that provides operator services by using either live or automated operator functions. When more than one entity is involved in processing an operator service call, the party setting the rates shall be considered to be the OSP. However, subscribers to customer-owned pay telephone service shall not be deemed to be OSPs.

  (4) Rate Information—All charges ultimately charged to the end user by the private pay telephone provider, including any surcharges, fees, and any other form of compensation charged by the private pay telephone provider on behalf of the call aggregator.

  (5) "0+" call—A call made by the caller dialing the digit "0" followed by the terminating telephone number. On some automated call equipment, a digit or digits may be dialed between the "0" and the terminating telephone number.

  (6) "0-" call—A call made by the caller dialing the digit "0" and no other digits within five seconds. A "0-" call may be made after a digit (or digits) to access the local network is (are) dialed.

  (7) Automatic number identification (ANI)—The ability to automatically identify the originating telephone number from the local switching system.

  (8) Originating line screening (OLS)—A two-digit code passed by the local switching system with the ANI at the beginning of a call that provides information about the originating line.

  (9) End user choice—A system that allows the automatic routing of interchange, operator-assisted calls to the billed party’s chosen carrier without the use of access codes.

  (10) Call aggregator—Any person or entity that owns or otherwise controls telephones intended to be utilized by the public. For the purposes of this definition, a person or entity controls a telephone if that person or entity has the authority to post notices and/or unblock access.

  [b] General. Private pay telephone service cannot be connected to, from, or through any customer provided telecommunications switching systems, or telephone company provided central office based PBX-type switching systems.

  [b][c] Available upon request. Upon formal request for service by any prospective private pay telephone service provider, a local exchange carrier [telephone company] is required to file a tariff providing for interconnection of private pay telephones, except as otherwise provided in subsection (1) of this section.

  [c][d] Initial filing requirements.
Unless otherwise provided in this section, when a local exchange carrier [telephone company] makes its initial filing to offer private pay telephone service the application must [shall] include the proposed tariff, a surrogate cost study based on the traffic sensitive and nontraffic sensitive costs of providing interconnection to the local exchange carrier [telephone company] network, and supporting explanation.

(d)(e) Requirements for connection of private pay telephone by local exchange carriers [companies]. A tariff filed by a local exchange carrier to offer private pay telephone service must include the requirements set forth in this subsection.

(I) Information to be provided at the private pay telephone set.

(A) The private pay telephone provider must attach to each instrument a card that provides:

(i) Instructions in English and Spanish for accessing emergency service subject to the conditions contained in subclauses (I) and (II) of this clause;

(ii) Where 911 emergency service is available, the caller must be instructed to dial 911 and the private pay telephone provider must allow 911 calls to be outpulsed directly to the public service answering point at no charge and without requiring a coin or credit card.

(II) Where 911 is not available, the caller must be instructed to dial "O" and dialing "O" must, at no charge and without requiring a coin or credit card, connect the caller with an OSP that is in compliance with the requirements of § 23.55(g)(2)(A)-(F) of this title (relating to Operator Services):

(iii) notice that detailed toll billing records showing the time and date of all calls dialed "1+", together with the called numbers, may be provided by the local exchange carrier or by other carriers to the private pay telephone provider, who must be identified in the notice by name;

(iv) Instructions for use, including specifically instructions for: completion of local and toll calls, access to operator services, access to directory assistance, obtaining refunds, obtaining repair service, registering complaints at a designated toll-free telephone number that is accessible from any telephone connected to the public network, reporting out-of-service conditions, and using one-way calling (if the instrument is so equipped); and

(v) notice identifying the set as a private pay telephone, stating that the private pay telephone set is not a telephone company instrument, and providing the name and toll-free telephone number (that is accessible from any telephone connected to the public network) of the owner or agent responsible for refunds and repairs.

(B) If the private pay telephone provider uses automated call completion technology to complete operator service calls, the private pay telephone provider must also attach to each instrument a card that provides:

(i) the name of the private pay telephone provider, indicating that the private pay telephone provider is the provider of operator services;

(ii) a statement that rate information is available, 24 hours a day, seven days a week at no charge;

(iii) instructions for obtaining rate information;

(iv) instructions for accessing the local exchange carrier operator;

(v) a notice that states, "You may use another long distance carrier. Follow your carrier's instructions, or contact the local exchange carrier operator for assistance."

(C) If the private pay telephone provider uses automated call completion technology to complete operator service calls, and if the private pay telephone provider's average intrastate charge (which includes all charges ultimately charged to the end user, including surcharges, fees, and any other form of compensation charged by the private pay telephone provider on behalf of the call aggregator) exceeds 115% of the average intrastate charge of a dominant carrier, the private pay telephone provider must also attach to the telephone set a notice that legibly and conspicuously states in capital letters: CHARGES FOR INSERT private pay telephone provider's name) OPERATOR SERVICES ARE NOT REGULATED. For the purposes of this subparagraph, the private pay telephone provider's average intrastate charge exceeds 115% of the average intrastate charge of a dominant carrier if the requirements of §23.55(d)(2)(A)-(D) of this title (relating to Operator Services) are not met. The private pay telephone provider is considered to be the OSP for the purpose of determining if the requirements of §23.55(d)(2)(A)-(D) of this title (relating to Operator Services) are met.

(D) If the private pay telephone provider subscribes to the services of an OSP that is required to comply with §23.55 of this title (relating to Operator Services), the private pay telephone provider remains liable for compliance with this paragraph, but may coordinate with the OSP so that information to be provided at the private pay telephone set is not duplicated. If the private pay telephone provider uses automated call completion technology to complete some operator service calls and subscribes to the services of an OSP that is required to comply with §23.55 of this title (relating to Operator Services), the private pay telephone provider must ensure that the information provided at the private pay telephone set clearly informs the caller regarding which information applies to which operator service calls.

(E) The requirements of this paragraph do not apply to private pay telephones accessible to inmates of confinement facilities.

(2) Requirements before call is completed. If the private pay telephone provider uses automated call completion technology to complete operator service calls, the private pay telephone provider must:

(A) Audibly and distinctly identify itself to the caller upon answering:

(B) Audibly and distinctly identify itself to the billed party, if the billed party is different from the caller;

(C) Provide a mechanism for the caller to obtain rate information, without charge, 24 hours a day, seven days a week; and

(D) Permit the caller or billed party to terminate the call at no charge prior to completion of the call by the private pay telephone provider.

(3) 911 calls, "O-" calls, and end user choice.

(A) The private pay telephone provider must allow 911 calls to be outpulsed directly to the public service answering point at no charge and without requiring a coin or credit card.

(B) Where end user choice, as herein defined, is not available, the private pay telephone provider must allow "0-" calls, and must directly route, without charge to the calling party, all "0-" calls either to the local exchange carrier operator serving the exchange from which the call is made or to an OSP that provides access to emergency service providers and that meets the requirements set forth in §23.55(g)(2)(A)-(F) of this title (relating to Operator Services).
(C) When and where available, use of end user choice, as herein defined, is required.

(D) The requirements of this paragraph do not apply to private pay telephones accessible to inmates of confinement facilities.

(4) Access.

(A) The private pay telephone provider must:

(i) provide access to operator services, which must be available 24 hours a day, seven days a week, at no charge and without requiring a coin or credit card;

(ii) provide access to directory assistance to the same extent as access to directory assistance is provided by the local exchange carrier from public pay telephones; and

(iii) provide access to the local exchange carrier operator serving the exchange from which the call is made, at no charge and without requiring a coin or credit card, either:

(I) by directly routing all "0-" calls to the local exchange carrier operator, without charge to the "0-" caller; or

(II) by transfer or redirection of the call by an OSP in accordance with the provisions of §23.55(t)(1)(A) of this title (relating to Operator Services).

(B) If the private day telephone provider uses automated call completion technology to complete operator service calls, and if the private pay telephone provider does not subscribe to the services of an OSP that is required to comply with §23.55 of this title (relating to Operator Services), the private pay telephone provider must also allow access to other telecommunications utilities unless otherwise provided in clause (ii) of this subparagraph.

(i) The access required by this subparagraph must be provided subject to the conditions contained in subclauses (i) and (II) of this clause,

(I) Access to interexchange carriers by "950-XXXX" and "1-800" numbers must not be blocked.

(II) Access to interexchange carriers by "10XXX+0+" (whether "10XXX+O+" or "10XXX+O-"") dialing must not be blocked if the end office serving the originating line has originating line screening capability.

(ii) The following generic waivers of the access requirement are required to prevent fraudulent use. An application under subsection (e) of this section is not required for any generic waiver granted by subclauses (i) or (II) of this clause.

(I) Access to interexchange carriers by "10XXX+O+" (whether "10XXX+O+" or "10XXX+O-"") dialing may be blocked if the end office serving the originating line does not have originating line screening capability.

(II) Access to interexchange carriers by "10XXX+I" dialing may be blocked.

(C) The requirements of this paragraph do not apply to private pay telephones accessible to inmates of confinement facilities.

(5) Charges.

(A) The private pay telephone provider must:

(i) charge for directory assistance calls that are handled by the local exchange carrier at the same price as the local exchange carrier charges end users at its public pay telephones;

(ii) not impose a total charge for a local call that is an amount greater than the rate charged for a local call placed from a public or semi-public pay telephone in the same exchange, except this clause does not apply to local operator service calls, as defined in subsection (a)(2) of this section; and

(iii) not impose a charge for "1-800" calls.

(B) The requirements of this paragraph do not apply to private pay telephones accessible to inmates of confinement facilities.

(6) Other.

(A) The private pay telephone provider must:

(i) ensure that the instrument completes all local and toll calls, including, but not limited to, international calls, collect calls, third number billed calls, and calling card calls;

(ii) be responsible for the payment of charges for all local and toll messages, including, but not limited to, non-local exchange carrier-handled directory assistance charges originating from or accepted at this type of service, except as provided in subsection (f) of this section;

(iii) comply with all applicable federal, state, and local laws and regulations including those concerning the use of private pay telephones by disabled and/or hearing- or speech-impaired persons;

(iv) not attach extension telephones to private pay telephones; and

(v) not impose a time limit on local calls.

(B) If the private pay telephone provider uses automated call completion technology to complete operator service calls, and if validation information is available for calls that the private pay telephone provider (or a third-party billing and collection agent operating on behalf of the private pay telephone provider) will bill through the local exchange carrier, the private pay telephone provider is required to validate the call and is allowed to submit the call for billing only if the call was validated.

(C) Private pay telephone service cannot be connected to, from, or through any customer-provided telecommunications switching system, or local exchange carrier-provided central office based PBX-type switching system.

(D) The requirements of subparagraph (A)(i) and (v) of this paragraph do not apply to private pay telephones accessible to inmates of confinement facilities.

[A local exchange company shall not connect a private pay telephone unless that telephone provides the following:

(1) completion of all local and toll calls;

(2) access to 911 emergency service, where available, at no charge and without requiring a coin or credit card. Where 911 service is not available, local emergency numbers must be posted on the instrument's instruction card and must be accessible without a charge and without requiring a coin;

(3) access to an operator service, which shall be available 24 hours a day at no charge and without requiring a coin or credit card, provided that, upon end user request, access to the local exchange company-provided operator shall be available at no charge; and

(4) access to and charges for directory assistance on the same basis as provided by the local exchange company from public pay telephones.]

(e) Application for modification of information to be provided at the private pay telephone set and for waivers of the requirement for access.
(I) The commission may approve applications for modification of the requirements contained in subsection (d)(1) (B) and (C) of this section upon showing of good cause. Applications for modification may be filed by the private pay telephone provider. The commission shall process applications for modification using the criteria and procedures set forth in §23.355(d)(4) of this title (relating to Operator Services).

(2) The commission may approve waivers to the access requirements of subsection (d)(4)(B) of this section to prevent fraudulent use of telephone services or for other good cause. Applications for waiver may be filed by the private pay telephone provider. The commission shall process such applications for waiver using the criteria and procedures set forth in §23.355(l)(3)(B) of this title (relating to Operator Services).

(f) Tariff requirements for private pay telephone service. A tariff filed by a local exchange company to offer private pay telephone service must provide that:

(1) the private pay telephone customer will be responsible for the payment of charges for all local and toll messages, including local and long distance directory assistance charges originating from or accepted at this type of service; however, if the customer subscribes to telephone company-provided incoming or outgoing call screening, the customer will not be responsible for charges incurred for calls placed in violation of the telephone company-provided incoming or outgoing call screening restrictions.

(2) the private pay telephone customer must:

(A) conspicuously display, in close proximity to the set, notice that detailed toll billing records showing the time and date of all calls dialed "1+", together with the called numbers, may be provided by the local exchange company to the private pay telephone customer, who shall be identified by name in the notice;

(B) comply with all applicable federal, state, and local laws and regulations including those concerning the use of pay telephones by disabled and/or hearing impaired persons;

(C) post the name of the pre-subscribed interexchange carrier selected by the private pay telephone customer for that instrument;

(D) not impose a time limit on local calls;

(E) not impose a total charge for a local call, including any applicable operator service charge, that is an amount greater than the rate charged for a local call made on a public or semi-public pay telephone in the same exchange;

(F) attach to each set instructions for use, including specifically instructions for: completion of local and toll calls, access to interexchange service, access to emergency service, access to operator services, access to directory assistance, obtaining refunds and repair service, making complaints, reporting out-of-service conditions, and using one-way calling (if the instrument is so equipped); and

(G) attach to each set conspicuous notice identifying the set as a private pay telephone, stating that the pay telephone set is not a telephone company instrument, and providing the name and telephone number of the owner or agent responsible for refunds and repairs.

(f) Fraud protection. If the private pay telephone provider subscribes to local exchange carrier-provided incoming or outgoing call screening, the private pay telephone provider shall not be responsible for charges from any OSP for calls placed in violation of the incoming or outgoing call screening restrictions, notwithstanding the provision of §23.355(l)(1)(C) (li) of this title (relating to Operator Services) that would otherwise require notice to interexchange carriers. Any such charges billed through the local exchange carrier in violation of this subsection shall be removed from the bill by the local exchange carrier upon identification.

(g) Local exchange carrier [company] responsibilities.

(1) A listing in the local telephone directory must be provided to the private pay telephone provider [customer] on request.

(2) Access for private pay telephone providers [customers] must be available in all exchanges.

(3) Selective class of call screening and billed number screening must be provided where facilities are available.

(4) Regardless of whether call screening is available [Where telephone company-provided incoming or outgoing call screening is not available], the local exchange carrier [telephone company] will not bill any call, including, but not limited to, third number billed, collect, "O+" or "O-" calls, to a number which has been clearly identified to the local exchange carrier operator at the time of the call attempt as a private pay telephone. The local exchange carrier [company] will not be responsible for refunds or adjustments of charges for calls placed through non-local exchange carrier [non-telephone company] operators, except as provided in subsection (f) of this section.

(5) The local exchange carrier [company] shall [need not] initiate a maintenance service call or take any other action in response to a trouble report on a private pay telephone until such time as requested by the private pay telephone owner or its agent. The private pay telephone owner must keep the local exchange carrier [company] advised of the identity of the private pay telephone owner or agent authorized to request a maintenance service call.

(6) Directory [Access to directory] assistance service must [shall] be provided to private pay telephone providers on [customers at] the same prices, terms, and conditions that [rate] the local exchange carrier provides such service to [company charges] the end user of its public pay telephones.

(h) Violation of regulations. If a private pay telephone provider [customer] is in violation of a tariff provision, the local exchange carrier [company] must notify the private pay telephone provider [customer] of the violation in writing. The private pay telephone provider [customer] is subject to disconnection of the instrument(s) in violation of the tariff by the local exchange carrier [company] unless the private pay telephone provider [customer] corrects the violation and notifies the local exchange carrier [company] in writing that the violation has been corrected within (10) days of receipt of notice of a violation.

(i) Rate structure. Local exchange carrier rates [Rates] must be designed on a flat access line and a local message usage rate basis. Multi-element measured rates are prohibited. In areas without measuring capabilities, the local exchange carrier [company] may use a flat rate usage surrogate instead of a per call message rate. Measurement capabilities [abilities] are defined as the capability in place to measure and bill private pay telephone usage without incurring unreasonable expense.

(j) Cost studies. Rates for private pay telephone service provided by a local exchange carrier [company] that performs cost separations studies must [shall] be based on the cost of providing the service, plus contribution.

(1) In the absence of actual cost data, the initial application for approval of a private pay telephone service must [shall] include a surrogate cost calculation based on the local exchange carrier's [company's] nontraffic sensitive and traffic sensitive costs of providing the service.

(2) A local exchange carrier [company] must commence tracking actual costs of providing private pay telephone service after the 50th private pay telephone access line has received service, unless otherwise provided in this subsection. Cooperatives are exempt from filing private pay telephone tracking reports. The local ex-
change carrier must [company shall] report actual costs to the commission on a quarterly basis until such time as rates for private pay telephone service based on historical data are established for the service. This report must be filed in the Central Records Office of the commission, and a copy must be delivered to the director of the Telephone Utility Analysis Division. This report [These reports] must include the following:

(A) revenues and expenses associated with the provision of each element of private pay telephone service, including, but not limited to, access line, per message charge, and local exchange carrier-provided [telephone company-provided] incoming or outgoing call screening;

(B) (No change.)

(C) the number of local exchange carrier-owned [telephone company-owned] public telephones displaced; and

(D) (No change.)

(3) Cost studies based on its tracking reports must [shall] be included in the first general rate case filed by a local exchange carrier [company] after its obligation to commence tracking begins. These cost studies must [shall] include cost and revenue information necessary to design rates based on actual costs plus contribution.

(k) Average schedule local exchange carriers [companies]. Rates for private pay telephone service provided by an average schedule local exchange carrier must [company shall] be based on the average private pay telephone rates of four similarly-situated local exchange carriers [companies].

(1) Special assembly tariffs. A local exchange carrier [company] with less than 50 private pay telephone lines may provide private pay telephone service pursuant to existing special assembly tariffs; however, in no event may a local exchange carrier [company] provide private pay telephone service to more than three special assembly arrangements. Special assembly rates must be computed in accordance with this section. Local exchange carriers [companies] that provide private pay telephone service pursuant to special assembly tariffs must [shall] enter into a written agreement with the private pay telephone provider [customer] that requires the private pay telephone provider’s [customer’s] private pay telephones to perform all functions and obligations specified in subsection (d) of this section [and that imposes on the customer the same obligations contained in subsection (e) of this section].

(m) Compliance. All local exchange carriers must [companies shall] file revised tariffs in compliance with this section within 45 days of the effective date of this section, or of any amendments thereto. The compliance tariffs will be reviewed by the Telephone Utility Analysis Division. Within 35 days of the date of filing of the report, the Hearings Division shall either approve the tariff or suspend the effective date of the tariff for further review.

(n) Severability. If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application. It is the intent of the commission that the provisions of this section are severable.

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 30, 1990.

TRD-9012790

Mary Ross McDonald
Secretary of the
Commission
Public Utility Commission of Texas

Earliest possible date of adoption: January 7, 1991

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


TITLE 19. EDUCATION
Part I. Texas Higher Education Coordinating Board
Chapter 1. Agency Administration
Subchapter A. General Provisions

* 19 TAC §1.8

The Texas Higher Education Coordinating Board proposes new §1.8, concerning minority and female-owned small business assistance. Section 61.0571 was added to the Texas Education Code by the 71st Legislature as a part of the board’s sunset legislation. The rules will assist minority and female-owned small businesses by establishing procedure to ensure that such businesses are provided an opportunity to bid on board contracts.

James McWhorter, assistant commissioner for administration, has determined that for the first five-year period the section is in affect the public benefit anticipated as a result of enforcing the section will be the encouragement of minority and female-owned small businesses to bid for contracts and open market purchases. There will be no effect on small businesses. There is no anticipated economic cost to person 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 12798, Austin, Texas 78711.

The new section is proposed under the Texas Education Code, §61.0571, Texas Civil Statutes, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the minority and female-owned small business assistance.

§1.8. Minority and Female-Owned Small Business Assistance. The Texas Higher Education Coordinating Board will be part of the state’s program to increase contracting and purchasing opportunities for small, minority, and female-owned businesses through such efforts as:

(1) maintaining an updated list of minority vendors through communication with the Texas Department of Commerce, Small Business Division;

(2) consulting Commerce’s Texas Small Business Directory Listing for purchases requiring only one bid;

(3) ensuring, whenever possible, that one or more minority vendors are included for purchases requiring three bids; and

(4) using the Texas Register when proposing use of a private consultant in excess of $10,000 as directed by Texas Civil Statutes, Article 6252-11c.

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 28, 1990.

TRD-9012789

James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Proposed date of adoption: January 25, 1991

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

Chapter 5. Program Development
Subchapter K. Private Degree-Granting Institutions Operating in Texas

* 19 TAC §5.211, §5.222

The Texas Higher Education Coordinating Board proposes new §5.211, concerning minority and female-owned small businesses to bid for contracts and open market purchases. There will be no effect on small businesses. There is no anticipated economic cost to person 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 12798, Austin, Texas 78711.

The new section is proposed under the Texas Education Code, §61.0571, Texas Civil Statutes, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the minority and female-owned small business assistance.

§5.211. Minority and Female-Owned Small Business Assistance. The Texas Higher Education Coordinating Board will be part of the state’s program to increase contracting and purchasing opportunities for small, minority, and female-owned businesses through such efforts as:

(1) maintaining an updated list of minority vendors through communication with the Texas Department of Commerce, Small Business Division;

(2) consulting Commerce’s Texas Small Business Directory Listing for purchases requiring only one bid;

(3) ensuring, whenever possible, that one or more minority vendors are included for purchases requiring three bids; and

(4) using the Texas Register when proposing use of a private consultant in excess of $10,000 as directed by Texas Civil Statutes, Article 6252-11c.

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 28, 1990.

TRD-9012789

James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Proposed date of adoption: January 25, 1991

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

Chapter 5. Program Development
Subchapter K. Private Degree-Granting Institutions Operating in Texas

* 19 TAC §5.211, §5.222

The Texas Higher Education Coordinating
Board proposes amendments to §§ 211 and §222, concerning private degree-granting institutions operating in Texas. These amendments are proposed to carry out the Coordinating Board's responsibilities for the implementation of the Texas Education Code, Chapter 61, Subchapter G. The changes will allow greater flexibility and will assure Coordinating Board control in evaluating institutions seeking exemption as result of their accreditation by a recognized agency.

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.

Bill Sanford, assistant commissioner for universities and health affairs, 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 the assurance of equal treatment of all private-degree-granting institutions seeking to operate in Texas. 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, §61.027 and §61.302, Texas Civil Statutes, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding private degree-granting institutions operating in Texas.

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

Recognized accrediting agency—Any of the following agencies which meets the conditions of this definition will be recognized by the board: Commission on Colleges, Southern Association of Colleges and Schools, [Commission on Higher Education, Middle States Association of Colleges and Schools, Commission on Institutions of Higher Education, New England Association of Schools and Colleges, Commission on Institutions of Higher Education, North Central Association of Colleges and Schools, Commission on Colleges, Northwest Association of Schools and Colleges; Accrediting Commission for Senior Colleges and Universities and Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges, the American Association of Bible Colleges, and the Association of Theological Schools in [of] the United States and Canada.

§5.222. Off-Campus Operations.

(a) A private institution must be approved by the board to operate a branch campus, extension center or other off-campus unit in Texas. An institution whose off-campus offerings may reach the scale of a branch campus, extension center, or other off-campus unit, as defined in §5.211 of this title (relating to Definitions), must submit a description of its plans, including such information as provided for on an application form furnished by the commissioner. Upon receipt of an acceptable planning letter, the commissioner may authorize the institution to continue the planned activity, on a temporary basis, pursuant to the following procedures.

(1) If the institution is exempt by virtue of appropriate accreditation, the Coordinating Board [it] may elect to have the [its] branch visited and evaluated solely by the Coordinating Board, pursuant to the requirements of this subchapter solely by the accrediting body, or jointly by the accrediting body and the Coordinating Board.

(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 28, 1990.

TRD-8012732

James McWhorter
Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

Proposed date of adoption: January 25, 1991

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

Chapter 21. Student Services

Subchapter J. The Physician Education Loan Repayment Program

• 19 TAC §§21.254, 21.256, 21.258


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 the availability of programs to operate if the legislature appropriates funds. 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, §§61.027 and §§61.537, Texas Civil Statutes, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Physician Education Loan Repayment Program.

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

Health manpower shortage area (HMSA)–An area of the state designated by the Office of Shortage Analysis, Bureau of Health Care Delivery and Assistance, of the United States Department of Health and Human Services, or its successors, as having a shortage of primary health care physicians or psychiatrists.

§21.256. Area of Highest Need. An area of highest need shall be any area, facility, or targeted physicians or patients within any facility or area which meets the criteria described in the board's federally-approved application for grant funds for the applicable federal program year, under provisions of the National Health Service Corps Loan Repayment Program (U.S. Public Health Service Act), [one of the following):

[(1) hospitals in health manpower shortage areas (HMSA) that would have qualified for disproportionate share medicaid reimbursements but for a lack of physicians during the previous state fiscal year according to the Texas Department of Human Services;]

[(2) federally funded community health centers in Texas which are located in HMSAs, including those HMSAs which are designated as such for special population groups;]

[(3) for graduates of the Texas Family Practice Residency Training Program only, any HMSAs of Texas in which they practice;]

[(4) HMSAs of Texas having a degree of shortage of one as reported by the Office of Shortage Analysis, Bureau of Health Care Delivery Assistance, United States Department of Health and Human Services;]

[(5) for physicians who provide health care under provisions of the Texas Maternal and Infant Health Improvement Act as administered by the Texas Department of Health, any state recommended health manpower shortage area in which]
they practice; and

(6) economically depressed medically underserved areas of Texas as defined in §21.254 of this title (relating to Definitions).

§21.258. Eligible Physician. An eligible physician is one who:

(1) (No change.)

(2) has satisfactorily completed a postgraduate program approved by the Accreditation Council on Graduate Medical Education or the American Osteopathic Association or has earned board specialty within the last six years in the following primary care specialties:

(A) in the state-funded program, family practice, osteopathic general practice, obstetrics/gynecology, internal medicine, pediatrics, emergency medicine, general surgery, and (in the case of a physician who serves one of the state agencies named in §21.260 of this title (relating to State-funded Physician Education Loan Repayment Program)] psychiatry; or

(B) (No change.)

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

Issued in Austin, Texas, on November 28, 1990.

TRD-0012733 James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Proposed date of adoption: January 25, 1991
For further information, please call: (512) 483-6160

Subchapter V. Texas Educational Opportunity Grant Program


The new sections are proposed under the Texas Education Code, §61.027 and §61.656, Texas Civil Statutes, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Texas Educational Opportunity Grant Program.

§21.680. Purpose. The purpose of the Texas Educational Opportunity Grant Program is to provide eligible students grants of money to enable those students to attend eligible institutions in Texas.

§21.681. Administration. The Texas Higher Education Coordinating Board, or its successor or successors, shall administer the Texas Educational Opportunity Grant Program.

$21.682. Delegation of Powers and Duties. The board delegates to the commissioner of higher education the powers, duties, and functions authorized by the Texas Education Code, Chapter 56, Subchapter F as provided in this subchapter.

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

Board—The Texas Higher Education Coordinating Board.

Commissioner—The commissioner of higher education, the chief executive officer of the board.

Educationally disadvantaged student—A student who has exceptional financial or who is a first generation college student.

Financial need—The cost of education at an eligible institution less the expected family contribution and any waivers or gift aid to which the student is entitled. The cost of education and family contribution are to be determined in accordance with board guidelines.

Half-time student—A student who has been formally admitted to the institution and is enrolled or expected to be enrolled for a half-time course load as determined by the educational program in which he or she is enrolled.

Program officer—The Texas Educational Opportunity Grant Program Officer designated by an eligible institution to represent the program described in this subchapter on that campus.

Resident—A resident of the State of Texas, as determined by the board. Nonresidents eligible to pay resident tuition rates are excluded from the program.


(a) An eligible institution is:

(1) an institution of higher education as defined in the Texas Education Code, §61.003(8); or

(2) a private nonprofit college, university, association, agency, institution or facility that is located in Texas and whose parent campus is in Texas, which meets program standards and accreditation comparable to public institutions as determined by the board; and

(3) follows the Civil Rights Act of 1964, Title VI (Public law 88-353) in avoiding discrimination in admissions and employment.

(b) The chief executive officer of an eligible institution shall designate a Texas Educational Opportunity Grant Program Officer who shall be the board’s on-campus agent to certify all institutional transactions, activities and reports with respect to the program described in this subchapter. Unless otherwise indicated by the chief executive officer of the institution, the Director of financial aid shall serve as the program officer.

§21.685. Eligible Student.

(a) To receive funds through the Texas Educational Opportunity Grant Program, a student must:

(1) be a Texas resident;

(2) enroll on at least a half-time basis at an eligible institution;

(3) have financial need;

(4) not have received a baccalaureate degree;

(5) not receive an athletic scholarship;

(6) not be enrolled in a seminary or other program leading to ordination or licensure to preach for a religious sect, or to be a member of a religious order;

(7) comply with other requirements adopted by the board; and

(8) be an educationally disadvantaged student.

(b) Priority will be given to:

(1) eligible students who demonstrate the most financial need; and

(2) minority group members including:

(A) black Americans;

(B) Mexican-Americans or other Americans of Hispanic origin;

(C) American Indians, Eskimos, and Aleuts; and

(D) Americans of Asian and Pacific island origin.

§21.686. Funding. Funds awarded through the program may not exceed the amount appropriated for that purpose by the legislature.

§21.687. Allocation of Funds among Eligible Institutions. The board shall allocate funds to participating eligible institutions, based on each school’s demand for need-based financial assistance, with priority given to the need of ethnic minority students. Institutions will have until December 1 of any program year to encumber funds allocated to them. Funds need not be disbursed as of December 1, but must be encumbered by that date. Any funds still unencumbered as of December 1 will be reallocated among participating institutions.

* * *

(a) On receipt of a student application and certification of the student’s financial need from an eligible institution, the board shall certify the size of the Texas Educational Opportunity Grant for which the student is eligible.

(b) The proper amount of the grant must be paid to the student through the eligible institution in which the student is enrolled.

(c) The amount of a grant awarded to an eligible student may not be more than 50% of the student’s financial need after the family contribution and all aid from entitlement programs are considered.

(d) The annual grant amount per recipient may not exceed $1,500.


(a) Application submission. Eligible institutions will submit grant applications to the board for eligible students.

(b) Funds disbursement. The board will request warrants from the State Comptroller’s Office for those students receiving grants. Once the warrants are delivered to the board, they will be forwarded to the institution’s business office for disbursement to the student. No warrant shall be released to a student by the institution without confirmation of the student’s eligibility for the award at the time of disbursement.

§21.690. Student Affirmation Form. Each disbursement of grant funds must be documented. An affirmation form, indicating the amount of grant being disbursed to a particular student and confirming the student’s eligibility, must be signed by the receiving student. One copy of the signed affirmation form must be forwarded to the board.

§21.691. Adoption and Distribution of Rules.

(a) The board shall adopt reasonable rules, consistent with the purposes and policies of this subchapter, to enforce the requirements, conditions, and limitations expressed by this subchapter.

(b) The board shall distribute to each eligible institution copies of all rules adopted under this subchapter.

§21.692. Program Review Requirements. Any institution whose students receive funds through the grant program in a year will be subject to a program review.

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

15 TexReg 6982 December 7, 1990 Texas Register
§21.717. Students Eligible for Continuation Awards. To receive a continuation award through the Texas Tuition Assistance Grant Program, a student must:

1. make steady academic progress toward a baccalaureate degree as determined by the institution;
2. maintain full-time enrollment for at least two semesters in any academic year;
3. have a cumulative grade point average of at least 2.5 on a 4.0 scale; and
4. meet all the eligibility requirements for students receiving initial awards as listed in §21.716 of this title (relating to Students Eligible for Initial Awards).

§21.718. Funding.

(a) Funds awarded through the program may not exceed the amount appropriated for that purpose by the legislature.

(b) Texas Tuition Assistance Grants are payable from gifts, grants, and funds appropriated by the legislature.

§21.719. Allocation of Funds Among Eligible Institutions. The board will allocate funds to participating eligible institutions, based on each school’s share of the eligible student population. Institutions will have until December 1 of any program year to encumber funds allocated to them. Funds need not be disbursed as of December 1, but they must be encumbered by that date. Any funds still unencumbered as of December 1 will be reallocated among participating institutions.


(a) Application submission. Eligible institutions will be asked to submit grant applications to the board for eligible students.

(b) Maximum awards. The maximum award for a student through the program is the lesser of:

1. the amount of tuition the student would be charged at a public senior institution of higher education; and
2. the student’s remaining financial need, once family contribution and other gift aid are considered.

(c) Funds disbursement. For those students receiving grants, the board will request warrants from the State Comptroller’s Office. Once the warrants are delivered to the board, they will be forwarded to the institution’s business office for disbursement to the student. No warrant shall be released to a student by the institution without confirmation of the student’s eligibility for the award at the time of disbursement.

§21.721. Refunds. In any semester, should a student withdraw from classes prior to the end of the term, funds disbursed to the student from the grant program that semester or term shall be returned to the program in accordance with the institution’s tuition refund policy.

§21.722. Affirmation Forms. Each disbursement of grant funds must be documented. An affirmation form, indicating the amount of grant being disbursed to a particular student and confirming the student’s eligibility must be signed by the receiving student. One copy of the signed affirmation form must be forwarded to the board.

§21.723. Program Review Requirements. Any institution whose students receive funds through one or more of the Texas Tuition Assistance Grant Program in a year will be subject to an annual program review.

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 28, 1990.

TRD-001273
James McWherter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Proposed date of adoption: January 25, 1990

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

Subchapter X. Incentive Grants for Professional Nursing Student Retention

19 TAC §§21.740-21.749

The new sections are proposed under the Texas Education Code, §61.027 and §81.656, Texas Civil Statutes, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding incentive grants for professional nursing student retention.

§21.740. Purpose. The purpose of the Incentive Grant Program for professional nursing student retention is to assist institutions in providing support activities to improve student retention in professional nursing programs.

§21.741. Administration. The Texas Higher Education Coordinating Board, or its successor or successors, shall administer the Incentive Grant Program for professional nursing student retention.

§21.742. Delegation of Powers and Duties. The board delegates to the commissioner of higher education the powers, duties, and functions authorized by the Texas Education Code, Chapter 61, Subchapter L as provided in this subchapter.

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

Applicant—An individual who has met the institution’s requirements for admission to the Professional Nursing Program.

Board—The Texas Higher Education Coordinating Board.

Commissioner—The commissioner of higher education, the chief executive officer of the board.

Program officer—The Incentive Grant Program officer designated by an eligible institution to represent the program described in this subchapter on that campus.

Professional nursing student—A student enrolled in an accredited institution of higher education in Texas in a course of study leading to an initial or an advanced degree in professional nursing.


(a) An eligible institution of higher education may be any public institution as defined in the Texas Education Code, §61.003(8) or any nonprofit, independent institution that:

1. admits as regular students only those persons having a certificate of graduation from a high school providing secondary education or the recognized equivalent of such a certificate;
2. is legally authorized within the state to provide a program of education beyond the secondary level;
3. provides an educational program for which it awards a recognized certificate, associate degree, bachelor’s degree, or professional degree;
4. is accredited by the Commission on Colleges of the Southern Asso-
cation of Colleges and Schools;
(5) has its parent campus in Texas; and
(6) follows the Civil Rights Act of 1964, Title VI (Public Law 88-353) in avoiding discrimination in admissions.

(b) The chief executive officer of an eligible institution shall designate an Incentive Grant Program Officer who shall be the board’s on-campus agent to certify all institutional transactions, activities, and reports with respect to the program described in this subchapter.

§21.745. Advisory Committee. The Advisory Committee for professional nursing student financial aid programs, established under the Education Code, §61.657(a), shall act as an advisor to the board in its administration of this program. Its duties shall include, but not be limited to:

(1) advise the board on appropriated rules for the Incentive Grant Program;
(2) advise the board on the amount of money needed to adequately fund the Incentive Grant Program;
(3) assist the board in the selection of institutional proposals to receive funding through the Incentive Grant Program; and
(4) assist the board in the dissemination of information about the Incentive Grant Program.


(a) Eligible institutions will be invited to submit proposals to the advisory committee, in request for funding. The proposals will have to include information regarding:

(1) the need for the program;
(2) the services to be provided;
(3) the ways in which the services are expected to improve student retention;
(4) the basis for evaluating the impact the services had on retention; and
(5) the amount of money being requested, and how the funds would be used (administration, provision of services, equipment, etc.).

(b) In Fiscal Year 1991 proposals will be due at the board by February 15. The proposals will then be evaluated, with awards announced by April 1. In subsequent years, proposals will be due at the board on March 15 and awards will be announced by June 15. The award period for any year will be September 1 to August 31.


(a) Funds awarded through the Incentive Grant Program may not exceed the amount appropriated for that purpose by the legislature.

(b) Individual grants will not exceed the amount requested in the proposal, or a program maximum.

(c) A program maximum may be set from time to time by the advisory committee, in keeping with the funds appropriated by the legislature for the program.

§21.748. Dissemination of Information. The board shall publish and disseminate, with the assistance of the advisory committee, information about the Incentive Grant Program for professional nursing student retention to all postsecondary institutions which might offer accredited programs in professional nursing.


(a) Each proposal submitted to the board will include an indication of the mechanisms to be used to evaluate the effectiveness of the program.

(b) A written self evaluation will be due to the board by the last day of October following the end of the award period.

(c) Any proposal funded through the Incentive Grant Program will be subject to a program review.

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 28, 1990.

TRD-0012758  James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Proposed date of adoption: January 25, 1990
For further information, please call: (512) 483-6160

Subchapter Y. Incentive Grants for Vocational Nursing Student Retention

19 TAC §§21.770-21.779

The new sections are proposed under the Texas Education Code, §61.027 and §61.656, Texas Civil Statutes, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding incentive grants for vocational nursing student retention.

§21.770. Purpose. The purpose of the Incentive Grant Program for Vocational Nursing Student Retention is to assist institutions in providing support activities to improve student retention in vocational nursing programs.

§21.771. Administration. The Texas Higher Education Coordinating Board, or its successor or successors, shall administer the Incentive Grant Program for vocational nursing student retention.

§21.772. Delegation of Powers and Duties. The board delegates to the commissioner of higher education the powers, duties, and functions authorized by the Texas Education Code, Chapter 61, Subchapter L as provided in this subchapter.

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

Applicant—An individual who has met the institution’s requirements for admission to the Vocational Nursing Program.
Board—The Texas Higher Education Coordinating Board.
Commissioner—The Commissioner of Higher Education, the chief executive officer of the board.
Program officer—The Incentive Grant Program officer designated by an eligible institution to represent the program described in this subchapter on that campus.
Vocational nursing student—A student enrolled in an eligible institution or program that is preparing the student for licensure as a vocational nurse.


(a) An eligible institution is a non-profit facility which:

(1) offers a program in vocational nursing approved by the Board of Vocational Nurse Examiners of the State of Texas;
(2) follows the Civil Rights Act of 1964, Title VI (Public Law 88-353) in avoiding discrimination in admissions; and
(3) has its parent campus in Texas, if an institution of higher education.

(b) The chief executive officer of an eligible institution shall designate an incentive grant program officer who shall be the board’s on-campus agent to certify all institutional transactions, activities, and reports with respect to the program described in this subchapter.

§21.775. Advisory Committee. The Advisory Committee for vocational nursing student financial aid programs, established under the Education Code, §61.657(b), shall act as an advisor to the board in its administration of this program. Its duties shall include, but not be limited to:

(1) advise the board on appropriated rules for the Incentive Grant Pro-
(2) advise the board on the amount of money needed to adequately fund the Incentive Grant Program;

(3) assist the board in the selection of institutional proposals to receive funding through the Incentive Grant Program; and

(4) assist the board in the dissemination of information about the Incentive Grant Program.


(a) Eligible institutions will be invited to submit proposals to the advisory committee, in request for funding. The proposals will have to include information regarding:

(1) the need for the program;

(2) the services to be provided to vocational nursing applicants and students;

(3) the manner in which students will be selected to receive the services;

(4) the ways in which the services are expected to improve student retention;

(5) the basis for evaluating the impact the services had on the Vocational Program’s retention rate; and

(6) the amount of money being requested, and how the funds would be used (administration, provision of services, equipment, etc.).

(b) In Fiscal year 1991 proposals will be due at the board by February 15. The proposals will then be evaluated, with awards announced by April 1. In subsequent years, proposals will be due at the board on March 15 and awards will be announced by June 15. The award period for any year will be September 1 to August 31.

§21.777. Funding.

(a) Funds awarded through the Incentive Grant Program may not exceed the amount appropriated for that purpose by the legislature.

(b) Individual grants will not exceed the amount requested in the proposal, or a program maximum.

(c) A program maximum may be set from time to time by the advisory committee, in keeping with the funds appropriated by the legislature for the program.

§21.778. Dissemination of Information. The board shall publish and disseminate, with the assistance of the advisory committee, information about the Incentive Grant Program for vocational nursing student retention to all facilities which might offer approved programs in vocational nursing.


(a) Each proposal submitted to the board will include an indication of the mechanisms to be used to evaluate the effectiveness of the program.

(b) A written self evaluation will be due to the board by the last day of October following the end of the award period.

(c) Any proposal funded through the Incentive Grant Program will be subject to a program review.

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 28, 1990.

TRD-9012797

James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Proposed date of adoption: January 25, 1990
For further information, please call: (512) 483-6160

Subchapter Z. Graduate Nurses’ Education Loan Repayment Program

• 19 TAC §§21.800-21.813

The new sections are proposed under the Texas Education Code, §61.027, Texas Civil Statutes, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Graduate Nurses’ Education Loan Repayment Program.

§21.800. Purpose. The purpose of the Graduate Nurses’ Education Loan Repayment Program is to promote the health educational needs and health care of the citizens of Texas by encouraging qualified graduate professional nurses to serve as faculty in nursing education programs as advanced nurse practitioners.

§21.801. Administration. The Texas Higher Education Coordinating Board, or its successor or successors, shall administer the Graduate Nurses’ Education Loan Repayment Program and fund.

§21.802. Delegation of Powers and Duties. The board delegates to the commissioner of higher education the powers, duties, and functions authorized by the Texas Education Code, Chapter 61, Subchapter L.

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

Advanced nurse practitioner—An individual who is a licensed registered nurse in the State of Texas, practicing as a clinical specialist, nurse anesthetist, nurse midwife, or nurse practitioner.

Board—The Texas Higher Education Coordinating Board.

Commissioner—The commissioner of higher education, the chief executive officer of the board.

Pro rata—A proportionate basis upon which payment amounts will be scaled, depending upon the share of a state employee’s full work year worked by the loan repayment recipient.

Professional nurse—For purposes of this program, an individual holding a master’s or the doctoral degree in nursing who is a licensed registered nurse in the State of Texas.

Service period—A 12-month period for which a professional nurse qualifies for repayment of student loans.

§21.804. Eligible Lender and Holder. The board shall retain the right of determining eligibility of lenders and holders of student loans to which payments may be made. An eligible lender or holder shall, in general, make or hold loans made to individuals for purposes of attending postsecondary institutions and shall not be any private individual. An eligible lender or holder may be, but is not limited to, a bank, savings and loan association, credit union, institution of higher education, licensed Texas hospital, licensed Texas long-term care facility, secondary market, governmental agency, pension fund, private foundation, or insurance company. The loan conforms to the definition of an eligible student loan as provided in this subchapter.

§21.805. Eligible Professional Nurse. A nurse who holds a masters or doctoral degree in nursing, is licensed by the Board of Nurse Examiners for the State of Texas and against whom no formal charge is unresolved and against whom no professional disciplinary action has been taken.

§21.806. Eligible Education Loan. An education loan eligible for repayment is one that:

(1) was obtained through an eligible lender for purposes of attending a postsecondary institution;

(2) is not a loan made to oneself from one’s own insurance policy or pension plan or from the insurance policy or pension plan of a spouse or other relative;

(3) does not have an existing service obligation; and

(4) is not in default at the time
of the nurse's application for repayment.

§21.807. Eligible Nursing Program. An eligible nursing program is any such program that is:

(1) accredited by the Board of Nurse Examiners for the State of Texas; and

(2) follows the Civil Rights Act of 1964, Title V (Public Law 88-353) in avoiding discrimination in admissions.

§21.808. Advisory Committee. The board shall appoint a 10-member advisory committee as provided by the Texas Education Code, Chapter 61, Subchapter L. The purposes of the advisory committee shall be to:

(1) advise the board on appropriate rules for the Graduate Nurses' Education Loan Repayment Program; and

(2) assist the board in the dissemination of information on the Graduate Nurses' Education Loan Repayment Program.

§21.809. Qualifications for Education Loan Repayment. The commissioner may authorize or cause to be authorized repayment of education loans made to an eligible professional nurse who:

(1) has submitted the appropriate application to the board;

(2) has been serving on the nursing faculty of an eligible nursing program in a position requiring a graduate professional nurse for at least one year preceding loan repayment;

(3) has been practicing in Texas for at least one year immediately preceding loan repayment as an advanced nurse practitioner in a position which requires the services of an advanced nurse practitioner; and

(4) is currently serving on the nursing faculty of an eligible nursing program in a faculty position which requires a graduate professional nurse or is currently practicing in Texas as an advanced nurse practitioner in a position which requires an advanced nurse practitioner.

§21.810. Prior Conditional Approval. Prior conditional approval of applications for repayment of loans may be granted by the board. Such approval may occur no earlier than the beginning of the applicant's final year of education or the beginning of the applicant's service period. Repayments are dependent upon the availability of funds.

§21.811. Repayment of Education Loans. Eligible education loans of eligible professional nurses shall be repaid under the following conditions.

(1) A total annual repayment to one or more eligible lenders shall not exceed the applicant's unpaid principal and interest owed on one or more eligible loans, or $7,000, whichever is less.

(2) Repayment shall be made at the end of each service period.

(3) Education loan repayment(s) may be renewed annually upon successful completion of the application process, but the aggregate repayment amounts may not exceed $39,000.

(4) The annual repayment(s) shall be made co-payable to the eligible professional nurse and to any eligible lender(s) or holder(s), to be applied to the outstanding balance of the loan.

(5) The annual repayment(s) may be made for verified full-time or for verified part-time service on a pro rata basis.

§21.812. Expanded Graduate Nurses' Education Loan Repayment Program. The Expanded Graduate Nurses' Education Loan Repayment Program is limited to federally-funded repayments on education loans on behalf of eligible professional nurses whose service period ends on October 1, 1991, or later. Payments in the expanded program must be matched on the basis of 70% state funds and 30% federal 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.

§21.813. Dissemination of Information. The board shall publish and disseminate, with the assistance of the advisory committee, information about the Graduate Nurses' Education 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 28, 1990.

TRD-9012738 James McWhorter Assistant Commissioner for Administration Texas Higher Education Coordinating Board

Proposed date of adoption: January 25, 1991
For further information, please call: (512) 483-6160

Chapter 97. Planning and Accreditation

The Texas Education Agency (TEA) proposes the repeal of §§97.1-97.7 and 97.21-97.30, concerning planning and accreditation. The passage of Senate Bills 1 and 417 amended several sections of the Texas Education Code. In addition to amending sections, the bills also added new sections that strengthen the performance-based accreditation process and require the State Board of Education to adopt rules and criteria for the accreditation of school districts. Because of the numerous changes to the current rule the sections are being repealed. The new sections are being proposed in a separate submission.

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

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be a clearer, more concise statement of the agency's rule authority. There will be no affect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals 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) 483-9701. All requests for a public hearing on the proposed repeals 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 repeals has been published in the Texas Register.

Subchapter A. General Provisions

• 19 TAC §§97.1-97.7

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

The repeals are proposed under the Texas Education Code, §21.753, which provides the State Board of Education with the authority to adopt rules regarding the accreditation of school districts.

§97.1. Purpose of Accreditation.

§97.2. Accreditation Required.

§97.3. The Accreditation Monitoring Process.

§97.4. Monitors and Masters.
§97.5 Types of Accreditation Status.

§97.6 Modification of a District's Accreditation Status.

§97.7 Non-public Schools.
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 16, 1990.

TRD-9012923
W. N. Kirby
Commissioner of Education agency

Earliest possible date of adoption: January 7, 1991

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

The Texas Education Agency (TEA) proposes new §§97.1-97.11, and 97.21-97.39, concerning planning and accreditation. The passage of Senate Bills 1 and 417 amended several sections of the Texas Education Code. In addition to amending sections, the bills also added new sections that strengthen the performance-based accreditation process and require the State Board of Education to adopt rules and criteria for the accreditation of school districts. Because of the numerous changes to the current rules the sections are being repealed in a separate submission.

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

Mr. Moak and Criss Cloud McCuller, director for planning coordination, also have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enacting the sections will be the publication of rules including new legislative requirements for the accreditation of school districts and campuses. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Criss Cloud 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.

19 TAC §§97.1-97.11

The new sections are proposed under the Texas Education Code, 21.753, which provides the State Board of Education with the authority to adopt rules regarding the accreditation of school districts.

§97.1 Purpose of Accreditation. The purpose of school accreditation is to assure the citizens of the state that school districts provide quality educational programs that are effective and efficient, distribute resources adequately and equitably, and comply with state and federal rules and regulations. The accreditation process shall exist to ensure equality and consistency across districts and campuses, especially as it pertains to student diplomas and course credit transfers. In addition, school districts are held accountable for the academic performance of all segments of the student population.

§97.2 Accreditation Required.
(a) Each school district must be accredited by the Central Education Agency.
(b) The accreditation of a school district is based on its total programs. Failure of one or more of the respective segments to be in substantial compliance with requirements places the status of the district in jeopardy.
(c) Accreditation by a voluntary association is a local option of the district, but it does not substitute for accreditation by the Central Education Agency.
(d) The accreditation process must include, but is not limited to, consideration of the 15 criteria noted in Texas Education Code, §21.753.

§97.3 The Accreditation Process.
(a) Each school district in the state shall receive an accreditation visit at least once every six years or as specified in the law, dependent upon the performance as measured by the state's district and campus academic excellence indicators. The commissioner shall establish the level of investigative effort and monitoring frequency based upon a history of the district's ability to satisfy the accreditation criteria and the academic performance of its students.
(b) The agency shall give written notice to the superintendent and board of trustees of each district before a scheduled accreditation visit.
(c) Each accreditation visit shall begin with an opening session during which administrators and others, as appropriate, shall be given information about procedures to be followed during the visit.
(d) During the course of the visit, members of the accreditation team shall review pertinent documents, make observations on campuses and in classrooms, and interview administrators, teachers, and parents of students enrolled in the district. To elicit community and parental input, the accreditation team shall hold announced public meetings during the course of the visit.
(e) At the conclusion of each visit, the accreditation team shall orally report its preliminary findings to administrators and representatives from the board of trustees, as appropriate. District representatives may, if they wish, respond to the preliminary report orally during the closing session. The district or campus may also make written responses to the preliminary findings.

(f) The official written report shall be sent to the superintendent and the board of trustees. If corrective/improvement actions are required, deadlines for their completion shall be specified. If follow-up visits are required, timelines for those visits shall be included. The report shall include a recommendation concerning district accreditation status. The written report shall become a public document at the time the report is mailed, subject to the provisions of statutes in the Texas Open Meetings Act.

(g) When a district has had its accreditation status lowered from accredited, the technical assistance team shall review the accreditation report with the board of trustees, the superintendent, district administrators, and teachers. Public hearings shall be held with parents and the community. Ongoing technical assistance activities as appropriate to district needs shall be conducted. The coordination of technical assistance efforts of the Central Education Agency, the Regional Education Service Centers, and other supporting organizations shall be provided. The emphasis of technical assistance efforts shall be to assist the school district in meeting quality standards for the restoration of their accreditation status.

§97.4 The Accreditation Cycle.
(a) Each district shall be visited and all accreditation criteria investigated at least once every six years, except that the board may extend that period for a district rated:
(1) as exemplary, for an additional period not to exceed two years; and
(2) as recognized, for an additional period not to exceed one year.
(b) Each district rated as accredited advised shall be visited and assisted not less than once every two years.
(c) Each district rated as academically unaccredited shall be visited and assisted not less than once each year.
(d) Each district that demonstrates unsatisfactory performance under the indicators adopted under the Texas Education Code, 21.7531, shall be investigated more frequently than otherwise required under this section.
(e) Each district that demonstrates unsatisfactory performance in meeting campuses' performance objectives for each of the academic excellence indicators shall be investigated more frequently than otherwise required under this section.
Each annual review shall include an analysis of:

1. student performance;
2. attendance, promotion, and dropout rates;
3. program costs; and
4. other information required by the State Board of Education.

In compliance with the Texas Education Code, §21.923, the board shall make optimal use of the agency's public education information management system to minimize the written reporting requirements of school districts.

To determine if a district qualifies for a higher rating or on identification of potential problems, the commissioner of education may direct the agency to conduct on-site investigations at any time and may raise or lower the accreditation rating as a result of the investigation.

The resolution of corrective/improvement actions may be negotiated with the chairperson of the accreditation team who visited the district or campus. Timelines for addressing specific corrective/improvement actions shall be established by the Texas Education Agency staff member who was assigned to assist the affected district or campus.

### §97.5. Obtaining Information From Parents

During on-site visits, accreditation team members shall review records used by district personnel to notify parents and community residents about their right to meet individually and/or as a group with members of the accreditation team. The purpose of these meetings is to provide parents and community residents with the opportunity to share information with the accreditation team. At other times during the accreditation visit, meetings with parents and community residents are closed to district personnel and board members.

### §97.6. Obtaining Information From Teachers

When interviewing teachers during an on-site accreditation visit, the information provided shall not be screened by district or campus personnel.

### §97.7. Monitors, Masters, and Management Teams

A monitor may be appointed by the commissioner of education to advise a district's board of trustees regarding ways of addressing cited deficiencies. This procedure is followed when:

1. a district's status has been lowered from advised to academically unaccredited;

2. the district has not taken required corrective/improvement actions after verbal and written notices of accreditation deficiencies have been received by the superintendent and board of trustees; or

3. circumstances in the district warrant immediate and expert intervention.

A master or management team may be appointed by the commissioner of education to oversee operations of a district when the district has failed to bring about required corrective/improvement actions. A master or management team may approve or disapprove any action of the board of trustees or the superintendent of the district. A master or management team serves at the discretion of the commissioner for a period ending with the reinstatement of the district's accreditation.

The cost of providing a monitor, master, or management team shall be paid by the district.

### §97.8. Types of Accreditation Status

(a) Some of the components of this section shall not be effective until the 1991-1992 school year. The designation of exemplary and recognized status shall become effective when the academic excellence indicators become operational.

(b) The academic excellence indicators adopted under this section shall be the main consideration of the Central Education Agency in the rating of a district under the Texas Education Code, §21.753. This information shall be used to establish a longitudinal performance data base which shall become the primary consideration in the assignment of an accreditation rating at the time of a district's scheduled on-site visit.

(c) The types of accreditation status are as follows.

1. Exemplary. A district may be classified as exemplary if an assessment indicates that an exceptionally high level of quality exists in all areas of the district's operation for all student populations.

   (A) The assignment of exemplary status is contingent upon evidence of exemplary performance as measured by the annual academic indicators and exemplary practices identified through an on-site visit. A district may retain its exemplary status unless it fails to meet appropriate criteria as assessed by an on-site visit, or following an on-site visit based on concerns raised by the annual review of data reported by the academic excellence indicators.

   (B) The data reported through the academic excellence indicators shall be considered the prime determiner of exemplary status.

   (C) Reinstatement of exemplary status is based on the joint review of on-site accreditation findings and the district's results on the state's academic excellence indicators.

2. Recognized. A district may be classified as recognized if an assessment indicates that a high degree of quality exists in all of the district's operations for all student populations.

   (A) The assignment of recognized status is contingent upon evidence of exceptional performance as measured by the annual academic excellence indicators and exceptional practices identified through an on-site visit. A district may retain its recognized status unless it fails to meet appropriate criteria as assessed through an on-site visit or following an on-site visit based on concerns raised by the annual review of data reported by the academic excellence indicators.

   (B) The district's data reported through the academic excellence indicators shall be considered the prime determiner of recognized status.

3. Accredited. A district shall be classified as accredited when it meets the standards of the state's annual academic excellence indicators and when it is determined, as a result of an on-site visit review, that accreditation criteria have been met.

   (A) Accredited, conditional. A newly formed district, or a district adding grades, shall be placed on accredited, conditional status until the agency can conduct a full accreditation review and establish an accreditation status for the new district or the total district, including the new grade levels.

   (B) Accredited, advised. A district shall be classified as accredited, advised when discrepancies exist between the district's program or operations and accreditation requirements, and when the district does not satisfactorily meet the standards of the state's annual academic excellence indicators. A district placed on accredited, advised status may be assigned a monitor, master, or management teams to oversee operations at the discretion of the commission.

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15 TexReg 6988 December 7, 1990 Texas Register
§97.9. Modification of a District Accreditation Status.

(a) Authority to modify the accredited status of a district to recognized or exemplary rests with the commissioner of education.

(b) The commissioner of education has the authority to accredit school districts; to place school districts on either accredited advised or academically unaccredited status; and to appoint a monitor or a master in accordance with the Texas Education Code, Chapter 21, Subchapter T.

(c) A district that is rated academically unaccredited for a period of two years shall be annexed to another district or the commissioner shall order the creation of a state operated school district.

(d) Decisions of the commissioner of education may be appealed in accordance with the provisions of Chapter 157 of this title (relating to Hearings and Appeals). Decisions of the Central Education Agency may be appealed in accordance with the Texas Education Code, §11.13(c).

§97.10. State-operated School Districts.

(a) The commissioner of education may order the suspension of the powers of the board of trustees of a school district if the district has been rated academically unaccredited for a period of two years.

(b) The commissioner of education shall appoint a board of managers to execute the powers of the board of trustees during the period of suspension and shall appoint a district superintendent. The appointed school district superintendent shall report annually to the commissioner of education on the progress of the district toward meeting the requirements necessary for accreditation.

(c) An appointed school district superintendent may request that the commissioner of education exempt the school district from a requirement or prohibition imposed under this code.

§97.11. Non-public Schools. The commissioner of education shall be authorized to review the criteria of other accrediting bodies that accredit nonpublic schools in Texas. Where the commissioner determines that such criteria are comparable to the standards in this chapter, the commissioner may recognize the accrediting association. Then the commissioner shall disseminate information on schools accredited by associations recognized by the commissioner of education. Student credits earned in nonpublic schools accredited by a recognized association shall be transferable to Texas public schools, and teacher service in accredited nonpublic schools shall be creditable in accordance with Chapter 121, Subchapter C of this title (relating to Years of Service for Salary Increment Purposes). 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 16, 1990
TRD-9012922 W. N. Kirby Commissioner of Education

Earliest possible date of adoption: January 7, 1991
For further information, please call: (512) 463-9701

Subchapter B. Adopting or Altering Principles and Standards for Accreditation
• 19 TAC §§97.21-97.39

The new sections are proposed under the Texas Education Code, §21.753, which provides the State Board of Education with the authority to adopt rules regarding the accreditation of school districts.

§97.21. Accreditation Standards, Criteria, and Academic Excellence Indicators.

(a) The evaluation of school districts shall be based on a multiple performance information system. This system assesses conditions and measures the efficiency and effectiveness of the district's total operation. The district and campus must ensure the delivery of equitable and high quality instructional and educational support services to each student. Through oversight provided by the local board of trustees and the district superintendent, operations shall be carried out in accordance with statutory requirements and state policy. Planning, implementation, and evaluation practices that are consistent with the most recent research findings of educational effectiveness shall be in evidence.

(b) Performance information for a district and each of its campuses shall be collected annually by the Central Education Agency through established reporting systems and/or through on-site evaluations conducted in accordance with an accreditation schedule established by the State Board of Education or during special investigations authorized by the commissioner of education. This information shall be disaggregated and analyzed to make comparisons and to determine the performance progress of the special student populations of the campuses and district. The performance information collected annually on the academic excellence indicators shall be the

Proposed Sections December 7, 1990 15 TexReg 6989
(c) No later than November of the year immediately preceding the regularly scheduled session of the legislature, the State Board of Education shall adopt a set of academic excellence indicators which include, but is not limited to, the criteria contained in statute. Additionally, the State Board of Education shall adopt a set of grouping variables and procedures to be used for the purpose of establishing a projection of expected performance. These indicators, grouping variables, and procedures shall be adopted considering the advice of the academic excellence indicators advisory committee, the educational excellence committee, and the Legislative Education Board prior to final adoption.

(d) The criteria used for the on-site evaluation shall be organized within domains that represent essential operational functions and contextual conditions of districts and campuses. These criteria must also reflect the areas stipulated in the Texas Education Code, §21.753. The criteria may be supplemented with program or contextual condition descriptors. The commissioner shall determine the program description for each criteria for the purposes of on-site data collection by the accreditation team members. Domains for district evaluation criteria are as follows:

(1) planning and evaluation;
(2) curriculum;
(3) instruction;
(4) student services;
(5) instructional resources;
(6) personnel;
(7) governance;
(8) community awareness and support;
(9) physical facilities;
(10) district and campus organization and management; and
(11) district resource allocation.

(e) Domains of campus evaluation criteria are as follows:

(1) instructional leadership;
(2) instructional focus;
(3) school climate;
(4) teacher behavior and high expectations;
(5) assessment;
(6) parental and community involvement; and
(7) campus resource allocation.

§97.22. District Domain I. Planning and Evaluation. The district is continuously improving the effectiveness of its planning and evaluation programs. Efforts are made to plan strategies for immediate and long-range improvements. Planning and evaluation of programs and services encompass measurable student performance objectives that relate to the academic excellence indicators.

(1) Criterion 1. The district's board of trustees and staff are accountable for the effectiveness of the district's programs and services.

(2) Criterion 2. The district's evaluation of district performance, programs, and services in all areas is an integral part of the planning process.

(3) Criterion 3. The district uses a planning process to implement identified strategies for improving the quality and effectiveness of district and campus programs and services.

(4) Criterion 4. The district incorporates in its planning process programs specifically required by the state.

(5) Criterion 5. The district incorporates in its planning and evaluation process those items specifically addressed in the state-adopted academic excellence indicators.

§97.23. District Domain II. Curriculum. The district provides a well-balanced curriculum which is driven by students' needs and state requirements. Curriculum documents reflect effective teaching and learning strategies, and they are designed for practical application by all concerned.

(1) Criterion 1. The district is in compliance with Chapter 75 of this title (relating to Curriculum).

(2) Criterion 2. The district's curriculum documents are locally developed and adapted, and they are used effectively in the teaching and learning process.

(3) Criterion 3. The district's students are encouraged to take a wide range of subjects and courses.

§97.24. District Domain III. Instruction. The district's instructional guidelines and practices are determined by students' needs. The district's board of trustees and its staff are accountable for the effectiveness and improvement of instructional programs. The instructional program complies with all statutory requirements and rules of the State Board of Education. Program delivery is guided by equity, effectiveness, and efficiency.

(1) Criterion 1. The district and campus performance on the state-adopted indicators reflect that quality instruction and learning are occurring in the district.

(2) Criterion 2. The district's instructional arrangements and procedures in the district support effective teaching and learning, and promote a positive school climate.

(3) Criterion 3. The district's instructional placement procedures are evaluated annually for their effectiveness in producing acceptable student outcomes.

(4) Criterion 4. The district's coordination between general education, vocational, bilingual, and special programs is systematically and regularly planned to ensure continuity of instruction, efficient use of time and resources, and the effective attainment of instructional goals for all students.

(5) Criterion 5. The district's instructional placement procedures allow for and promote flexible grouping techniques; avoiding systems that rigidly track students.

(6) Criterion 6. The district has an appropriate identifiable program that provides instructional services to three- and four-year-old migrant children participating in the district's prekindergarten education program for those districts receiving Chapter 1, migrant funds.

§97.25. District Domain IV. Student Services. The district provides student services to augment and support its instructional program through guidance, safety, and health services. Measures are taken to ensure that all statutory requirements are met.

(1) Criterion 1. The district has a realistic developmental program of guidance services that exists at all grade levels in the district.

(2) Criterion 2. The district ensures that adequate student health services are provided. The district is in compliance with §85.41 of this title (relating to Health Services Program) and all statutory requirements.

(3) Criterion 3. The district's school health services are a part of the instructional program.

(4) Criterion 4. The district's measures promoting student safety are prescribed in district policy and carried out in practice.

(5) Criterion 5. The district's student services are coordinated with local, public, and private health and human service organizations to ensure efficient use of resources and effective responses to student needs.

§97.26. District Domain V. Instructional Resources. The district provides resources that are appropriate for the instructional program and related services. Such resources are available on an equitable and efficient basis; and they include services such as equipment, facilities, textbooks, and media services that may be needed to deliver instruction. Resources are used effec-
tively and efficiently to maximize the learning of all students.

(1) Criterion 1. The district systematically acquires, maintains, allocates, and appropriates instructional materials that are appropriate for its instructional program.

(2) Criterion 2. The district operates a planned program for library media services and materials in compliance with Chapter 81, Subchapter F, of this title (relating to Library Media Standards).

(3) Criterion 3. The district's schools have the full complement of instructional personnel, resources, facilities, and services necessary to implement its library media program.

(4) Criterion 4. The district uses educational technology to enhance the learning environment for all students. The district uses a variety of resources.

§97.27. District Domain VI. Personnel. The district employs qualified and competent personnel, assigns them appropriately, and encourages their personal and professional growth. Opportunities for growth and improvements are provided to personnel through staff development activities that are consistent with the needs of the staff and the district, as well as rules of the State Board of Education. The district's appraisal process is managed in a fair and consistent manner. All statutes and State Board of Education rules and regulations are followed.

(1) Criterion 1. The district's professional instructional personnel are properly assigned, prepared, and supervised.

(2) Criterion 2. The district's paraprofessional instructional personnel are properly assigned, prepared, and supervised.

(3) Criterion 3. The district's personnel records are properly maintained and contain all items required by rules of the State Board of Education.

(4) Criterion 4. The district operates a staff development program based upon a written plan that initiates educational improvement and meets legal requirements.

(5) Criterion 5. The district's appraisal process for professional personnel provides a framework for educational improvement. This process reflects provisions stated in Chapter 149, Subchapter C, of this title (relating to Appraisal of Certified Personnel).

§97.28. District Domain VII. Governance. The district's commitment to responsible governance produces sound policies and procedures that facilitate excellence in fiscal matters. Ethical and educational standards upheld in all instructional, fiscal, and personnel matters allow the organization to operate in the best interest of students.

(1) Criterion 1. The district's board of trustees functions as the district's policy-making body.

(2) Criterion 2. The district's board members individually and collectively adhere to the statewide standards on duties of a school board member.

(3) Criterion 3. The district's policies are in writing and have been officially adopted by the board of trustees. They are given appropriate distribution; and they are accessible to staff members, parents, and community residents.

(4) Criterion 4. The district's board of trustees upholds educational and ethical standards, which promote the best interests of the school district.

(5) Criterion 5. The district's board of trustees holds regularly scheduled meetings and keeps official minutes of the meetings.

(6) Criterion 6. The district's board of trustees regularly recognizes and rewards teachers and administrative personnel for academic, professional growth, and teaching accomplishments.

(7) Criterion 7. The district's board of trustees recognizes and respects the superintendent's rights and responsibilities as the chief administrative officer of the district.

(8) Criterion 8. The district's superintendent of schools functions as the chief administrative officer of the district.

§97.29. District Domain VIII. Community Awareness and Support. The district's degree of community awareness and support are essential variables in the creation and maintenance of effective schools. As a social system, the school is an integral part of the external environment. Conditions in the community reflect the value of an education to youth. Continuous, open communications foster understanding and participation.

(1) Criterion 1. The district uses the annual academic excellence indicators and other evaluative information to identify and report to the public those programs and services that need improvement, and those programs of high quality that should be maintained.

(2) Criterion 2. The district recognizes and promotes through its policies and actions the rights of parents and the importance of parental involvement in the educational process.

(3) Criterion 3. The district's personnel, board of trustees, and the community work harmoniously toward promoting and producing positive student learning outcomes.

§97.30. District Domain IX. Physical Facilities. The district's physical facilities are safe. The facilities are maintained in a responsible manner that is equitable for all segments of the community. Facilities are designed to meet the educational needs of all students in an environment conducive to learning.

(1) Criterion 1. The district's facilities are adapted and/or appropriately designed for their function.

(2) Criterion 2. The district's facilities and equipment used by students, staff, and community residents in all school-related activities are safe, properly maintained, and appropriate for their designated use.

(3) Criterion 3. The district's physical facilities and instructional programs reflect the sufficient financial support of its community residents.

§97.31. District Domain X. District and Campus Organization and Management. The district's effective planning, management, and evaluation of programs are essential to the efficient operation of the organization.

(1) Criterion 1. The organizational structure facilitates maximum student growth and development.

(2) Criterion 2. The district has in place an organizational structure that ensures educational effectiveness.

§97.32. District Domain XI. District Resource Allocation. The district's efficient, adequate, and equitable distribution of resources ensures equality of opportunity to learn. Planning for resource allocation is based on identified student needs.

(1) Criterion 1. The district's board of trustees and the superintendent have established procedures for development of the budget.

(2) Criterion 2. The district's budget allocations reflect resources necessary to provide services for required instructional programs.

(3) Criterion 3. The district's board of trustees has considered the budgetary needs of the instructional programs before setting the tax rate.

§97.33. Campus Domain I. Instructional Leadership. Campus instructional leadership refers to the responsibility of the building principal for establishing and maintaining the tone and climate for teaching and learning at the school site. Principals, by law, are designated as "the instructional leader of the school." The Texas Education Code, §21.753(c)(7), stipulates that criteria in the accreditation rules must include consideration of the effectiveness of district principals as instructional leadership.
leaders. Principals are key instructional leaders whose main responsibility is to improve the quality of the instructional program. Principals demonstrate knowledge of the curriculum and instructional practices. A sense of shared community exists among faculty, students, parents, and community residents.

(1) Criterion 1. The campus principal is instrumental in developing and communicating the school mission and effectively focuses the energy and talent of students, staff, and community residents toward its realization.

(2) Criterion 2. The campus principal is actively involved in promoting a positive, supportive, least restrictive environment for students with special needs.

(3) Criterion 3. The campus improvement teams, composed of representatives of parents and staff, are engaged in planning under the leadership of the principal.

(4) Criterion 4. The campus administrators continually monitor school and classroom practices to ensure the effective implementation of campus plans.

(5) Criterion 5. The campus instructional programs are supervised and monitored by the principal.

(6) Criterion 6. The campus principal actively secures appropriate resources to meet the needs of staff and students.

(7) Criterion 7. The campus principal ensures that counterproductive classroom practices are eliminated because of the classroom observation and teacher appraisal process.

(8) Criterion 8. The campus principal is responsible for managing test data, supervising schoolwide instructional changes based on the data, and monitoring student progress, and directing needed staff development.

(9) Criterion 9. The campus principal provides opportunity for all staff members to become involved in the day-to-day improvement of instruction and encourages ownership in the process.

(1) Criterion 1. Campus professional staff commit themselves to ranking instruction above all other activities.

(2) Criterion 2. Campus staff use a planning process to improve the quality and effectiveness of campus programs and services. Campus planning is consistent with the district’s improvement plan.

(3) Criterion 3. Campus goals reflect the philosophy that all students can learn. Campus personnel demonstrate an awareness of school goals through their instructional practices.

(4) Criterion 4. Campus principals and teachers know and use a variety of proven instructional techniques, innovative approaches, and technological resources that have reasonable expectations of success. Alternative delivery systems for instruction are used as needed.

(5) Criterion 5. Campus staff understand they are held responsible for the impact of the instructional program on student outcomes.

§97.35. Campus Domain III. School Climate. Campus school climate refers to the atmosphere that exists in a school resulting from the interaction of beliefs, values, and attitude shared by students, teachers, administrators, support staff, and parents. Positive school climate is characterized by safety, orderliness, cleanliness, and reasonable disciplinary rules, a system for rewarding student behavior and academic performance, and special focus on at-risk students. Schools with a positive climate have teachers who are involved collaboratively in making decisions and they are highly valued as professionals.

(1) Criterion 1. Campus communications, collegiality, and collaboration are valued by the school staff in reaching campus goals.

(2) Criterion 2. Campus students are rewarded for academic and citizenship efforts and accomplishments.

(3) Criterion 3. Campus teachers are rewarded for academic efforts, professional growth, and instructional accomplishments.

(4) Criterion 4. Campus principals and teachers possess and exhibit skills in effective applications of classroom and discipline management strategies. Clear rules, policies, and expectations communicate effectively; and they are consistently enforced by all adults.

(5) Criterion 5. Campus environment is safe, orderly, and clean and is conducive to learning.

§97.36. Campus Domain IV. Teacher Behavior and High Expectations. Teacher behavior refers to activities that teachers exhibit to help all students reach their maximum potential. Academic learning time is fully used by all teachers. Higher-level thinking skills are taught to all students. High expectations refer to the perceptions of the school teaching staff related to student learning ability. These perceptions should not be translated into positive learning experiences for all students, regardless of cultural and social conditions. The belief that all students can learn the philosophy and policies of the campus principal and staff. Teachers provide quality feedback to students and parents regarding student performance.

(1) Criterion 1. Campus personnel receive staff development concerning implementation of campus plans reflecting the position that all students can learn, if they are given sufficient time and practice.

(2) Criterion 2. Campus administrators and teachers are responsible for making full use of allocated time and enhancing academic learning for all students.

(3) Criterion 3. Campus instruction is inclusive of the essential elements and higher-order thinking skills.

(4) Criterion 4. Campus guidance programs are skewed toward the belief that all students must graduate, and they encourage all students to realize and reach their maximum potential.

(5) Criterion 5. Campus teachers and administrators believe it is their responsibility to teach all students and to demonstrate positive overt behaviors toward all students regardless of gender, race, and socioeconomic status.

§97.37. Campus Domain V. Assessment. Campus assessment refers to measuring student performance at specific times during the instructional process. Pretesting, diagnostic instruments, checking for understanding before and after independent practice, and final examinations are forms of assessment. Assessment includes data required by the academic excellence indicators. The results of testing and other data are used to improve individual student performance, curriculum, and instructional practices.

(1) Criterion 1. Campus administrators and teachers carefully define what information they need and want about individual students and groups of students.

(2) Criterion 2. The campus uses a variety of assessment instruments for planning and evaluation purposes.

(3) Criterion 3. The campus needs assessment includes data required by the academic excellence indicators.

(4) Criterion 4. The campus assessment data are disaggregated and analyzed according to appropriate variables such as the socioeconomic status, ethnicity, and gender of the students.
(5) Criterion 5. The campus assessment data collected throughout the school year on a regular basis are used to modify materials, instruction processes, and instructional/support programs.

(6) Criterion 6. The campus assessment results are used to diagnose the individual strengths and weaknesses of students and they are also used in diagnostic and prescriptive processes.

(7) Criterion 7. The student performance data are used by campus personnel to evaluate the effectiveness of campus instructional programs.

§97.38. Campus Domain VI. Parental and Community Involvement. The campus effectively communicates expectations to all parents and community residents. Evidence indicates that parent and community expectations are respected by staff. Procedures for involvement are clearly communicated and used consistently. Parents actively participate in campus planning and improvement.

(1) Criterion 1. Citizens are systematically kept informed of campus-related events and issues.

(2) Criterion 2. Information is provided on an ongoing basis to encourage parents and community residents to participate in planning activities.

(3) Criterion 3. Campus administrators, teachers, and other professional staff provide quality feedback to students, parents, and the community regarding the effectiveness of programs and services.

(4) Criterion 4. Campus programs promoting parental and community involvement are established and maintained.

(5) Criterion 5. Campus professional staff provide parents with techniques for helping students learn.

§97.39. Campus Domain VII. Campus Resource Allocation. Campus resource allocation refers to both the process and product components of budgeting resources at the campus level. This concept incorporates the belief that the major portion of a district's budget is allocated to campus operations. This concept also expresses the belief that principals, with valuable input from professional staff, are responsible for developing the budget for their respective campuses according to the requirements in the Texas Education Code, §13.352(d)(3).

(1) Criterion 1. Campus resources are allocated equitably and efficiently, and they meet the identified instructional needs of the student population. The campus budget allocates resources for personnel and programs to provide necessary services for the number of eligible students.

(2) Criterion 2. Campus budget allocations are targeted for personnel and programs based on priorities identified in the campus improvement plan.

(3) Criterion 3. Campus resource allocations for special population programs can be identified by program and instructional arrangement.

(4) Criterion 4. District guidelines are followed for the generation and management of additional resources. These resources include parent-teacher organization funds, school activity funds, booster club funds, and fund-raisers.

(5) Criterion 5. Campus resource allocations are equitable across campuses.

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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W. N. Kirby
Commissioner of Education

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

Chapter 101. Assessment

Assessment of Minimum Skills

• 19 TAC §101.7, §101.8

The Texas Education Agency proposes an amendment to §101.7, concerning local school district achievement testing and new §101.8, concerning the state norm-referenced test. The amendment to §101.7 allows school districts to make the updating of local testing programs coincide with the first year of the state norm-referenced testing program. The section allows districts that use tests in addition to the state test to update their programs at the same time. New §101.8 specifies that one norm-referenced test will be used in grades 3-11. The test measures reading, writing, mathematics, science, and social studies and will be administered for the first time in school year 1991-1992.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the sections are in effect the end of fiscal implications as a result of enforcing or administering the sections. There will be no fiscal implications for state government. The effect on local government for the first five-year period will be the ability of local school districts to avoid having to purchase new tests for the one-year period 1990-1991. The sections allow them to continue using current tests until the state achievement testing begins in 1991-1992. Districts that have already purchased new tests will not benefit fiscally from the sections. New §101.8 states that the cost of administering the norm-referenced testing program, including the purchase of the test, will be paid from state compensatory funds. If this change is implemented, fewer state compensatory funds will be available to local districts than if the funds were not spent on the testing program. However, increases in the compensatory education allotment approved during the last legislative session are expected to exceed the cost of the testing program.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also have 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 the clarification of the requirements associated with local school district achievement testing and the state norm-referenced test. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Comments on the 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 amendment and new section are proposed under the Texas Education Code, §21.551 and §21.559, which provides the State Board of Education with the authority to adopt rules regarding a norm-referenced assessment test and obtaining national comparative data.

§101.7. Local District Achievement Testing.

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

(d) Beginning with the 1990-1991 school year, updated norms will be produced by the publisher every two school years for each assessment instrument covered by this section. The date of publication of the norms will determine when the next update is required. The date of publication may not exceed one year from the date of data collection. After establishing national standardization norms for a particular form, user norms may be employed for the biennial updates. Publishers producing updated user norms must use sampling and psychometric procedures approved by the commissioner of education. Publishers must provide the updated norms to scoring centers in the state that they are approved by the publisher to score its assessment instruments. These norms must be provided to the scoring centers as soon as they are available to minimize delays in reporting. Beginning in the 1991-1992 school year, national [National] standardization norms are not eligible for use in Texas more than seven years after date of publication.

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


(a) Beginning with the 1991-1992 school year, the state will administer, score, and report a nationally normed, norm-referenced test in grades 3-11 in the subject
areas of reading, writing, mathematics, science, and social studies.

(b) The costs of administering the non-referenced testing program, including the purchase of the test, will be paid from state compensatory funds.

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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For further information, please call: (512) 483-9701

Chapter 157. Hearings and Appeals

Subchapter D. Hearings Concerning Handicapped Students

• 19 TAC §157.92, §157.94, §157.97

The Texas Education Agency (TEA) proposes amendments to §§157.92, 157.94, and 157.97, concerning hearings for handicapped students. The amendments are required as a result of the federal review of the Texas State Plan for Fiscal Year 1991-1993, part B of the Education of the Handicapped Act, as Amended. The amendments include changes to the TEA address and a Texas Administrative Code reference, and the addition of language to clarify the authority of a hearing officer to grant extensions for issuing a final written decision.

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

Mr. Moak and Criss CloudtMcCuller, 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 that a hearing officer has the authority to grant extensions for issuing a final decision. 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) 483-9701. 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 15 calendar days after notice of proposed change in the sections has been published in the Texas Register.

The amendments are proposed under Part B of the Education of the Handicapped Act as amended by Public Law 94-142, 10 United States Code, §1401 et seq., and 34 Code of Federal Regulations, §300.1 et seq. which provide the Texas Education Agency with the authority to adopt rules regarding hearings and appeals for handicapped students.

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

Handicapped student—Those students suspected of or evaluated as possessing a handicapping condition as defined by §89.211 (§89.202) of this title (relating to Handicapped Students [Definitions]). In this subchapter the term "student" means handicapped student unless the context clearly indicates otherwise.

§157.94 Request for Hearing. A parent of eligible student may initiate a hearing on any matter described in §157.93 of this title (relating to Applicability). A public educational agency may initiate a hearing to determine if a student may be evaluated or initially provided special education and related services without parental consent. A public educational agency may also initiate a hearing to show that its evaluation is appropriate when the parent or eligible student disagrees with an evaluation obtained by the public agency and requests an independent educational evaluation at public expense. The request for hearing shall be in writing and filed with the Division of Hearings and Appeal [commissioner of education], Texas Education Agency, 1701 North Congress Avenue [201 East 11th Street], Austin, Texas 78701. A request for hearing shall be deemed filed only when actually received by the agency [designated hearing officer].

§157.97 Hearing

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

(f) The hearing officer shall issue a final decision no later than 45 days after a request for hearing is filed. A final decision must be in writing and shall include findings of fact and conclusions of law, separately stated. Findings of fact must be based exclusively on the evidence and on matters officially noticed pursuant to the administrative procedure and Texas Register Act. Texas Civil Statutes, Article 6252-13a, §14. The final decision shall be mailed [transmitted] to each party by the hearing officer.

(g) A hearing officer may grant [specific] extensions of time beyond the period set out in subsection (f) of this section at the request of either party. Such extensions shall be granted to a specific date and shall be set forth in writing to the parties.

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

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

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

TRD-8012895
W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: January 7, 1991

For further information, please call: (512) 483-9701

TITLE 22. EXAMINING BOARDS

Part XII. Board of Vocational Nurse Examiners

Chapter 233. Education

Operation of a Vocational Nursing Program

• 22 TAC §233.24

(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 Board of Vocational Nurse Examiners or in the Texas Register office. Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Board of Vocational Nurse Examiners proposes the repeal of §233.24, concerning minimum teaching personnel. The section is being repealed in order to adopt a new §233.24. Repeal of the section allows for the board to adopt a new section which will require closer supervision of students of vocational nursing programs in the clinical area.

Marjorie A. Bronk, executive director, 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.

Mrs. Bronk 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 better prepared students through closer supervision of those students in the clinical area while in vocational nursing programs. There will be no effect on small businesses.

The anticipated economic cost to persons who are required to comply with the section as proposed will be the salary of additional clinical instructors to meet the student/instructor ratio as proposed in the new section.

Comments on the proposal may be submitted to Marjorie A. Bronk, Executive Director, Board of Vocational Nurse Examiners, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

The repeal is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

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 28, 1990.

TRD-9012790 Marjorie A. Bronk, R.N., M.S.H.P. Executive Director Board of Vocational Nurse Examiners

Earliest possible date of adoption: January 7, 1991

For further information, please call: (512) 835-2071

The Board of Vocational Nurse Examiners proposes new $233.24, concerning minimum teaching personnel. The new section is being proposed to replace old $233.24 which is being repealed. Proposal of the new section allows for the board to require closer supervision of students of vocational nursing programs in the clinical area.

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

Mrs. Bronk 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 better prepared students through closer supervision of those students in the clinical area while in vocational nursing programs. There will be no effect on small businesses.

The anticipated economic cost to persons who are required to comply with the section as proposed will be the salary of additional clinical instructors to meet the student/instructor ratio. All classes that enroll after the adoption date must comply with this section as proposed. Classes currently in progress may elect to continue under the previous section for that class or may implement the new section.

Comments on the proposal may be submitted to Marjorie A. Bronk, Executive Director, Board of Vocational Nurse Examiners, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

The new section is proposed under Texas Civil Statutes, Article 452B, §5(g) , which provide the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§233.24. Minimum Teaching Personnel. There shall be a minimum of one full-time nursing instructor for the program. A director/coordinator without major teaching or clinical responsibilities shall not be considered a full-time instructor. There shall be a minimum of one nursing instructor for every 12 students in clinical. A nursing instructor for each affiliating agency is preferred to a designate supervisor. Designate supervisors shall be excluded from the instructor/student clinical ratio. Use of part-time nursing instructors is permissible. The number of part-time instructors shall not exceed the number of full-time 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 November 28, 1990.

TRD-9012791 Marjorie A. Bronk, R.N., M.S.H.P. Executive Director Board of Vocational Nurse Examiners

Earliest possible date of adoption: January 7, 1991

For further information, please call: (512) 835-2071

Part XXXI. Texas State Board of Examiners of Dietitians

Chapter 711. Dietitians

• 22 TAC §§711.1-711.15

The Texas State Board of Examiners of Dietitians, with the approval of the Texas Board of Health, proposes amendments to §§711.1-711.15, concerning dietitians. The sections cover definitions; the board's operation; the profession of dietitians; academic requirements for licensure; experience requirements for examination; examinations for dietitian licensure; application procedures; determination of eligibility; provisional licensed dietitians; licensing; changes of name and address; license renewal; licensing of persons with criminal backgrounds; violation, complaints, and subsequent board actions; and formal hearings.

The amendments include combining the application and initial license fee to expedite processing applications and issuing initial licenses to eligible applicants; increasing the supervision requirements for provisional licensed dietitians; expanding the code of ethics; changing the organization of the rules to assist licensees in understanding and following the rules and regulations; and changing the procedures to process complaints.

Stephen Seale, Chief Accountant III, has determined that for the first five-year period the sections are in effect there will be no fiscal implications on state or local government as a result of enforcing or administering the sections as proposed.

Mr. Seale also has determined that for each year of the first five years the sections as proposed are in effect the public benefits will be to assure that the licensing and regulation of dietitians continues to identify competent practitioners. There will be no cost to small or large businesses as a result of implementing the sections; no anticipated economic cost to persons who are required to comply with the sections as proposed; and there will be no impact on local employment.

Comments on the proposal may be submitted to Becky Berryhill, Executive Secretary, Texas State Board of Examiners of Dietitians, 1100 West 49th Street, Austin, Texas 78756-5183, (512) 450-2948. Comments will be accepted 30 days following publication of the proposed sections in the Texas Register.

The board will conduct a public hearing beginning at 9 a.m., December 12, 1990, at the Texas Department of Health, 1100 West 49th Street, Austin. The purpose of the hearing is to receive testimony regarding the proposed amendments.

The amendments are proposed under Texas Civil Statutes, Article 4512h, §8, which provide the Texas State Board of Examiners of Dietitians with the authority to adopt rules consistent with the Licensed Dietitian Act.

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

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

Contested case—A proceeding in accordance with APTRA and this chapter, including, but not restricted to, rule enforcement and licensing, in which the legal rights, duties, or privileges of a party are to be determined by the board after an opportunity for an adjudicative hearing.

Formal hearing—A formal hearing or proceeding in accordance with this chapter and includes a contested case.

Hearing examiner—A person duly designated and appointed by the chairman of the board who conducts formal hearings under this chapter on behalf of the board.

Pleading—Any written allegation filed by a party concerning its claim or position.

§711.2. The Board's Operation.

(a)-(i) (No change.)

(j) Rules of order. The latest edition of Roberts Rules of Order [Revised] shall be the basis of parliamentary decisions except where otherwise provided by these board rules.

(k)-(n) (No change.)

(o) Committees.

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

(7) The following standing committees shall be appointed by the newly elected chairman each odd-numbered year to serve a term of two years.

(A) (No change.)

[B] The Complaint Committee shall be composed of two board members who are licensed dietitians and one public member of the board. The committee

* Proposed Sections December 7, 1990 15 TexReg 6995
shall process all complaints received by the board and shall recommend to the board action to be taken on complaints in accordance with §711.14 of this title (relating to Violations, Complaints, and Subsequent Board Actions) and review the applications that the executive secretary determines should not be approved.

(B)[(C)] The Program Approval Committee shall be composed of three board members who are licensed dietitians. The committee shall review all applications for internship and preplanned professional experience programs received by the board and shall either approve or deny the applications. Determinations made by the committee are subject to ratification at the next regular meeting of the board.

(C)[(D)] The Consumer Information Committee shall be composed of two board members who are licensed dietitians and one public member of the board. The committee shall recommend to the executive secretary the publication of consumer information related to the board and shall guide the preparation of all consumer information related publications. The committee shall recommend to the board action to be taken regarding proposed publications.

8 The Complaint Committee shall be composed of a person(s) appointed by the chairman. The committee may review complaints received by the board and shall recommend action to be taken on complaints in accordance with §711.14 of this title (relating to Violations, Complaints, and Subsequent Board Actions).

(p)-(q) (No change)

(r) License certificates.

(1) The board shall prepare and provide to each licensee a license certificate and license identification card which contain the licensee's name, license number, and date of licensure.

(2) Official license certificate shall be signed by the chairman and vice-chairman and be affixed with the seal of the board. Official license identification cards shall bear the signatures of the chairman and the executive secretary.

(3) Any license certificate and license identification card issued by the board remain the property of the board and must be surrendered to the board on demand.

(4) The license certificate must be displayed in an appropriate and public manner as follows.

(A) The license certificate shall be displayed in the primary office or place of employment of the licensee.

(B) In the absence of a primary office or place of employment, or when the licensee is employed at multiple locations, the licensee shall carry a current board issued license identification card.

(C) Neither the licensee nor anyone else shall display a photocopy of a license certificate or carry a photocopy of a license identification card in lieu of the original license certificate or license identification card.

(D) Neither the licensee nor anyone else shall make any alteration on a license certificate or license identification card issued by the board.

(r) [(s)] Registry.

(1) Each year the executive secretary, on behalf of the board of health, shall publish a registry of current licensees.

(2) The registry shall include, but not be limited to, the name, preferred mailing address, and telephone number of current licensees.

(3) An original copy of the registry shall be available for inspection by licensees and members of the public in the office of the executive secretary. Upon receipt of a written request and payment of a fee, the executive secretary shall furnish at cost a copy to a licensee or member of the public. The cost of a copy of the registry or any portion thereof shall be in accordance with the cost guidelines of the State Purchasing and General Services Commission.

(s) [(t)] Consumer information. The executive secretary, on behalf of the board of health, and with the approval of the board, shall publish information of consumer interest which describes the regulatory functions of the board, board procedures to handle and resolve consumer complaints, and the profession of dietetics. Distribution of consumer information shall follow the department's guidelines for distribution of literature and forms.

(t) [(u)] Fees.

(1) The board has established reasonable and necessary fees to provide the funds to support the activities listed in paragraph (2) of this subsection and other activities required by the Act.

(2) Schedule of fees for licensure as a dietitian and a provisional licensed dietitian:

(A) Application (includes Initial license) [processing] fee—$54[$30];

(B) license fee for upgrade of provisional licensed dietitian—$20[$24] (prorated at $2.00 per month);

(C) renewal fee—$24;

(D) late renewal fee—$36

(when renewed within 90 days of expiration date);

(E) license renewal penalty fee—$24 plus all unpaid renewal fees (when license is renewed after 90 days of expiration, but less than two years);

(F) license certificate and identification card replacement fee—$20[$10];

(G) license identification card replacement fee—$10;

(H) [(I)] Examination fee—fee designated by the commission at the time of the examination or reexamination; and

(J) fees for upgrading

PLD—$10.

(3) An applicant whose check for the application fee is returned marked insufficient funds, account closed, or payment stopped shall be allowed to reenlist the application by remitting to the board a money order or check for guaranteed funds within 30 days of the date of receipt of the board's notice. An application will be considered incomplete until the fee has been received and cleared through the appropriate financial institution.

(4) An approved applicant whose check for the license fee is returned marked insufficient funds, account closed, or payment stopped shall be allowed to receive remittance to the board a money order or check for guaranteed funds within 30 days of the date of receipt of the board's notice. Otherwise, the license shall not be renewed. If a renewal card has already been issued, it shall be invalid.

(5) A license whose check for the renewal fee is returned marked insufficient funds, account closed, or payment stopped shall be allowed to receive remittance to the board a money order or check for guaranteed funds within 30 days of the date of receipt of the board's notice. Otherwise, the license shall not be renewed. If a renewal card has already been issued, it shall be invalid.

(6) Fees paid to the board by applicants are not refundable.

(7) Any remittance submitted to the board in payment of a required fee must be in the form of a personal check, certified check, or money order.

(8) The board shall make periodic reviews of its fee schedule and make any adjustments necessary to provide funds to meet its expenses without creating an unnecessary surplus. Such adjustments shall be through rule amendments.
(u)(v) Petition for adoption of a rule.

(1) Purpose. The rule's purpose is to delineate the board's procedures for the submission, consideration, and disposition of a petition to the board to adopt a rule.

(2) Submission of the petition.

(A) Any person may petition the board to adopt a rule.

(B) The petition shall be in writing, shall contain the petitioner's name and address, and shall describe the rule and the reason for it; however, if the executive secretary determines that further information is necessary to assist the board in reaching a decision, the executive secretary may require that the petitioner resubmit the petition and that it contain:

(i) a brief explanation of the proposed rule;

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

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

(iv) the public benefit anticipated as a result of adopting the rule or the anticipated injury or inequity which would result from the failure to adopt the proposed rule.

(C) The board may deny a petition which does not contain the information in subparagraph (B)(i)-(iv) of this paragraph if the executive secretary determines that the latter is necessary.

(D) The petition shall be mailed or delivered to the executive secretary, Texas State Board of Examiners of Dietitians, 1100 West 49th Street, Austin, Texas 78756-3183.

(3) Consideration and disposition of the petition.

(A) The executive secretary shall submit the petition to the board for its consideration.

(B) Within 60 days after receipt of the petition by the executive secretary, or within 60 days after receipt of a resubmitted petition in accordance with paragraph (2)(B)(i)-(iv) of this subsection, the board shall either:

(i) deny the petition; or

(ii) initiate rule-making procedures by referring the petition to the Rules Committee for its recommendation. The committee shall report its recommendations to the board at its next regular meeting.

(iii) The board may deny parts of the petition and/or institute rule making procedures on parts of the petition.

(C) If the board denies the petition, the executive secretary shall give the petitioner written notice of the board's denial, including the reason(s) for the denial.

(D) If the board initiates rule-making procedures in accordance with the Administrative Procedure and Texas Register Act, §5, the version of the rule which the board proposes may differ from the version proposed by the petitioner.

§711.3. The Profession of Dietetics.

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

(d) Code of ethics. These rules shall constitute a code of ethics as authorized by the Licensed Dietician Act (Act), §6(b)(1).

(1) Professional representation and responsibilities.

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

(E) A licensee shall not use his or her professional relationship with a client, a person supervised by the licensee, or an associate to promote for personal gain or profit any item, procedure, or service unless the licensee has disclosed to the client, a person supervised by the licensee, or an associate the nature of the licensee's personal gain or profit.

(F) A licensee shall maintain knowledge and skills required for professional competence.

(G) A licensee shall not abuse alcohol or drugs in any manner which detrimentally affects the provision of dietetic services.

(H) A licensee shall comply with the provisions of the Texas Controlled Substances Act, Health and Safety Code, Chapter 481 and Chapter 483 relating to dangerous drugs; [Texas Civil Statutes, Article 4476-15, and the Texas Dangerous Drug Act, Texas Civil Statutes, Article 4476-14.] and any rules of the board of health or the Texas State Board of Pharmacy implementing those chapters [statutes].

(J) A licensee shall comply with any order relating to the licensee which is issued by the board.

(K) A licensee shall not aid or abet the practice or misrepresentation of an unlicensed person when that person is required to have a license under the Act.

(L) A licensed dietitian shall supervise a provisional licensed dietitian in accordance with §711.9 of this title (relating to Provisional Licensed Dietitians.)

(M)(D) A licensee shall not make any false, misleading, or deceptive claims in any advertisement, announcement, or presentation relating to the services of the licensee or any person supervised by the licensee [in competitive bidding].

(N) A licensee shall conform to generally accepted principles and standards of dietetic practice which are those generally recognized by the profession as appropriate for the situation presented, including those promulgated by or under the association or commission, and other professional or governmental bodies.

(O) A licensee shall not interfere with an investigation or disciplinary proceeding by willful misrepresentation of facts to the board or its authorized representative or by the use of threats or harassment against any person.

(2) Professional relationships [with clients].

(A) A licensee shall make known to a prospective client the important aspects of the professional relationship including fees and arrangements for payment which might affect the client's decision to enter into the relationship. A licensee shall bill a client or a third party in the manner agreed to by the licensee and in accordance with state and federal law.

(B)-(F) (No change.)

(G) A licensee shall not engage in sexual contact with a client. The term "sexual contact" means any type of sexual behavior described in the Texas Penal Code, Chapters 21, 22, or 43 and includes sexual intercourse.

* Proposed Sections December 7, 1990 15 TexReg 6997
(H) A licensee shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the services provided.

(I) A licensee shall not provide services to a client or the public if by reason of any mental or physical condition of the licensee, the services cannot be provided with reasonable skill or safety to the client or the public.

(J) A licensee shall not provide any services which result in mental or physical injury to a client or which create an unreasonable risk that the client may be mentally or physically harmed.

(3) Supervision of provisional licensed dietitian. A licensed dietitian shall adequately supervise a provisional licensed dietitian for whom the licensee has assumed supervisory responsibility.

§711.4. Academic Requirements for Licensee.

(a) (No change.)

(b) General.

(1) The board shall accept as meeting licensure requirements baccalaureate and post-baccalaureate degrees and course work received from American colleges or universities, which held accreditation, at the time the degree was conferred or the course work was taken, from accepted regional educational accrediting associations as reported by the American Association of Collegiate Registrars and Admissions Officers.

(2)-(5) (No change.)

(6) In the event that an academic deficiency is present, an applicant may have one year in which to complete the additional course work acceptable to the board before the application will be voided and the applicant will be required to reapply and to pay additional application fees.

(7) Persons applying for licensure must possess a baccalaureate or post-baccalaureate degree and (including a minimum of 24 semester hours from the fields of human nutrition, food and nutrition, dietetics, or food systems management [, or an equivalent major course of study as may be approved by the board]. Of these 24 semester hours, at least three semester hours must be from each of the following course areas:

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

(8) In place of the requirements in paragraph (7) of this subsection, a person may have an [An] equivalent major course of study [shall be] defined as either:

(A) a baccalaureate or post-baccalaureate degree or course work including a minimum of 30 semester hours specifically designed to train a person to apply and integrate scientific principles of human nutrition under different health, social, cultural, physical, psychological, and economic conditions to the proper nourishment, care, and education of individuals or groups throughout the life cycle. Of these 30 semester hours, a minimum of 18 semester hours must be from human nutrition, food and nutrition, dietetics, or food systems management. Of these 18 semester hours, at least three semester hours must be from each of the course areas specified in paragraph (7)(A)-(D) of this subsection; or

(B) (No change.)

(9) The semester hours may be part of a degree plan or in addition to a degree.

(c) Registered dietitians. Applicants who are registered in active status by the commission at the time of making application to the board are deemed to meet the academic requirements.

§711.5. Experience Requirements for Examination.

(a) (No change.)

(b) General. Applicants for examination must have satisfactorily completed a preprofessional program experience or internship in the profession of dietetics approved by the board or the association.

(1) An internship shall:

(A) be either a dietetic internship approved by the board or the association, [or] a coordinated undergraduate program in dietetics approved by the association, or a preprofessional practice program approved by the association; and

(B) (No change.)

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

(4) Applicants who are registered in active status by the commission at the time of making application are deemed to meet the experience requirements.

(5) (No change.)

(c) Application and approval or disapproval procedures.

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

(3) Sponsor(s) or applicant(s) desiring approval of a program, or reapproval of program plans when applicable, shall submit to the executive secretary properly completed application forms provided by the board [, which shall include program plans in triplicate, along with a nonrefundable application processing fee].

(A) The applicant or sponsor shall submit the application processing fee with the application.

(B) An original and four copies of the entire application must be submitted in binders with all pages clearly legible and numbered. All signatures on the required forms in the original application must be originals, not photocopies.

(C) If the application is revised or supplemented during the review process, the applicant must submit an original and four copies of a transmittal letter plus an original and four copies of the revision or supplement specified.

(D) If a page is to be revised, the complete new page must be submitted with the changed item or information clearly marked on the four copies, but not on the original page.

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

(d) Guidelines specific to preplanned professional experience programs beyond the undergraduate level.

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

(4) The curriculum guidelines are as follows.

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

(F) The program shall, following completion of the learning and work experiences, include rotation relief for three weeks. Rotation relief shall provide an opportunity for the trainee to demonstrate professional proficiency in the area of specialization. The sponsor, supervising licensed dietitian, or another licensed dietitian shall be available at reasonable times. The trainee shall perform at the level of a licensed dietitian based on the area of specialization.

(i) The rotation must be conducted between the hours of 6 am and 8 pm, Monday through Sunday with a minimum of 20 clock hours per week.

(ii) The rotation must include one weekend day.

(5) The records guidelines are as follows.

(A) (No change.)

(B) A written report of the trainee's activities shall be sent to the board by the trainee at six month intervals commencing with the approval of the program.
(C)((B)] The sponsor(s) shall issue to each student, upon successful completion of the program, a written statement and/or certificate of accomplishment, and shall notify the executive secretary in writing of the name(s) of the student(s) who have completed the program and of the date the program was completed.

(e) Guidelines specific to individualized planned work training programs following a postgraduate degree.

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

(4) The curriculum guidelines are as follows.

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

(D) The program shall, following completion of the learning and work experience, include rotation relief for three weeks. Rotation relief shall provide an opportunity for the trainee to demonstrate professional proficiency in the area of specialization. The sponsor, the supervising licensed dietitian, or another licensed dietitian shall be available at reasonable times. The trainee shall perform at the level of a licensed dietitian based on the area of specialization.

(i) The rotation must be conducted between the hours of 6 am and 8 pm, Monday through Sunday with a minimum of 20 clock hours per week.

(ii) The rotation must include one weekend day.

(5) The records guidelines are as follows.

(A) (No change.)

(B) A written report of the trainee's activities shall be sent to the board by the trainee at six-month intervals commencing with the approval of the program.

(C)(B)] The sponsor(s) shall issue to each student, upon successful completion of the program, a written statement and/or certificate of accomplishment, and shall notify the executive secretary in writing of the name(s) of the student(s) who have completed the program and of the date the program was completed.

(g) (No change.)

§711.6. Examinations for Dietitian License.

(a)-(g) (No change.)

(h) Failures.

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

(3) An applicant who fails the examination three times shall have his application denied unless the applicant furnished [must furnish] the board an official transcript from an accredited college or university indicating completed course work taken for credit with a passing grade in the area(s) of weakness determined by analysis of the previous examination(s) [before the applicant may again apply for examination]. The applicant must submit an official transcript within six months of the date of the notice from the board which specifies the course work to be completed.

(4) An applicant who completes course work as described in paragraph (3) of this section must file an updated application for examination with the application fee.

§711.7. Application Procedures.

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

(d) Required application materials.

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

(5) Applicants must submit a full-face photo, a minimum size in 1 1/2 inches by 1 1/2 inches, signed on the reverse side with the applicant's signature as it appears on the application. The photograph must have been taken within the two-year period prior to application.

(6) If an applicant is or has been licensed, certified, or registered in another state, territory, or jurisdiction, the applicant must submit information required by the board concerning that license, certificate, or registration on official board forms.

(7) A(5) Vitae, resumes, and other documentation of the applicant's credentials may be submitted.

(8) An applicant applying for licensing by reciprocity shall submit a copy of the license or certificate by which the reciprocal license is requested, and the name and address of the licensing or certifying agency.

(9) A provisional licensed dietitian applicant must submit a completed supervision contract.

§711.8. Determination of Eligibility.

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

(e) The board may [shall] disapprove the application if the person has:

(1)-(5) (No change.)

(6) been in violation of the Licensed Dietitian Act (Act), the Code of Ethics, §711.3(d)(1)(A)-(G) and (I)-(J) of this title (relating to Profession of Dietetics), or any other applicable provision of this title; or

(7) been convicted of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a licensee as set out in §711.14 of this title (relating to Licensing of Persons with Criminal Backgrounds to be Dietitians and Provisional Licensed Dietitians); or

(8) had a license, registration, or certificate to practice dietetics in another state or jurisdiction which has been suspended, revoked, or otherwise restricted by the licensing entity or commission.

(f) If after review the executive secretary determines that the application should not be approved, the executive secretary shall give the applicant written notice of the reason for the proposed decision and of the opportunity for a formal hearing. The notice and hearing shall be in accordance with §711.14 of this title relating to Violations, Complaints, and Subsequent Board Actions) [ask the Complaint Committee to review the application. The Complaint Committee shall take either one of the following actions].

(1) If the Complaint Committee concurs that the application should not be approved, the Complaint Committee shall instruct the executive secretary to give the applicant written notice of the reason for the proposed decision and of the opportunity for a formal hearing. The formal hearing shall be conducted according to the formal hearing procedures in §711.15 of this title (relating to Formal Hearings). Within 10 days after receipt of the written notice, the applicant shall give written notice to the executive secretary that either waives the hearing, or requests the hearing. If the applicant fails to respond within 10 days after receipt of the notice of opportunity, or if the applicant notifies the executive secretary that the hearing be waived, the applicant is deemed to have waived the hearing.

If the hearing has been waived, the board may disapprove the application.
(2) Reimbursement of fees.

(A) In the event an application is not processed in the time periods stated in paragraph (1) of this subsection, the applicant has the right to request reimbursement of all fees paid in that particular application process. Application for reimbursement shall be made to the executive secretary. If the executive secretary does not agree that the time period has been violated or finds that good cause existed for exceeding the time period, the request will be denied.

(B) Good cause for exceeding the time period is considered to exist if the number of applications for licensure and licensure renewal exceeds by 15% or more the number of applications processed in the same calendar quarter the preceding year; another public or private entity relied upon by the board in the application process caused the delay; or any other condition exists giving the board good cause for exceeding the time period.

(3) Appeal. If a request for reimbursement under paragraph (2) of this subsection is denied by the executive secretary, the applicant may appeal to the chairman of the board for a timely resolution of any dispute arising from a violation of the time periods. The applicant shall give written notice to the chairman at the address of the board that the applicant requests full reimbursement of all fees paid in that particular application process because the application was not processed within the applicable time period. The executive secretary shall submit a written report of the facts related to the processing of the application and of any good cause for exceeding the applicable time period to the chairman of the board. The chairman shall provide written notice of the chairman’s decision to the applicant and the executive secretary. An appeal shall be decided in the applicant’s favor if the applicable time period was exceeded and good cause was not established. If the appeal is decided in favor of the applicant, full reimbursement of all fees paid in that particular application process shall be made.

(4) Contested cases. The time periods for contested cases related to the denial of licensure or license renewal are not included within the time periods stated in paragraph (1) of this subsection. The time period for conducting a contested case hearing runs from the date the department receives a written request for a hearing and ends when the decision of the board is final and appealable. A hearing may be completed within one to four months, but may extend for a longer period of time depending on the particular circumstances of the hearing.

§711.9. Provisional Licensed Dietitians.

(a) Supervision. The purpose of this section is to set out the nature and the scope of the supervision provided for provisional licensed dietitians:

(1) Supervision contract.

(A) Initiation. The applicant or provisional licensed dietitian must submit a contract on board forms to the board prior to the date that supervision is to begin. The contract shall include:

(i) the name and signature of supervisor and the name and signature of supervisee;

(ii) the license number of supervisor and license number of supervisee if applicable;

(iii) the primary location and address where dietetic services are to be rendered;

(iv) a description of dietetic services to be rendered by the supervisee;

(v) a statement that the supervisor and the supervisee have read and agree to adhere to the requirements of this chapter; and

(vi) the date that the supervisor and the supervisee signed the board supervision contract.

(2) Termination. The supervising licensed dietitian must submit a written notification of termination of supervision to the board and the supervisee within 14 days of when supervision has ceased. The board notification of termination of supervision shall include:

(A) the name, license number, and signature of the supervisor and the name and license number of the supervisee;

(B) a statement that supervision has terminated;

(C) the reason for termination;

(D) the date of termination of supervision; and

(E) a statement indicating whether the supervisor and the supervisee have complied with the requirements of this chapter.
(3) Changes. Any change in the board supervision contract shall require submission of a new supervision contract.

(4) Requirements of supervision.

(A) The supervisor must have adequate training, knowledge, and skill to render competently any dietetic services which the supervisee undertakes. The supervisor shall have discretion to refer the supervisee for specific supervision from another licensed dietitian.

(B) The supervisor is responsible for determining the adequacy of the supervisee’s ability to perform the dietetic tasks.

(C) The supervisor may not supervise more than three supervisees unless board approval is provided in advance.

(D) The supervisee must clearly state the supervised status to patients, clients, and other interested parties and must provide the name, address, and telephone number of the supervisor.

(E) The supervisor may not be employed by the supervisee, may not lease or rent space from the supervisee, and must avoid any dual relationship with the supervisee which could impair the supervisor’s professional judgment.

(F) The supervisor must provide each supervisee with no less than one hour of regularly scheduled face-to-face supervision weekly, regardless of the number of hours employed per week. Group supervision may be used as an adjunct to the face-to-face supervision but not as a substitute. A written record of the scheduled meetings must be maintained by the supervisor and include a summary of the supervisee’s work activities. The record shall be provided to the board at its request.

(G) The supervisor must be available for discussion of any problems encountered by the supervisee at reasonable times in addition to the scheduled supervisory sessions.

(H) The supervisor will provide an alternate licensed dietitian to provide supervision for the supervisee in circumstances when the supervisor is not available for more than four continuous weeks.

(5) Payment. A supervisee may not pay for supervision.

[(1) To meet licensure and license renewal requirements, a provisional licensed dietitian shall be under the supervision and direction of a licensed dietitian.

(2) “Supervision and direction” shall be defined as the authoritative procedural guidance provided by a licensed dietitian and need not be routinely on site. Written reports of the provisional licensed dietitian’s activities shall be provided to the supervising licensed dietitian at least quarterly, and to the board with the annual renewal questionnaire.

(3) The supervising licensed dietitian must sign the application for a provisional license and the application for renewal of the provisional license.]

(b) Required supervisor. A provisional licensed dietitian must have a supervising licensed dietitian at all times whether or not the provisional licensed dietitian is actively employed.

(c)(b) Upgrading a provisional license. The purpose of this subsection [section] is to set out the procedure to upgrade from provisional licensed dietitian to licensed dietitian.

(1) The provisional licensed dietitian shall submit to the board a properly completed experience documentation form as set out in this section and in §711.5 of this title (relating to Experience Requirements for Examination) with a written request to upgrade the license.

(2) After review of all application materials, the executive secretary shall notify the provisional licensed dietitian in writing of eligibility for examination prescribed by the board. Procedures for examination shall be those set out in §711.6 of this title (relating to Examinations for Dietitian Licensure).

(3) The provisional licensed dietitian who successfully completes the licensing examination shall surrender to the board the license certificate and license identification [I.D.] card, and submit the license fee for upgrade of provisional licensed dietitian to licensed dietitian [an amount equal to the license certificate replacement fee].

(4) If the provisional licensed dietitian is not eligible for examination, the executive secretary shall notify the provisional licensed dietitian in writing of the reasons for denial and the additional experience or documentation needed to meet the minimum requirements for examination and licensure as a licensed dietitian. The provisional licensed dietitian is entitled to a formal hearing on the proposed denial as specified in subsection §711.8(f) of this title (relating to Determination of Eligibility).

(5) Provisional licensed dietitians who become registered by the commission and submit proof of current registration status with a written request to upgrade are deemed to meet the experience and examination requirements.

(d) Existing supervisory relationships. A person who is a provisional licensed dietitian at the time of adoption of this subsection shall file a supervision contract in accordance with subsection (a)(1) of this section with the board within 60 days of the effective date of this subsection.

§711.10. Licensing.

(a) (No change.)

(b) Issuance of licenses.

(1) The board, executive secretary will send each applicant whose application has been approved and who has passed the examination (if applicable) a license certificate and license identification card containing a license number [license form to complete and return with the prorated license fee in the form of a personal or certified check or money order].

(2) Upon receiving an applicant’s licensure form and fee, the board shall issue the person a license certificate and license identification card containing a license number.

(2)(3) The board shall replace a lost, damaged, or destroyed license certificate or [license identification card upon a written request from the licensee and payment of the license replacement fee. Requests shall include a statement detailing the loss or destruction of the licensee’s original license or [license identification card] or be accompanied by the damaged certificate or card.

(c) License certificates.

(1) The board shall prepare and provide to each licensee a license certificate and identification card which contain the licensee’s name, license number, and expiration date.

(2) Official license certificates shall be signed by the chairman and vice-chairman. Official identification cards shall bear the signatures of the chairman and the licensee.

(3) Any certificate or identification card issued by the board remain the property of the board and must be surrendered to the board on demand.

(4) The license certificate must be displayed in an appropriate and public manner as follows.

(A) The license certificate shall be displayed in the primary office or place of employment of the licensee;

(B) In the absence of a primary office or place of employment, or when the licensee is employed at multiple locations, the licensee shall carry a cur-
rent identification card.

(5) Neither the licensee nor anyone else shall display a photocopy of a license certificate or carry a photocopy of a identification card in lieu of the original document. A photocopy shall be clearly marked as a copy across the face of the document.

(6) Neither the licensee nor anyone else shall make any alteration on a license certificate or identification card.

(c) Reciprocity.

(1) The board shall waive the examination requirement for an applicant who:

[(A) holds at the time of application a valid license or certificate as a dietitian issued by another state whose minimum requirements for licensure are equivalent to or exceed the licensing requirements of the board which are in effect at the time of application and with whom the board has entered into a reciprocity agreement; or

[(B) is registered at the time of application by the commission as a registered dietitian.

(2) Reciprocity agreements with licensing bodies of other states shall include a written agreement to provide this board with the following:

[(A) information regarding all disciplinary actions relating to each applicant;

[(B) a current copy of the body’s proposed (if any) and adopted rules governing its operations and application and licensing procedures;

[(C) a copy of the legal authority (law, act, code, section, or otherwise) for the licensing program including any proposed and final amendments;

[(D) the names, addresses, and phone numbers of the licensing body’s chairman and executive administrator; and

[(E) any other information deemed necessary by the board, or its legal counsel.

[(3) All application materials shall be completed and application and license fees shall be paid by the applicant.

[(4) An applicant applying for licensing by reciprocity shall submit a copy of the license or certificate by which the reciprocal licensure is requested and the name and address of the licensing or certifying agency.

[(5) The board may contact the issuing agency to verify the applicant’s status with that agency at the time of application.

(6) The board may propose to deny approval of an application from an applicant who is either licensed by another state with which this board has a reciprocity agreement, or a registered dietitian, if the executive secretary has determined that the applicant may be:

[(A) in violation of that state’s act or rules of the licensing body, if applicable;

[(B) in violation of the Code of Ethics adopted by the commission or the association, if applicable;

[(C) engaged in, or has previously engaged in, conduct which constitutes a violation of the Act, the Code of Ethics, §§711.3(d)(1)(A)-(G) and (1)-(J) of this title (relating to the Profession of Dietetics), or any other applicable provision of this title; or

[(D) convicted of a felony or misdemeanor if the crime directly relates to the duties and responsibility of a licensee as set out in §§711.13 of this title (relating to Licensing of Persons with Criminal Backgrounds to be Dietitians and Provisional Dietitians).

(7) If after review the executive secretary determines that the application should not be approved, the executive secretary will ask the Complaint Committee to review the application in accordance with §§711.8 of this title (relating to Determination of Eligibility.).

§711.11. Changes of Name and Address.

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

(d) Before another license certificate and [or] identification card [cards] will be issued by the board, notification of name changes must be mailed to the executive secretary and shall include a notarized copy of a marriage certificate, court decree evidencing such change, or a Social Security card reflecting the new name. The licensee shall return any previously issued license certificate and [or] identification card [cards] and remit the appropriate replacement fee as set out in §§711.2(t) §§711.2(u) of this title (relating to Fees).

§711.12. License Renewal

(a) (No change.)

(b) General.

(1) When issued, a license is valid until the licensee’s next birth month [except as provided by subsection (c)(2) of this section].

(2)-(5) (No change.)

(6) The board shall deny renewal of the license of a licensee if renewal is prohibited by the Education Code, §577.491.

(7) The board shall deny renewal of the license of a licensee for whom a contested case is pending until resolution of the case.

(c) Staggered renewals. The board shall use a staggered system for license renewals.

(1) License fees will be prorated when the licensee’s initial renewal date occurs less than 12 months after the original date of licensure.

(2) Licenses issues within three months of a licensee’s birth month shall be issued for that period of time plus the next full year.

(c)(d) License renewal requirements.

(1) At least 30 days prior to the expiration date of a person’s license, the executive secretary shall send notice to the licensee at the address in the board’s records of the expiration date of the license, the amount of the renewal fee due, and a license renewal form which the licensee must complete and return to the board with the required renewal fee. The return of the completed renewal form in accordance with the requirements of paragraph (3) of this subsection shall be considered confirmation of the receipt of renewal notification.

(2) The license renewal form for all licensees shall require the provision of the preferred mailing address, primary employment address and telephone number, [and category of employment:] and misdemeanor and felony convictions. The license renewal form for the provisional licensed dietitian shall [include a] be signed [statement] by the supervising licensed dietitian and indicate whether the supervisor and supervisee have complied with this chapter [indicating receipt of the report forms as required in §§711.9(a) of this title (relating to Provisional Licensed Dietitians)].

(3) A licensee has renewed the license when the licensee has mailed the renewal form and the required renewal fee to the executive secretary prior to the expiration date of the license. The postmark date shall be considered as the date of mailing.

(4) The board shall issue to a licensee who has met all requirements for renewal a license certificate and identification card [renewal license identification card and may issue a renewal validation sticker or renewal card to be affixed to, or displayed with the original certificate].

(5) The board shall delay license renewal of a licensee named in for-
mal complaint procedures until resolution of the proceedings.)

(d)(e) Late renewal requirements.

(1) The executive secretary, by certified mail, shall inform a person who has not renewed a license after a period of more than 30 days after the expiration of the license of the amount of the fee required for renewal and the date the license expired.

(2) A person whose license has expired for not more than 90 days may renew the license by submitting to the executive secretary: the license renewal form; the required renewal fee; and a penalty fee that is one-half of the renewal fee. The renewal is effective if it is mailed to the executive secretary not more than 90 days after the expiration date of the license. The postmark shall be considered as the date of mailing.

(3) A person whose license has expired for more than 90 days but less than two years of the expiration date may renew the license by paying to the board the unpaid license renewal fees, plus a late penalty fee that is equal to the renewal fee. The person must submit with the required license renewal form a letter stating the reason for the failure to make a timely renewal.

(4) A person whose license has been expired two years or more may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the current requirements and procedures for obtaining a license.

(e)(f) Expiration of license.

(1) A person whose license has expired may not use the title or represent or imply that he has the title of "licensed dietitian" or "provisional licensed dietitian" or use the letters "LD" or "PLD," and may not use any facsimile of those titles in any manner.

(2) A person who fails to renew a license after two years is required to surrender the license certificate and license identification card to the board.

§711.13. Licensing of Persons with Criminal Backgrounds to be Dietitians and Provisional Dietitians.

(a)(b) (No change.)

(c) Procedures for revoking, suspending, or denying a license to persons with criminal backgrounds.

(1) The board's executive secretary will give written notice to the person that the board intends to deny, suspend, or revoke the license [after a hearing] in accordance with the provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and the board's formal hearing procedures, §711.15 of this title (relating to Formal Hearings).

(2) If the board denies, suspends, or revokes an application or a license under this section [these rules after hearing], the executive secretary will give the person written notice:

(A) (No change.)

(B) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County, for review of the evidence presented to the board and its decision; and

(C) that the person must begin the judicial review by filing a petition with the court within 30 days after the board's action is final and appealable; and

(D) of the earliest date that the person may appeal.


(a)(b) (No change.)

(c) Filing of complaints.

(1) (No change.)

(2) A person wishing to complain about a prohibited act or alleged violation against a licensee or other person shall notify the executive secretary. The initial notification of a complaint may be in writing, by telephone, or by personal visit to the executive secretary's office. The mailing address is Texas State Board of Examiners of Dietitians, 1100 West 49th Street, Austin, Texas 78756-3183, (512)459-2945 [458-7111].

(3) Upon receipt of a complaint, the executive secretary shall send to the complainant an acknowledgment letter and the board's complaint form, herein adopted by reference, which the complainant must complete and return to the executive secretary before further action can be taken. If the complaint is made by a visit to the executive secretary's office, the form may be given to the complainant at that time; however, it must be completed and returned to the executive secretary before further action can be taken. Copies of the complaint form may be obtained from the Texas State Board of Examiners of Dietitians [Texas Department of Health], 1100 West 49th Street, Austin, Texas 78756-3183.

(4) (No change.)

(d) Investigation of complaints.

(1) The executive secretary on behalf of the board is [and the Complaint Committee of the board are] responsible for handling complaints.

(2) If the executive secretary shall make the initial investigation and report the findings to the Complaint Committee.

(3) If the executive secretary determines that the complaint does not come within the board's jurisdiction, the executive secretary shall advise the complainant and, if possible, refer the complainant to the appropriate governmental agency for handling such complaints.

(4) The executive secretary, on behalf of the board, shall, at least as frequently as quarterly, notify the parties to the complaint of the status of the complaint until its final disposition.

(e) Actions by executive secretary.

(1) The executive secretary alone or with the concurrence of the Complaint Committee may [shall] take one or more of the following actions [described in this subsection]:

(A) [The committee may] determine that an allegation is groundless and dismiss the complaint; [;]

(B) [The committee may] determine that a nonlicensed person has committed a prohibited act under subsection (b) of this section. The executive secretary [committee] shall consider the seriousness and the effects of the violation and shall initiate any one of the following actions: [;]

(i) [The committee may] attempt to resolve the complaint by requesting the violator to stop the action immediately. If the violator complies, the executive secretary [committee] may close the complaint file; or[:]

(ii) [The committee] with the concurrence of the board chairman, [may] ask the attorney general, district attorney, or county attorney to take appropriate legal action against the violator[. The Act, §15(e), makes it a criminal offense of a Class B misdemeanor if a person knowingly or intentionally commits a prohibited action described in subsection (b)(1)-(2) of this section.]

(C) [The committee may] determine that a licensee has violated the Act or a board rule and propose denial of renewal, revocation, or suspension of the license, reprimand, or probation of the license suspension. [If this is the licensee's first violation during the annual licensing period and it represents no immediate threat to the health and safety of an individual or the general public and it does not involve misrepresentation of title, the committee shall attempt to resolve the complaint by requesting the violator to stop the action immediately. If the licensee complies, the committee shall close the complaint file. If
the licensee refuses to comply, or the violation represents an immediate threat to the health and safety of an individual or the general public, or if the violation involves misrepresentation of title, or if the violation is a second, subsequent, or repeat violation during the annual licensing period, the committee may:

[(i) request, with the concurrence of the board chairman, the attorney general, or district or county attorney to institute a suit to take appropriate legal action; and/or

(ii) institute disciplinary action in accordance with subsection (f) of this section.

[(D) At any time during the investigation of a complaint and prior to any court or disciplinary action against a licensee or other person, the committee may hold an informal conference on its own motion or at the request of the complainant or accused person to discuss the investigation and any proposed court of disciplinary action.]

(2) Whenever the executive secretary [committee] dismisses a complaint or closes a complaint file, the executive secretary [committee] will give a summary report of the final action to the board, the complainant, and the accused party.

(f) Disciplinary actions by the board [Complaint Committee]. The executive secretary may issue reprimands of violations, but may only initiate or propose action to suspend or revoke a license, deny renewal of a license, or prohibit the suspension of a license. Final action to suspend or revoke a license, deny renewal of a license, or prohibit the suspension of a license may be taken by the board only after the licensee has had an opportunity for a formal hearing.

[(1) If the committee is unable to resolve a complaint against a licensee who has violated the Act or a board rule under subsection (e) of this section, the committee shall reprimand the licensee or initiate action to suspend or revoke the license.

[(2) The committee also may initiate action to suspend or revoke a license if the licensee has been convicted of a misdemeanor or felony offense under §711.13 of this title (relating to The Licensing of Persons with Criminal Backgrounds to be Dietitians and Provisional Dietitians).

[(3) A reprimand is a written notice from the committee to the licensee that the licensee has violated the Act or a board rule. The committee shall issue a reprimand when the licensee refuses a committee request to stop committing a first violation, during the annual licensing period, which represents no immediate threat to the health and safety of an individual or the general public and which does not involve misrepresentation of title. The reprimand shall include a second request from the committee to the licensee that the violator stop the action immediately.

[(4) The committee initiates license suspension for a definite time period when the licensee refuses to comply with a reprimand request to stop the violation or when there is a second, subsequent, or repeat violation, during the annual licensing period, which does not immediately threaten the health or safety of an individual or the general public.

[(5) The committee initiates a license revocation when there are three or more violations (which may include repeat or different violations) during the annual licensing period, or when any one violation represents an immediate threat to the health or safety of an individual or the general public.

[(6) When any one violation involves misrepresentation of title, the committee shall consider the seriousness and effects of the violation and shall initiate either license suspension or revocation.

[(7) The Complaint Committee may issue reprimands, but may only initiate or propose action to suspend or revoke a license. Final action to suspend or revoke a license can be taken by the board only after the licensee has had an opportunity for a formal hearing to contest the proposed committee actions.]

(g) Formal hearings.

(1) (No change.)

(2) At any time prior to initiating formal hearing procedures, the executive secretary or the Complaint Committee, on its own motion or the motion of the licensee, may request an informal conference with the licensee to discuss the proposed action.

(3) To initiate formal hearing procedures, the executive secretary shall give the applicant or licensee written notice of the opportunity for hearing. The notice shall state the basis for the proposed action. Within 10 days after receipt of the notice, the applicant or licensee shall give written notice to the executive secretary that the applicant or licensee either waives the hearing or wants the hearing.

(A) If the person [licensee] fails to respond within 10 days after receipt of the notice of opportunity, or if the person [licensee] notifies the executive secretary that he hearing be waived, the person [licensee] is deemed to have waived the hearing. If the hearing has been waived, the executive secretary [Complaint Committee] may recommend to the board that the license be suspended or revoked, the license suspension be probated, the license renewal be denied, or the application be denied. The board may take the final action which the board deems appropriate.

(B) If the person [licensee] requests a hearing within 10 days after receiving the notice of opportunity for hearing, the executive secretary shall request the department's office of general counsel to initiate formal hearing procedures.

(4) (No change.)

(h) Final action by the board.

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

(5) If the board revokes the license, the former license holder must reapply in order to obtain a new license. The board will not issue a new license until the board determines that the reasons for revocation have been removed. The board may require an investigation [by the executive secretary] and a recommendation from the executive secretary [Complaint Committee] to assist the board in making its decision.

(6) (No change.)

(l) Surrender of license.

(1) A licensee may offer his license for surrender to the board office. The executive secretary will notify the licensee that the license has been received.

(2) The board shall consider accepting the voluntary surrender of the license at its next regularly scheduled meeting which is at least 15 days after the offer of surrender.

(3) When a licensee has offered the surrender of his license after a complaint has been filed alleging violations of the Act or this chapter, and the board has accepted such a surrender, that surrender is deemed to be the result of a formal disciplinary action.

(4) A license which has been surrendered and accepted may not be reinstated; however, that person may apply for a new license in accordance with the Act and this chapter.

§711.15. Formal Hearings.

(a) Purpose. This section covers the formal hearing procedures and practices that will be used by the board in handling suspensions, [and] revocations of licenses, denial of licenses, probating a license suspension, and reprimanding a licensee. The intended effect of these procedures is to implement the contested case provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a., and the relevant sections of the Licensed Dietitian Act, Texas Civil Statutes, Article 4512h., and to make the public aware of the procedures and practices.

(b) Definitions. The following words and terms, when used in this section,
shall have the following meanings, unless
the context clearly indicates otherwise.
[(1) Act-The Licensed Dietitian
Act, Texas Civil Statutes, Article 4512h.]
[(2) APTRA-The Administrative
Procedure and Texas Register Act, Texas
Civil Statutes, Article 6252-13a.]
[(3) Board-The Texas State
Board of Examiners of Dietitians.
[(4) Contested case-A proceeding
in accordance with APTRA and these
rules, including, but not restricted to, rule
enforcement and licensing, in which the
legal rights, duties, or privileges of a party
are to be determined by the board after an
opportunity for an adjudicative hearing.
[(5) Formal hearing-A formal
hearing in accordance with these rules and
includes a contested case as defined in these
rules and other required formal hearings.
[(6) Hearing examiner-An attori-
ney duly designated and appointed by the
Texas commission of health as requested
and approved by the board who conducts
formal hearing under these rules on behalf
of the board.
[(7) Licensee-Any person li-
enced by the board.
[(8) Party-Any person or gov-
ernmental agency, or any subdivision there-
of, or officer or employee of a
governmental agency named by the hearing
examiner as having a justiciable interest in
the matter being considered, or any person
or governmental agency, or any subdivision
thereof, or officer or employee of a govern-
mental agency meeting the requirements of
a party as prescribed by applicable law.
[(9) Person-Any natural per-
son, partnership, municipal corporation,
cooperative corporation, corporation,
association, governmental subdivision, or
public or private organization of any char-
acter other than an agency.
[(10) Pleading-Any written al-
llegation filed by a party concerning its
claim or position.]
[(b)(c)] General provisions.
[(1) Initiating a formal hearing.
The board on its own motion or the execu-
tive secretary on petition or application
from a person or party may initiate a formal
hearing. The hearing [and] shall be con-
ducted [conduct it] in accordance with the
provisions in this section. In the event of
conflict between APTRA[,] or other state
statutes [and agency rules,] and these sec-
tions, APTRA[,] or other state statutes [and
agency rules] will prevail over these sec-
tions [rules].
[(2) (No change.)
[(3) If a hearing examiner is
not utilized by the board, the board shall
conduct the formal hearing and contested
case proceedings, and all references in
this chapter to the hearing examiner shall be references to the board.
[(c)(d)] Notice requirements.
[(1) General. The hearing exam-
iner shall give notice of the hearing accord-
ing to the notice requirements of the
applicable law or board rules authorizing the
hearing. [If no such requirements exist, the
hearing examiner shall give notice to the
parties by personal service or by certi-
fied mail return receipt requested.] All
notices under this subsection must be given
not less than 10 days prior to the hearing.
[(2) Content of notice.
[(A) The notice shall contain:
[(i) a statement of time,
place, and nature of the hearing;
[(ii) a statement of the leg-

al authority and jurisdiction under which
the hearing is to be held;
[(iii) a reference to the par-
cular section of the statutes and rules
involved;
[(iv) a short and plain
statement of the matters asserted; and
[(v) a statement that any
party can appear in person or by his/her
counsel and be heard.
[(B) If the board or other
party is unable to state the matters in detail
at the time the notice is served, the initial
notice may be limited to a statement of the
issues involved. Thereafter, on timely writ-
ten application from a party to the board, a
more definite and detailed statement shall
be furnished to the party not less than three
days prior to the date set for the hearing.
[(3) Failure to appear after no-
tice. If a party fails to appear or be repre-
sented at a hearing after receiving notice,
the hearing examiner may proceed with the
hearing or take whatever action is fair and
appropriate under the circumstances.
[(4) Change of address. All
parties, attorneys, or representatives of
parties shall timely notify the hearing exami-
er of any changes in their mailing ad-

dresses.
[(d)(e)] Parties to the hearing.
[(1) Justiciable interest. All
parties must have a justiciable interest in
the proceedings to be designated as parties.
All appearances are subject to a motion to
strike upon a showing that the party has no
justiciable interest in the proceeding.
[(2) Duties and privileges of a
party. A party has the privilege to partici-
pate fully in any prehearing and hearing,
to appeal as provided by law, and to perform
any and all duties and privileges provided by
the] APTRA and other applicable laws.
[(3) Interested persons. Any per-
son not wishing to be designated as a party
but desiring only to appear for the purpose
of showing support or opposition or to make
any general relevant statement showing
support or opposition may appear at the
hearing and make or file statements.
[(4) Time of designation as a
party. The hearing examiner may designate
parties at a prehearing conference, at the
beginning of a hearing, or prior to conclu-
sion of a hearing. No person will be admit-
ted as a party later except upon a finding by
the hearing examiner, or the board, of good
cause and extinguishing circumstances.
[(5) Different classifications
for parties. In their pleadings, parties may
classify themselves as applicants, petition-
ers, respondents, protestants, complainants,
etc., but regardless of such classification,
the hearing examiner has the authority to
determine and designate their true status
whenever necessary.
[(6) Representation. A party may
appear personally or be represented by
counsel or other authorized representative,
or both.
[(7) Consolidation of parties. The
hearing examiner may require parties of
each class of affected persons to select one
person to represent them in the proceedings.
[(e)(f)] Subpoena requirements.
[(1) Issuance of subpoena. On
the hearing examiner's own motion or on
the written request of any party to the hear-
ing, the hearing examiner shall issue a sub-
poena addressed to the appropriate sheriff
or constable to require the attendance of
witnesses or the production of documents at
the hearing.
[(2) Good cause. There must be a
show of good cause for the subpoena, i.e.,
the witnesses or documents must have infor-
mation that is relevant and material to
the hearing.
[(3) Quashing of subpoenas. A
party or witness may seek to quash the
subpoena or move for a protective order as
provided in Texas Rules of Civil Proce-
dures, Rule 166b [166b].
[(4) Witnesses requirements.
Witnesses may be subpoenaed from any
place in the State of Texas.
[(5) Documents. Documents in-
clude books, papers, accounts, and similar
materials or objects.
[(6) Witness reimbursement.
Witnesses subpoenaed will be paid per
diem and mileage in accordance with those
amounts paid to state employees as set out
in the current State General Appropriations
Bill. The same amounts will be paid by the
party at whose request the witness appears.
The payment of subpoena costs or fees and
the failure to comply with a subpoena shall
be governed by §14 of the] APTRA, §14.
[(f)(g)] Depositions. The taking and
use of depositions in any contested case proceeding shall be governed by [the] APTRA, §14.

(g)(b) Prehearing conference.

1. Purpose. In a contested case, the hearing examiner, on his own motion or the motion of a party, may direct the parties, their attorneys, or representatives to appear at a specified time and place for a conference prior to the hearing for the purpose of:

(A) the formulation and simplification of issues;

(B) the necessity or desirability of amending the pleadings;

(C) the possibility of making admissions or stipulations;

(D) the procedure at the hearing;

(E) specifying the number of witnesses;

(F) the mutual exchange of prepared testimony and exhibits;

(G) the designation of parties; and

(H) other matters which may expedite the hearing.

2. Conduct of conferences. The hearing examiner will conduct the prehearing conference in such manner and with the necessary authority to expedite the conference while reaching a fair, just, and equitable determination of any matters or issues being considered.

3. Minutes. The hearing examiner shall have the minutes of the conference recorded in an appropriate manner and shall issue whatever orders are necessary covering the said matters or issues.

(b)(ii) The hearing procedures.

1. The hearing examiner's duties. The hearing examiner shall preside over and conduct the hearing. On the day and time designated for the hearing, the hearing examiner shall:

(A) convene and call the hearing to order;

(B) state the purpose of and the legal authority for the hearing;

(C) announce that a record of the hearing will be made;

(D) outline the procedure and order of presentation that will be followed;

(E) administer oaths to those who intend to testify; and

(F) take any and all other actions as authorized by applicable law and these sections [rules] to provide for a fair, just, and proper hearing.

2. Order of presentation.

(A) After making the necessary introductory and explanatory remarks on the purpose, etc., of the hearing, the hearing examiner will begin receiving testimony and evidence from the witnesses.

(B) Each party may present evidence and testimony and cross-examine or ask clarifying questions of any witness who presents evidence or testimony.

(C) In the request for relief or action of any kind, the party seeking such relief or action has the burden of proving entitlement to the same; provided, however, that the order of proceeding may be altered or modified by the hearing examiner either upon agreement of the parties or upon the hearing examiner's own order when such action will expedite the hearing without prejudice to any party.

(D) When the party first proceeding finishes the [his] case, the remaining party or parties will be allowed to present evidence and testimony in the same manner. Each witness is subject to cross-examination and clarifying questions by other participants to the proceedings.

(E) The hearing examiner may limit the number of witnesses whose testimony will be repetitious and the hearing examiner may also establish time limits for testimony so as all viewpoints are given a reasonable opportunity to be expressed.

(F) When the parties have concluded their testimony and evidence, the hearing examiner will ask the audience if any interested person desires to make a statement. If so, the interested person will be allowed to make a [his] statement subject to cross-examination and clarifying questions by any party.

(G) After interested persons make statements or if there are no such statements, the hearing examiner, at the

hearing examiner's discretion, may allow final arguments or take the case under advisement, note the time, and close the hearing. For sufficient cause, the hearing examiner may hold the record open for a stated number of days for the purpose of receiving additional evidence into the record.

3. Consolidation. The hearing examiner, upon the hearing examiner's own motion or upon motion by any party, may consolidate for hearing two or more proceedings which involve substantially the same parties or issues. Proceedings before the board shall not be consolidated without consent of all parties to such proceedings, unless the hearing examiner finds that such consolidation will be conducive to a fair, just, and proper hearing and will not result in unwarranted expense or undue delay.

4. Technical expertise. The hearing examiner may be assisted by a technical expert within the department who has not participated in any proceeding in the case, either directly or indirectly, for the purpose of utilizing the special skills or knowledge of the department.

5. Conduct and decorum during the hearing. Every party, witness, attorney, representative, or other person shall exhibit in all hearings proper dignity, courtesy, and respect for the hearing examiner and all other persons participating in or observing the hearing. The hearing examiner is authorized to take what ever action the hearing examiner deems necessary and appropriate to maintain the proper level of decorum and conduct, including, but not limited to, recessing the hearing to be reconvened at another time or place or excluding from the hearing any party, witness, attorney, representative, or other person for such period and upon such conditions as the hearing examiner deems fair and just.

6. The hearing record. The hearing record will include:

(A) all pleadings, motions, and intermediate rulings;

(B) evidence received or considered;

(C) a statement of matters officially noticed;

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

(E) proposed findings and exceptions;

(F) any decision, opinion, or report by the hearing examiners; and

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(G) all staff memoranda or data submitted to or considered by the hearing examiner or members of the board who are involved in making the decision.

(7) Recording the hearing.

(A) The hearing examiner shall keep either a stenographic or magnetic tape record of the hearing proceeding. A court reporter may be present to record the hearing.

(B) In those cases when a magnetic tape recording of the formal hearing is made, the board shall make such recording available to any party requesting permission to hear or, with appropriate protective measure, allow such recording to duplicate.

(8) Assessing the cost of a court reporter and the record of the hearing.

(A) In the event a court reporter is utilized in the making of the record of the proceedings, the board shall bear the cost of the per diem or other appearance fee for such reporter.

(B) The board shall prepare, or order the preparation of, a transcript (statement of facts) of the hearing upon the written request of any party. The board may pay the cost of the transcript or assess the cost to one or more parties.

(C) In the event a final decision of the board is appealed to the district court wherein the board is required to transmit to the reviewing court a copy of the record of the hearing proceeding, or any part thereof, the board may require the appealing party to pay all or part of the cost of preparation of the original or a certified copy of the record of the board proceedings that is required to be transmitted to the reviewing court.

(9) Rules of evidence. The hearing examiner, at a hearing, a reopened hearing, or a rehearing, will apply the rules of evidence under APTRA, §14(a) and also the following rules.

(A) The hearing examiner may consolidate the testimony of parties or persons if the evidence can be effectively consolidated into one document or the testimony of one witness. The standard by which the hearing examiner should judge this consolidation is whether each party or person can offer unique or new evidence that has not been previously introduced. Any party, under oath, may make an offer of proof of the testimony or evidence excluded through consolidating by dictating into the record or submitting in writing the substance of the proposed testimony prior to the conclusion of the hearing.

(B) Documentary evidence should be presented in its original form but if the original is not readily available, documentary evidence may be received in the form of copies or excerpts. On request, parties shall be given an opportunity to compare the copy with the original. When numerous documents are offered, the hearing examiner may limit those admitted to a number which are typical and representative, and may, at the hearing examiner’s discretion, require the abstracting of the relevant data from the documents and presentation of the abstracts in the form of exhibits; provided, however, that before making such requirement, the hearing examiner shall require that all parties of record or their representatives be given the right to examine the documents from which such abstracts were made. Any party may make an offer of proof of the documents which are excluded by a hearing examiner’s decision to remove only typical or representative documents.

(C) Exhibits shall be as follows.

(i) Exhibits of documentary character shall be limited to facts material and relevant to the issues involved in a particular proceeding, and the parties shall make a reasonable effort to introduce exhibits which will not unduly encumber the files and records of the board. The hearing examiner may require that exhibits of documentary character not exceed 8 1/2 by 14 inches unless they are folded to the required size. Maps and drawings which are offered as exhibits shall be folded so as not to unduly encumber the record. Exhibits not conforming to this rule may be excluded.

(ii) The original of each exhibit offered shall be tendered to the hearing examiner or a designee for identification and shall be offered to the parties for their inspection prior to offering or receiving the same in evidence.

(iii) In the event an exhibit has been identified, objected to, and excluded, it shall be given an exhibit number for purposes of identification and shall be included in the record under seal.

(iv) Unless specifically directed by the hearing examiner, no exhibit will be permitted to be filed in any proceeding after the conclusion [conclusions] of the hearing except in a reopened hearing or a rehearing.

(D) When a proceeding will be expedited and the interests of the parties will not be prejudiced substantially, evidence may be received in written form. The prepared testimony of a witness upon direct examination, either in narrative or question and answer form, may be incorporated in the record as if read or received as an exhibit, upon the witness being sworn and identifying the same as a true and accurate record of what the [his] testimony would be if the witness [he were] to testify orally. The witness shall be subject to clarifying questions and to cross-examination and the [his] prepared testimony shall be subject to a motion to strike either in whole or in part.

(E) When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating into the record or submitting in writing the substance of the proposed testimony prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review. The hearing examiner may ask such questions of the witness as the hearing examiner [he] deems necessary to satisfy the hearing examiner [himself] that the witness would testify as represented in the offer of proof. An alleged error in sustaining any objections to questions asked on cross-examination may be preserved without making an offer of proof.

(F) Official notice by the hearing examiner or the board shall be governed by APTRA, §14(q). Further, official notice may be taken of any statute, ordinance, or duly promulgated and adopted rules or regulations of any governmental agency. The hearing examiner shall indicate during the course of a hearing that information of which the hearing examiner [he] will take official notice. When a hearing examiner’s findings are based upon official notice as a material fact not appearing in the evidence of record, the hearing examiner shall set forth in the [his] proposal for decision those items with sufficient particularity as to advise the parties of the matters which have been officially noticed. The parties shall have the opportunity to show to the contrary through the filing of exceptions to the hearing examiner’s proposal for decision.

(10) Disposition of case. Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(11) Agreements in writing. No stipulation or agreement between the parties, their attorneys, or representations, with regard to any matter involved in any proceeding shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives, dictated into the record during the course of a hearing, or incorporated in an order bearing their written approval. This rule does not limit a party’s ability to waive, modify, or stipulate away any right or privilege afforded by these sections [rules].

(l) [(1)] Action after the hearing.

(1) Reopening of hearing for
new evidence.

(A) The hearing examiner, on behalf of the board, may reopen a hearing where new evidence is offered which was unobtainable or unavailable at the time of the hearing.

(B) The hearing examiner, on behalf of the board, will reopen a hearing to include such new evidence as part of the record if the hearing examiner, on behalf of the board, deems such evidence necessary for a proper and fair determination of the case. The reopened hearing will be limited to only such new evidence.

(C) Notice of any reopened hearing shall be sufficient by notifying all previously designated parties of same, by certified mail, return receipt requested.

(2) Proposal for decision.

(A) If a proposal for decision to the board is necessary under APTRA, §15, the hearing examiner shall prepare the proposal and provide copies of the same to all parties.

(B) Each party having the right and desire to file exceptions and briefs shall file them with the hearing examiner within the time designated by the hearing examiner.

(C) Parties desiring to do so shall file written replies to these exceptions and briefs within the time designated by the hearing examiner. Failure to reply or except may be construed as agreement with the exceptions and briefs.

(D) All exceptions and replies to them shall be succinctly stated.

(3) Filing. At any time after the record has been closed in a contested case, and prior to the administrative decision becoming final in such case, all briefs, exceptions, written objections, motions (including motion for rehearing), replies to the foregoing, and all other written documents shall be filed with the hearing examiner; and further, the party filing such instrument shall provide copies of the same to all other parties of record by first class U.S. mail or personal service and certify, in writing thereon, the names and addresses of the parties to whom copies have been furnished, as well as the date and manner of service.

(4) Final orders or decisions.

(A) The final order or decision will be rendered by the board meeting in quorum and by a majority of those present and voting.

(B) All final orders or decisions shall be in writing and shall set forth the findings of fact and conclusions required by law, either by the body of the order or by attachment, or by reference to an examiner’s proposal for decision.

(C) Unless otherwise permitted by statute or by these sections, all final orders shall be signed by the executive secretary and the chairman of the board; however, interim orders may be issued by the hearing examiner in accordance with the [his] order of appointment.

(D) A copy of all final orders and decisions shall be timely provided to all parties as required by law.

(5) Motion for rehearing. A motion for rehearing shall be governed by APTRA, §16[,] or other pertinent statute and shall be addressed to the executive secretary [of the board] and filed with the hearing examiner.

(6) Appeals. All appeals from final board orders or decisions shall be governed by APTRA, §19 and §20, or other pertinent statute and communications regarding any appeal shall be to the executive secretary [of the board].

(j)(k) Ex parte consultations. All matters regarding ex parte consultations shall be governed by the provisions of APTRA, §17.

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 31, 1990.

TRD-9012876 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: February 3, 1991

For further Information, please call: (512) 459-2955

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter B. Natural Gas Production Tax

• 34 TAC §3.11

The Comptroller of Public Accounts proposes an amendment to §3.11, concerning penalty and interest. The amendment will provide for an amnesty period during which tax may be remitted on certain gross cash receipts, as defined in §3.20, concerning producer’s gross cash receipts, without the imposition of penalty and interest.

Ben Lock, deputy comptroller for economic analysis, has determined that for the first five-year period the section is in effect the section will encourage producers to pay tax monies due the state while waiving the interest portion due. It is anticipated that the section will be revenue neutral. The section will have a positive fiscal impact on producers by allowing them the option to pay taxes owed without accruing an interest penalty. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public will benefit from the additional monies remitted absent the audit and collections process. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Lucy Glover, Director, Taxability, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

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

§3.11. Penalty and Interest.

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

(c) Amnesty period, penalty, and interest imposed on settlements relating to price, quality, or quantity of gas.

(1) Notwithstanding the preceding provision of this section penalty and interest will not be applied to additional value received by the taxpayer as a result of the settlement of a dispute relating to the price, quality, or quantity of gas arising under the terms of a contract for the sale of gas, provided that the additional tax is remitted to the state no later than June 30, 1991. This amnesty period shall be applicable retroactively to any additional value received as a result of settlements occurring prior to the effective date of this section. However, this amnesty period expressly shall not be applied to additional value received as a result of such a settlement if the additional value is discovered in an audit by this agency.

(2) A taxpayer who does not receive additional value during the amnesty period, but reasonably anticipates receiving additional value at a future date as a result of the settlement of a dispute relating to the price, quality, or quantity of gas arising under the terms of a contract for the sale of gas, can still avail himself of the amnesty provision of this section by taking the following steps.

(A) The taxpayer shall notify the comptroller in writing of the existence of a dispute between the producer and a
first purchaser under the terms of a contract for the sale of gas before the expiration of the amnesty period. Such written notification shall be accompanied by copies of all relevant contracts, correspondence, court pleadings, and other documents necessary to substantiate the existence of the dispute. The comptroller may request such additional documentation as it deems necessary in this regard.

(B) The taxpayer shall pay the appropriate additional tax relating to the additional value on or before the 20th day of the second month following the month in which such value was determined.

(C) If the taxpayer fails to provide the comptroller with any requested documentation pursuant to subparagraph (A) of this paragraph, he shall not be entitled to avail himself of the amnesty provisions provided herein.

(3) The phrase "amnesty period" used in this section shall mean that period of time from the effective date of this section through June 30, 1991. The comptroller shall not apply an amnesty to penalty and interest assessed on additional value received by a taxpayer as a result of the settlement of a dispute relating to the price, quality, or quantity of gas arising under the terms of a contract for the sale of gas beyond the amnesty period, unless the taxpayer has qualified for an extension under paragraph (2)(A) of this subsection.

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 28, 1990.

TRD-9012721 Bob Bullock
Comptroller of Public Accounts

Earliest possible date of adoption: January 7, 1991

For further information, please call: (512) 463-4004

Subchapter B. Natural Gas Production Tax

* 34 TAC §3.20

The Comptroller of Public Accounts proposes new §3.20, concerning producer’s gross cash receipts. The new section provides guidance as to what is to be included, or excluded, from gross cash receipts when a payment that relates to the price, the quality, or the quantity of the gas is made by the first purchaser of the gas to the producer.

Ben Lock, deputy comptroller for economic analysis, has determined that for the first five-year period the section is in effect the section will have no fiscal impact. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public will benefit from clarification of the tax law regarding reporting guidelines for natural gas occupation tax. A negative fiscal impact would result for those producers in noncompliance with the section. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Lucy Glover, Director, Taxability, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

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

§3.20. Producer’s Gross Cash Receipts.

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

(1) Producer’s gross cash receipts—The total cash value received by a producer pursuant to the terms of a contract for the sale of gas.

(2) Make-up gas—The volume of gas taken by a purchaser, having been previously paid for by a prior period’s deficiency payment.

(b) Subsections (a),(c)(1) and (2), and (h)(1) of this section represent a restatement of this agency’s long-standing administrative policy and they are not intended to alter or amend the scope of that policy in any manner.

(c) The phrase "producer’s gross receipts" shall include:

(1) payments made to the producer by the first purchaser of gas which relate to the price, the quality, or the quantity of gas produced or to be taken pursuant to the terms of a contract for the sale of gas;

(2) payments made to the producer by the first purchaser of gas as a result of the failure or refusal of the purchaser to take gas pursuant to the terms of a contract for the sale of gas; and

(3) any and all monies, other than those expressly excluded in this section, that are received by the producer in connection with any judgment or compromise or settlement agreement arising out of a dispute involving the terms of a contract for the sale of gas that relate to the price, the quality, or the quantity of gas to be taken under a contract, no matter how those payments are denominated by the parties to the dispute.

(d) When a dispute involves any one or more of the following subjects: the price of the gas, the quality of the gas, or the quantity of the gas, it shall be presumed that the payments shall apply first to the price, then to the quality, then to the quantity.

(e) The producer’s gross cash receipts shall not include payments made to the producer by the first purchaser under a contract for the sale or purchase of gas if they relate to a reporting period during which no production occurred and the contract for the sale or purchase of gas is terminated thereby, provided that the first purchaser does not thereafter purchase gas from the producer from the real property subject to the terminated contract.

(f) The phrase "producer’s gross cash receipts" also shall not include reimbursement for litigation-related expenses, such as documented attorney’s fees or court costs, or reasonable interest agreed upon by the parties or court-ordered interest received by the producer in connection with any judgment or compromise or settlement agreement arising out of a dispute involving a contract for the sale of gas.

(g) When gas is sold for consideration other than cash or products extracted from the gas the taxable value shall be determined as follows.

(1) When gas is sold for cash and any other consideration than products or residue or both, the tax shall be computed on the producer’s gross cash receipts and, with regard to the non-cash consideration, on the gross value of all items received. The comptroller may, in his discretion, assign a reasonable value to the non-cash consideration to determine market value.

(2) When gas is sold for any other consideration than cash, products, or residue, or a combination thereof, the tax shall be computed on the gross value of all items received. The comptroller may, in his discretion, assign a reasonable value to the consideration to determine market value.

(h) Tax is due according to the following.

(1) Tax is due on the producer’s gross cash receipts when the gas is produced as provided by §3.16 of this title (relating to Reports, Payments, and Due Dates). Tax is due on payments made to the producer by the first purchaser of gas as a result of the failure or refusal of the purchaser to take gas pursuant to the terms of a contract for the sale of gas when the first purchaser takes the gas or when the right to take the gas expires, whichever occurs first.

(2) If the producer’s gross cash receipts include sums in excess of the amount of any deficiency claimed by the producer pursuant to the terms of a contract for the sale of gas relating to the price, the quality, or the quantity of the gas produced or to be taken, and the contract is not terminated thereby, the producer shall have
two options on payment of the tax on this excess:

(A) the producer may pay the tax immediately upon receipt of such excess payment; or

(B) the producer may prorate the payment of the tax over the remaining term of the contract. Provided, however, before the producer may prorate the tax, the producer must first provide the comptroller with a surety bond from a non-related entity or other security deemed satisfactory by this agency, to ensure payment of the tax.

(3) Tax is due immediately on receipt of payments made to the producer by the first purchaser of gas pursuant to a settlement or judgment, which does not result in the termination of the contract and which arises out of a dispute over the failure or refusal of the purchaser to take gas according to the terms of a contract for the sale of gas if:

(A) there has been underproduction of the quantity of gas specified in the contract; and

(B) the contract does not contain a make-up gas provision.

(4) If there is a make-up gas provision in the contract, under the other circumstances set forth in paragraph (3) of this subsection, tax is due when the purchaser takes gas or when the right to take gas expires, whichever occurs first.

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 28, 1990.

TRD-9012720
Bob Bullock
Comptroller of Public Accounts
Earliest possible date of adoption: January 7, 1991
For further Information, please call: (512) 463-4004

Subchapter O. State Sales and Use Tax

• 34 TAC §3.297

The Comptroller of Public Accounts proposes an amendment to §3.297, concerning carriers. The amendment is necessary to incorporate changes made during the recent legislative session. The amendment allows an exemption for machinery, tools, and equipment used by persons repairing aircraft for certificated or licensed carriers and an exemption for tangible personal property that is permanently attached to the certificated or licensed carrier of persons or property. The section distinguishes between the type of items that are exempted and those that are taxable. The exemptions are effective September 1, 1989.

Ben Lock, deputy comptroller for economic analysis, has determined that for the first five-year period the section is in effect there will be no significant revenue impact on the state or local government. This section is adopted under the Tax Code, Title 2, and does not require a statement of the fiscal implications for small businesses.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the sections will be providing them with new information regarding their tax responsibilities under changes made by the legislature. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Lucy Glover, Director, Taxability, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

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

§3.297. Carriers.

(a) Carriers generally.

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

(4) Except as provided under subsection (c) of this section, taxable [Taxable] items brought into this state to be assembled into licensed and certificated carriers are not exempt from the taxes imposed by the Tax Code, Chapter 151, Subchapter D.

(5) (No change.)

(6) Sales tax is due on licensed and certificated carriers purchased under valid resale or exemption certificates which are put to a use other than the one specified in the certificate. The sales tax is based on the fair market rental value of the licensed and certificated carrier for the period of time used. At any time the person using the carrier in a taxable manner may stop paying tax on the fair market rental value and instead pay sales tax on the original purchase price. When the person elects to pay sales tax on the purchase price, credit will not be allowed for taxes previously paid on the fair market rental value. See §3.285 of this title (relating to Resale Certificate; Sales for Resale; [Resale Certificate]) and §3.287 of this title (relating to Exemption Certificate).

(b) (No change.)

(c) Aircraft.

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

(5) The following items used in the repair, remodeling, or maintenance of aircraft or aircraft engines or component parts by or for a person qualified under subsection (a)(1) of this section are exempt if purchased by the owner or operator, by the aircraft manufacturer, or by a repair facility licensed and certified by the appropriate regulatory agency [Sales or use tax is not due on aircraft repair and replacement parts acquired within or outside this state and actually affixed in this state to an aircraft qualified under subsection (a)(1) of this section].
(A) Tangible personal property that is permanently affixed or that is attached as component part of an aircraft used as common or contract carrier of persons or property even though the property may be detached from the aircraft for servicing, maintenance, or other purposes is exempt.

(B) Machinery, tools, and equipment used or consumed directly and exclusively in performing repair, remodeling, or maintenance services to qualifying aircraft used as common or contract carrier of persons or property are exempt.

(C) Repair, remodeling, and maintenance services to aircraft or aircraft parts used as a common or contract carrier of persons or property and items exempted in subparagraph (A) or (B) of this paragraph are exempt.

(D) Exempt component parts includes items such as air cargo containers and accessories that are secured or attached to the aircraft while in flight, radar equipment or other electronic devices used for navigational or communications purposes, smoke detectors, fire extinguishers, and seats. Exempt equipment includes consumable supplies and materials such as hydraulic fluids, gases, cleaning solvents, chemicals, and lubricants. The exemption does not include consumable supplies or materials such as pillows, blankets, trays, ice for drinks, kitchenware, or toilet articles, that are not attached and are not a component part and are not used as an integral part of a maintenance, repair, or remodeling service.

(E) Exempt machinery, tools, and equipment includes de-clamping equipment and other equipment that is used to repair, or to sustain or support safe, continuous operations or to keep in good working order by preventing the decline, failure, lapse, or deterioration of the aircraft. The exemption does not include machinery, tools, and equipment that support the overall carrier operation such as baggage loading or handling equipment, food carts, garbage, and other waste disposal equipment or reservation making or booking machinery and equipment.

(F) An occasional or casual divergent use of machinery, tools, or equipment exempted under this subsection will not disqualify the item from exemption. Casual or occasional use in this subsection means less than 5.0% of the use in a calendar year.

(6) Except as provided under this subsection, sales [Sales] tax is due on the sale within this state of separately stated repair parts and [or] the sale and installation of taxable items in aircraft for nonresidents or foreign governments, unless exported or delivered by the retailer after the sale to an out-of-state destination.

(A) A person repairing an aircraft for a lump-sum amount is not a seller but is a consumer of all items installed under a lump-sum repair contract. The repairman as the consumer should pay tax on the repair parts they are purchased. No tax is due on transportation or delivery charges of the aircraft.

(B) Sales tax is not due on separately stated installation [or delivery] charges. When the amount charged for the part sold exceeds the amount for the labor to install the part, transportation charges will be considered part of the sales price of the part and taxable.

(7) (No change.)

(d)-(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 28, 1990.

TRD-9012719  Bob Bullock
Comptroller of Public Accounts

Earliest possible date of adoption: January 7, 1991

For further information, please call: (512) 463-4004

Subchapter Q. Franchise Tax

34 TAC §3.391

The Comptroller of Public Accounts proposes an amendment to §3.391, concerning accounting methods. Subsection (b)(6) has been amended to clarify and delineate policy on accounting method changes. Subsection (b)(3) has been amended for clarification.

Ben Lock, deputy comptroller for economic analysis, has determined that for the first five-year period the section is in effect there will be no significant revenue impact on the state or local government. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses.

Mr. Lock also has determined that for each year of the first five years the section is in effect the public will benefit from clarification of reporting guidelines on accounting method changes. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the proposal may be submitted to Lucy Glover, Director, Taxability, Legal Services Division, P.O. Box 13528, Austin, Texas 78711.

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

§3.391. Accounting Methods.

(a) (No change.)

(b) General rules. The provisions of this subsection apply to both the generally accepted accounting principles (GAAP) and federal income tax methods.

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

(3) The financial condition as of the date required by the Tax Code, §171.153, must be determined by [reflect the use of] GAAP or other methods required by the Tax Code, Chapter 171 and related sections of this title, for all transactions through such date.

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

(6) A corporation may not amend its franchise tax report after the due date of that report except as indicated in this paragraph. These provisions apply to those returns not barred by the statute of limitations. [A change will be recognized prospectively only, unless it corrects an accounting error. An accounting error results from a mathematical mistake, a mistake in the application of accounting principles, or an oversight or unintentional misuse of facts that existed on the date upon which the tax is based. Subsequent events (i.e., events or transactions occurring after the date upon which the report is based) will not be considered, even if the subsequent event provides additional evidence with respect to conditions that existed on the date upon which the tax is based.]

(A) An amended report may be filed to correct an accounting error. An accounting error results from a mathematical mistake a mistake in the application of accounting principles in effect on the date on which the tax is based, or an oversight or unintentional misuse of facts that existed on the date on which the tax is based. Subsequent events (i.e., events or transactions occurring after the date on which the report is based) will not be considered, even if the subsequent event provides additional evidence with respect to conditions that existed on the date upon which the tax is based.

(B) If the courts invalidate a statutory provision section, or agency policy, or if the comptroller invalidates a section or agency policy, a corporation may amend returns in accordance with the court or administrative decision. Amendments filed under this subparagraph would not be restricted by

* Proposed Sections  December 7, 1990  15 TexReg 7011
any other provisions of this section.

(C) At any time before March 1, 1991, a corporation may amend its 1988-1990 franchise tax report(s) using any allowable accounting method, except conversion to the federal income tax method. If the corporation elects to amend one of these previously filed reports to reflect a change in accounting methods, then it must calculate its surplus and/or gross receipts on subsequent reports in accordance with the Tax Code, §171.109(e) and/or §171.112(e).

(7)-(8) (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 28, 1990.

TRD-9012718 Bob Bullock
Comptroller of Public Accounts

Earliest possible date of adoption: January 7, 1991

For further information, please call: (512) 463-4004

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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 21. Student Services
Subchapter C. Hinson-Hazlewood College Student Loan Program for all Loans Which Are Subject to the Provisions of the Guaranteed Student Loan Program, the College Access Loan Program, the Health Education Assistance Loan Program, and the Health Education Loan Program.

19 TAC §21.55

The Texas Higher Education Coordinating Board adopts an amendment to §21.55, with changes to the proposed text as published in the September 21, 1990, issue of the Texas Register (15 TexReg 5453).

The amendment directs institutions toward the quality of education necessary to become eligible institutions and protect certain students from unscrupulous institutions.

The amendment is necessary to implement provisions of Senate Bill 457 passed by the 71st Texas Legislature. The amendment effectively distinguishes eligible institutions from ineligible institutions and adds criteria to protect student eligible for student education loans from the Board from questionable activities of ineligible institutions.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §51.810 and §61.656, which provides the Coordinating Board with the authority to adopt rules regarding the Hinson-Hazlewood College Student Loan Program for all Loans Which Are Subject to the Provisions of the Guaranteed Student Loan Program, the College Access Loan Program, the Health Education Assistance Loan Program, and Health Education Loan Program.

§21.55. Eligible Institution.

(a) Criteria. An eligible institution shall be any Texas institution of higher education within the State of Texas which:

(1) is a regular member of, or candidate for accreditation by, the Commission on Colleges of the Southern Association of Colleges and Schools;
(2) is a nonprofit, independent professional school which:

(A) awards a bachelor's or other professional degree;

(B) is not a member of the Southern Association of Colleges and Schools; and

(C) has petitioned for consideration and received approval of eligibility from the board;

(3) is an institution which has its parent campus within the State of Texas;

(4) does not employ recruiters of students on a commission basis; and

(5) has entered into an agreement with the board prior to May 1, 1985, the terms of which are to be specified by the commissioner, or both enter into such agreement on May 1, 1985, or after and fulfills the accreditation requirement in paragraph (6) of this subsection.

(b) Student attending other institutions. Any student attending an institution other than an eligible institution as set forth in subsection (a) of this section may be eligible for a loan made from the fund under the governing provisions of the GSLP providing the postsecondary institution:

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

(3) is an institution which has its parent campus within the State of Texas and has no branch campuses outside of Texas having a default rate of 15% or greater;

(4) does not employ recruiters of students on a commission basis;

(5) does not employ the owner(s) or anyone related to the owner(s) by blood or marriage as student financial aid administrators; and

(6) has a good credit rating.

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

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

Issued in Austin, Texas, on November 29, 1990.

TRD-012728

James McWhorter
Assistant Commissioner for Administration

Texas Higher Education Coordinating Board

Effective date: December 19, 1990

Proposal publication date: September 21, 1990

For further information, please call: (512) 483-6100

Subchapter O. Texas Outstanding Rural Scholar Recognition and Forgiveness Loan Program


The more entities participating in the program increases the number of trained health care professionals supplied to rural areas of Texas.

The amendments broaden the definition of who may be the eligible community agent to financially support the education of eligible rural scholars and the types of institutions eligible rural scholars may attend. The amendments also clarify language related to the licensure and/or registry of certain health care professionals.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §51.810 and §61.656, Texas Civil Statutes, which provides the Coordinating Board with the authority to adopt rules regarding the Texas Outstanding Rural Scholar Recognition and Forgiveness Loan Program.

§21.483. Compliance with Conditions of Forgiveness Loans.

(a) Forgiveness of loans under provisions of this subchapter may occur if the forgiveness loan recipient fulfills the terms

Adopted Sections December 7, 1990 15 TexReg 7013
of the promissory note to become a health care professional and provides health care to a rural area or rural community. The health care provider must:

(1) be fully credentialed, certified, licensed, and/or registered as required to practice in the State of Texas in the health care field in which health care is provided; and

(2) (No change.)

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

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

Issued In Austin, Texas, on November 28, 1990.

TRD-9012788 James McWhorter Assistant Commissioner for Administration Texas Higher Education Coordinating Board Effective date: December 20, 1990 Proposal publication date: September 21, 1990 For further information, please call: (512) 483-6160

Subchapter R. Professional Nursing Student Scholarship Programs


The amendments will provide service to a wider range of Bachelor of Science in Nursing (BSN) students. Previously only rural BSN student scholarship program was for students attending a college in a rural county. The only rural BSN student scholarship program was at Stephen F. Austin State University.

The amendments will bring the programs into compliance with suggestions made by the Advisory Committee on Professional Nursing Financial Aid Programs at its May 3, 1990, meeting. The rules will create a new scholarship program for rural BSN students attending programs in metropolitan locations; and clarify funding requirements for scholarship recipients.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §51.810 and §61.656, which provides the Coordinating Board with the authority to adopt rules regarding the Professional Nursing Student Scholarship 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 28, 1990.

TRD-9012787 James McWhorter Assistant Commissioner for Administration Texas Higher Education Coordinating Board Effective date: December 19, 1990 Proposal publication date: September 21, 1990 For further information, please call: (512) 483-6160

Part II. Texas Education Agency

Chapter 29. General Provisions

The Texas Education Agency adopts the repeal of Chapter 29, concerning general provisions, §§29.1, 29.2, 29.3, 29.21, 29.22, 29.23, 29.24, 29.41, 29.61, 29.62, 29.63, 29.81, 29.101, and 29.121, are adopted without changes to the proposed text as published in the October 5, 1990, issue of the Texas Register (15 TexReg 5840). Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. All sections of Chapter 29 have been reviewed by the board and are being repealed. Sections 29.23, concerning Affirmative Action Program and plan for equal employment opportunity, and §29.81, concerning policy and procedure, are being adopted as new sections in new Chapter 49, concerning internal operations, in a separate submission. Section 29.121, concerning commitment to nondiscriminatory employment,
is being adopted as new §61.101, in Chapter 61, concerning school districts, in a separate submission.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

Subchapter A. Composition and Purpose

- 19 TAC §29.1-29.3
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-9012927 W. N. Kirby Commissioner of Education
Effective date: December 24, 1990
Proposal publication date: October 5, 1990
For further information, please call: (512) 463-9701

Subchapter B. General Powers and Duties

- 19 TAC §§29.21-29.24
The repeals are adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

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-9012928 W. N. Kirby Commissioner of Education
Effective date: December 24, 1990
Proposal publication date: October 5, 1990
For further information, please call: (512) 463-9701

Subchapter C. Closing or Consolidation of Any Public School District

- 19 TAC §29.41
The repeal is adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

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-9012908 W. N. Kirby Commissioner of Education
Effective date: December 24, 1990
Proposal publication date: October 5, 1990
For further information, please call: (512) 463-9701

Subchapter D. Annual Operating Plan and Budget

- 19 TAC §§29.61-29.63
The repeals are adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

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-9012908 W. N. Kirby Commissioner of Education
Effective date: December 24, 1990
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For further information, please call: (512) 463-9701

Subchapter E. Compliance with Civil Rights Act

- 19 TAC §29.81
The repeal is adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

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-9012908 W. N. Kirby Commissioner of Education
Effective date: December 24, 1990
Proposal publication date: October 5, 1990
For further information, please call: (512) 463-9701

Subchapter F. Public Information

- 19 TAC §29.101
The repeal is adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

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-9012909 W. N. Kirby Commissioner of Education
Effective date: December 24, 1990
Proposal publication date: October 5, 1990
For further information, please call: (512) 463-9701

Subchapter G. Nonbiased Pupil Appraisal Procedures

- 19 TAC §29.121
The repeals are adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

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-9012910 W. N. Kirby Commissioner of Education
Effective date: December 24, 1990
Proposal publication date: October 5, 1990
For further information, please call: (512) 463-9701

The Texas Education Agency adopts the repeal of §§33.1-33.6, 33.21, 33.22, 33.41, 33.43-33.51, 33.53-33.56, and 33.58-33.62, without changes to the proposed text as published in the October 5, 1990, issue of the Texas Register (15 TexReg 5842).

Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rulemaking relationship between SBOE and the Legislative Education Board. The review of the rules is to be completed over a three-year period. All sections of Chapter 33 have been reviewed by the board and are being repealed. Subchapter C is being adopted as new Chapter 33, Investment Program of the Permanent School Fund, in a separate submission.
Chapter 33. State Board of Education

Subchapter A. General Philosophy

• 19 TAC §§33.1-33.6

The repeals are adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

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-9012911 W. N. Kirby Commissioner of Education

Effective date: December 24, 1990

Proposal publication date: October 5, 1990

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

Subchapter B. Duties and Responsibilities

• 19 TAC §§33.21, 33.22

The repeals are adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

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-9012912 W. N. Kirby Commissioner of Education

Effective date: December 24, 1990

Proposal publication date: October 5, 1990

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

Subchapter C. Investment of the Permanent School Fund

• 19 TAC §§33.41, 33.43-33.51, 33.53-33.56, 33.58-33.62

The repeals are adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

Chapter 41. State Commissioner of Education

The Texas Education Agency adopts the repeals of §§41.1, 41.2, 41.21, 41.22, and 41.61, without changes to the proposed text as published in the October 5, 1990, issue of the Texas Register (15 TexReg 5843). Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rule affected by this provision so that any rules adopted on these matters must occur under the new rulemaking relationship between the SBOE and the Legislative Education Board. The review of rules is to be conducted over a three-year period. All sections of Chapter 41 have been reviewed by the board and are being repealed. Section 41.22, Commissioner of Education's discretionary authority to waive State Board of Education rules under certain circumstances, is being adopted as an amendment to Chapter 61, School Districts, in a separate submission at a later date.

No comments were received regarding adoption of the repeals.

Subchapter A. Appointment

• 19 TAC §41.1, §41.2

The repeals are adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

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-9012914 W. N. Kirby Commissioner of Education

Effective date: December 24, 1990

Proposal publication date: October 5, 1990

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

Subchapter B. Duties and Responsibilities

• 19 TAC §§41.21, §41.22

The repeals are adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

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-9012915 W. N. Kirby Commissioner of Education

Effective date: December 24, 1990
Chapter 45. State Department of Education

The Texas Education Agency adopts the repeal of §§45.1, 45.21, and 45.22 without changes to the proposed text as published in the October 5, 1990, issue of the Texas Register (15 TexReg 5844), Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision to that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. All sections of Chapter 45 have been reviewed by the board and are being repealed.

No comments were received regarding the adoption of the repeals.

Subchapter A. Composition
• 19 TAC §45.1

The repeals are adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature. Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

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-9012917 W. N. Kirby
Commissioner of Education

Effective date: December 24, 1990

Chapter 49. Internal Operations Contracts
• 19 TAC §49.1, §49.2

The Texas Education Agency adopts the repeal of Chapter 49, concerning internal operations, §49.1, and §49.2, without changes to the proposed text as published in the October 5, 1990, issue of the Texas Register (15 TexReg 5844). Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. Chapter 49 has been reviewed by the board and is being repealed in a separate submission. A new Chapter 49 concerning internal operations, is being adopted in a separate submission. The new chapter incorporates §29.23 concerning Affirmative Action Program and plan for equal employment opportunity; §29.81 concerning policy and procedure; and §49.2 concerning sick leave pool, which were repealed in separate submissions.

No comments were received regarding the adoption of the new sections.

The new sections are adopted under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

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-9012903 W. N. Kirby
Commissioner of Education

Effective date: December 24, 1990

Chapter 61. School Districts

Subchapter D. School Districts-Pupil Relationships

Special Students
• 19 TAC §61.101

The Texas Education Agency adopts new §61.101, without changes to the proposed text as published in the October 5, 1990, issue of the Texas Register (15 TexReg 5845). Senate Bill 1, passed by the 71st
Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. Section 61.101 incorporates former §29.121, concerning commitment to and procedures for nonbiased pupil appraisal, which was repealed in a separate submission.

No comments were received regarding adoption of the new section.

The new section is adopted under Senate Bill 1, §2.25(b), passed by the 71st Texas Legislature, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

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-9012901 W. N. Koby
Commissioner of Education

Effective date: December 24, 1990
Proposal publication date: October 5, 1990
For further information, please call: (512) 463-9701

Subchapter F. Responsibilities and Powers for Operation

19 TAC §61.175

The Texas Education Agency adopts new §61.175, with changes to the proposed text as published in the October 9, 1990, issue of the Texas Register (15 TexReg 5896).

The section is intended to meet the statutory requirement included in Senate Bill 1 of adopting rules by January 1, 1991, which states that a local school district may operate its schools on a year-round basis. It is designed to be as flexible as possible and to assist school districts in choosing to operate either a single or multitrack year-round program. School districts choosing to operate year-round programs are required to develop and submit a brief written plan to the agency. Even though there are a large number of issues that local districts must examine, only those items required for purposes of funding and/or compliance will be submitted as a part of the district’s written plan. The section replaces §77.23, Pilot Projects for Year-round School Programs, which is being repealed in a separate submission.

No comments were received regarding the adoption of the section, however, a clarification was made as a result of recommendations of the State Board of Education. Subsection (d) was changed to clarify that students would be subject to all eligibility requirements of both the University Interscholastic League and the State Board of Education.

The new section is adopted under the Texas Education Code, §21.009(a), as amended by Senate Bill 1, Sixth Called Session, 71st Texas Legislature, which provides the State Board of Education with the authority to adopt rules regarding year-round school programs.

§61.175. Year-Round Schools.

(a) School districts desiring to operate year-round education programs, either single or multitrack, are encouraged to do so. However, successful year-round education involves a comprehensive process of careful planning, communication, and implementation. The commissioner shall provide materials to assist districts in planning and implementing year-round programs.

(b) Districts considering the adoption of a year-round school program that contains less than the required 175 days of instruction and/or eight days of inservice shall apply to the commissioner for approval. Such districts shall adopt a calendar that ensures that instructional time at least equivalent to the amount provided in a 175-day school year and inservice time at least equivalent to the amount provided in eight days of inservice is maintained. In addition, districts shall ensure that employee contracts provide an equivalent salary for the number of hours of instruction delivered as would have been provided in a traditional schedule. In determining approval, the commissioner shall consider how the proposed calendar will affect average daily attendance, special program full-time equivalents, state salary schedules, state curriculum requirements, and any other educationally related issues deemed appropriate.

(c) The commissioner shall provide alternative testing dates, data reporting, and related matters for those districts which adopt year-round programs that meet all other requirements of this section.

(d) Students enrolled in districts adopting year-round education programs and who meet all University Interscholastic League and State Board of Education rules and regulations shall be eligible to participate even when the student’s calendar track is not in session.

(e) School districts shall submit the following information to the commissioner for review and approval before implementation of a year-round program:

- (1) calendars: attach a copy of the district’s proposed calendar. Indicate methods of attendance accounting that will assure that there are no duplications. Show how both single track and multitrack systems will be incorporated into the district’s student attendance accounting. If modifications will be made under subsection (b) of this section, submit information to show the impact on instructional time, inservice time, and contracts;

- (2) transportation: assess how year-round education will affect bus routes, schedules, maintenance, equipment, and drivers. For funding purposes, routes must be approved by the commissioner;

- (3) food service: describe how lunch schedules, employees, purchasing, and commodities will be affected.

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-9012902 W. N. Koby
Commissioner of Education

Effective date: December 24, 1990
Proposal publication date: October 9, 1990
For further information, please call: (512) 463-9701

Chapter 77. Comprehensive Instruction

Subchapter B. General Education Program

19 TAC §77.23

The Texas Education Agency adopts the repeal of §77.23, without changes to the proposed text as published in the October 9, 1990, issue of the Texas Register (15 TexReg 5897). Senate Bill 1, passed by the Sixth Called Session, 71st Texas Legislature, requires the State Board of Education (SBOE) to adopt rules by January 1, 1991, which state that a local school district may operate its schools on a year-round basis. Section 77.23 is being replaced by new §61.175, Year-Round Schools, in a separate submission. The rules are being proposed in new §61.175 to more appropriately locate them with information regarding school sessions.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Education Code, §21.009(a), as amended by Senate Bill 1, 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to adopt rules regarding year-round school 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 16, 1990.

TRD-9012920 W. N. Koby
Commissioner of Education

Effective date: December 24, 1990
Proposal publication date: October 9, 1990
For further information, please call: (512) 463-9701

Chapter 81. Instructional Resources
Subchapter D. State Textbook Program
General Provisions
• 81 TAC §81.63
The Texas Education Agency adopts an amendment to §81.63, without changes to the proposed text as published in the October 9, 1990, issue of the Texas Register (15 TexReg 5897). The amendment requires publishers to submit teacher's editions to accompany textbooks being considered for adoption. These editions are considered to be part of the bid and must be submitted by the publisher at no cost to the state. The amendment also specifies that all ancillary materials which publishers intend to make available to school districts at no charge to the districts shall be listed on the statement of intent to bid textbooks, and shall be provided to each school district that adopts the textbook.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §12.83(b), which provides that the State Board of Education shall adopt rules regarding the quality, distribution, care, use, and disposal of textbooks.

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-9012904 W. N. Kirby Commissioner of Education
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For further information, please call: (512) 463-8701

Subchapter D. State Textbook Program
State Adoption, Acquisition, and Custody of Textbooks
• 19 TAC §§81.120, 81.126, 81.127, 81.129
The Texas Education Agency adopts amendments to §§81.120, 81.126, 81.127, and 81.129. Section 81.120 is adopted with changes to the proposed text as published in the October 9, 1990, issue of the Texas Register (15 TexReg 5898). Sections 81.126, 81.127, and 81.129 are adopted without changes and will not be republished. The amendments require publishers to make all ancillary materials listed on statements of intent to bid available for review by the appropriate State Textbook Subject Area Committee members. The amendments also include revision of the procedure for verification of changes and corrections required in adopted textbooks by the State Board of Education, publishers are required to supply samples of hand-corrected textbooks submitted for adoption. By submitting these hand-corrections, publishers agree to make any changes noted in the samples. Publishers must also agree to file affidavits certifying that all changes have been made in the final samples.

Comments were presented to the State Board of Education Committee on School Finance at its October 19, 1990, committee meeting regarding the adoption of the amendments. A description of the comments and the resulting changes to the amendments follow. Houghton Mifflin Company expressed concern with the June deadline for filing sample ancillary materials for review. Their representation suggested publishers be allowed to provide subject area committee members with a detailed description of the ancillary materials listed on the statements of intent to bid. Silver Burdett & Glencoe, Inc., suggested that publishers be allowed to file ancillary materials with committee members between the June presentations and August 1. The committee agreed with the recommendations and §81.120(b) has been changed to clarify that one copy of all ancillary materials which publishers listed on the statements of intent to bid shall be filed with TEA on or before the date specified in the schedule for the textbook adoption process. Section 81.120(d) has been changed to state that ancillary materials publishers listed on statements of intent to bid shall be distributed to State Textbook Subject Area Committee members during each publisher's presentation or prior to August 1. It also has been changed to state that those publishers who do not distribute the materials at the time of the presentation must distribute detailed descriptions of the materials to the committee members at that time. McDougal, Little & Company suggested that the proposed rules regarding ancillary materials not be implemented until the adoption of materials called in Proclamation 68. The publisher stated that possible changes to the essential elements contained in Proclamation 67 had been discussed and that, therefore, publishers would have great difficulty in producing ancillary materials for Proclamation 67. The committee expressed concern with the possibility of changing essential elements after a proclamation had been adopted by the board and distributed to publishers. Therefore, the committee indicated that essential elements in Proclamation 67 should not be amended at this point in the process.

The amendments are adopted under the Texas Education Code, §12.83(b), which provides the State Board of Education with the authority to adopt rules regarding the quality, distribution, care, use, and disposal of textbooks.

§81.120. Samples.
(a) (No change.)

(b) Six official sample copies of each textbook and two samples of each learning system shall be filed with the commissioner of education on or before the date specified in the schedule for the textbook adoption process. The information required by Texas Education Code, §12.18, shall be included in each sample. One of the six copies shall be clearly marked "official sample." One copy of all ancillary materials which publishers listed on statements of intent to bid in accordance with §81.63(b) of this title (relating to Materials Available for Use with Textbooks) shall be filed with the Texas Education Agency on or before the date specified in the schedule for the textbook adoption process.

(c) For all submissions required by this section, samples of teacher's editions to be furnished without cost as called for in the proclamation, shall be filed at the same time and in the same manner as the textbooks which they accompany.

(d) One copy of each textbook being submitted for adoption and one copy of each teacher's edition called for in the proclamation shall be provided to each member of the appropriate Textbook Subject Area Committee on or before the date specified in the schedule for the adoption process. Samples of materials submitted for adoption under these rules provided to state textbook subject area committee members may be returned to the publisher, donated to a school district, or retained by the subject area committee member. Under no circumstances shall such samples be sold. Ancillary materials which publishers listed on statements of intent to bid in accordance with §81.63(b) of this title (relating to Materials Available for Use With Textbooks) shall be distributed to the appropriate State Textbook Subject Area Committee members either during each publisher's presentation or prior to August 1. Publishers who do not distribute detailed descriptions of ancillary materials at the time of the presentation shall distribute detailed descriptions of ancillary materials to the appropriate committee members at that time.

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

(h) After textbooks have been adopted, two copies of all student textbooks, teacher's editions called for in the proclamation, and components of learning systems which are negotiated and corrections shall be submitted to the commissioner of education on or before the date specified in the schedule for the adoption process for final approval prior to purchase. Accompanying each set of samples submitted by a publisher shall be an affidavit signed by an official of the company verifying that all corrections made in the hand-corrected copies and all changes and corrections required by the commissioner of education and the State Board of Education and agreed to in writing by the publisher have been made. Such copies shall be in all respects like the texts which will be provided to local school districts after purchase. The commissioner of education shall notify the State Board of Education of all textbooks that did not contain changes and corrections required by the board.

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

(k) The board may take such action as it deems appropriate concerning failure of publishers to file an affidavit as required
in subsection (h) of this section or for evidence of failure to make changes and corrections agreed to in writing. Such action may include removing publishers from the process, requiring publishers to make changes and corrections and replace all uncorrected textbooks sent to local districts, or imposing any other penalty deemed appropriate for the specific violation.

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

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TRD-9012899 W. N. Kirby Commissioner of Education

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Subchapter D. State Textbook Program

Local Operations

19 TAC §81.152, §81.164

The Texas Education Agency adopts amendments to §81.152 and §81.164, with changes to the proposed text as published in the October 9, 1990, issue of the Texas Register (15 TexReg 5899). The amendments clarify the requirements for publishers who provide sample copies of textbooks to local school districts. The amendments also delete the current requirement that all textbook depositories maintain annual state sales of $2 million to continue their approved status, and instead require that depositories maintain evidence of financial viability adequate to ensure performance of obligations under all contracts on an annual basis.

Comments were presented to the State Board of Education Committee on School Finance at its October 19, 1990, committee meeting. A description of these comments and changes to the sections follows. Addison-Wesley Publishing Company suggested that §81.152(a) be changed from "a maximum of one sample to "one and only one sample." The committee agreed with this suggestion and the section has been amended to reflect this change. Trammell Crow Distribution Corporation submitted a written statement requesting the committee's support of the proposed amendment to §81.164. The statement indicated that the amendment is good for publishers and for depositories. The committee also changed §81.164(a)(1) to clarify that depositories must maintain evidence of financial viability on an annual basis.

The amendments are adopted under the Texas Education Code, §12.31(a)(b), which provide the State Board of Education with the authority to adopt rules regarding Central Depositories.

§81.152 Sample Copies of Textbooks for Local School Districts

(a) Each publisher shall ship the textbook coordinator of every school district in this state which offers the course or which is considering offering a subject or course a minimum of one sample of each adopted textbook, teacher's edition called for in the textbook proclamation, and one prospectus for learning systems or teacher resource packet no later than December 1. No materials may be substituted for the official sample of an adopted edition. On or before December 1, publishers shall provide each textbook coordinator with one and only one sample set of all additional ancillary materials submitted in accordance with §81.163(b) of this title (relating to Materials Available for Use with Textbooks).

(b) Additional copies of sample textbooks and teacher's editions called for in the textbook proclamation shall be provided to meet the appropriate needs of the local textbook committee. Samples of learning systems or teacher resource packets may be supplied to local districts at the discretion of the publisher. Publishers may confer with the textbook coordinator to determine the number of samples needed by the local textbook committee, but are prohibited from providing any school district with more than one set of ancillary materials submitted in accordance with §81.163(b) of this title (relating to Materials Available for Use with Textbooks). Publishers may ship the additional samples and/or learning systems directly to department chairpersons, teachers, committee members, or other district staff if they notify the textbook coordinator, in writing, to whom they are sending the additional samples.

(c)-(e) (No change.)

(f) Publishers may contact the textbook coordinator to retrieve unwanted samples after local adoptions are final. Samples of ancillary materials submitted in accordance with §81.163(b) of this title (relating to Materials Available for Use with Textbooks) that are designed to accompany textbooks not adopted by a school district shall be returned to the publisher. The method of retrieval shall be determined by the publisher, and all costs of retrieval shall be at the expense of the publisher.

(g) (No change.)

§81.164 Depository Status.

(a) To maintain approved status all depositories must:

(1) maintain evidence of financial viability adequate to ensure performance of obligations under all contracts on an annual basis;

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

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

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

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Chapter 89. Adaptations for Special Populations

Subchapter G. Special Education

Clarification of Provisions in Federal Regulations and State Law

19 TAC §89.220

The Texas Education Agency adopts an amendment to §89.220, without changes to the proposed text as published in the October 9, 1990, issue of the Texas Register (15 TexReg 5899). The amendment includes a clarification recently received from the Office of Special Education, United States Department of Education. The clarification states that eligible children with handicaps must have access to services beginning on their third birthday. Currently the rule does not require school districts to provide services unless the student has reached his or her third birthday before September 1 of the current school year. This amendment was adopted on an emergency basis in a separate submission.

Comments from school districts were received regarding the proposed amendment by the State Board of Education Committee on Students at its November 9, 1990, meeting. A description of these comments and the responses of the committee and the TEA follows. The Austin Independent School District (AISD) expressed concern with the projected costs of the rule change. AISD stated that school districts will incur costs for adding classroom space, new teachers, instructional materials, and transportation. AISD will be serving 150 additional students at a cost of $500,000. The district requested that the SBOE direct TEA to make available emergency funding to implement this new requirement, and that more care be taken in projecting the cost of a rule change. The district also stated that some students would need extended-year services. The committee responded that the amendments are required as a result of federal legislation and that Texas must comply with the requirements. Districts will receive a full-year average daily attendance based on when the student enrolled, and many of the students subject to this rule are currently served in an early intervention program operated by the Department of Health. Before this rule change most students stayed in the early intervention program until the next year. Early intervention programs have been directed by the federal government to stop serving the student at the third birthday when the responsibility shifts to the public schools. TEA recognizes the burden to the districts but the agency is also concerned about the cost of litigation if the rule is not adopted. Other school districts also expressed their concern about receiving a
large influx of students during the school year as a result of this amendment. As previously stated, agency staff are aware of this possibility and school districts will receive additional special education funds as a result of legislation included in Senate Bill 1.

The amendment is adopted under the Texas Education Code, §21.501, which provides the State Board of Education with the authority to develop, and modify as necessary, a statewide design for the delivery of services to handicapped children.

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

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

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Chapter 41. Teacher Certification

Subchapter B. Certificate Issuance Procedures

19 TAC §§141.21-141.26

The Texas Education Agency (TEA) adopts amendments to §§141.21-141.26. Section 141.24 is adopted with changes to the proposed text published in the October 9, 1990, issue of the Texas Register (15 TexReg 5900). Sections 141.21-141.23, 141.25, and 141.26 are adopted without changes and will not be republished.

The Central Education Agency processes requests for credentials supported by other agency units. The division responsible for this activity is supported entirely by income received from fees charged for these services. In the past, the division has been staffed and funded adequately to provide services to both districts and teachers in a timely manner. Current projections from the agency's budget office indicate, however, that the division is facing a budget deficit of approximately $200,000 for this fiscal year. In addition, the proposed expanded capability to investigate alleged criminal activity on the part of candidates for certification is anticipated to increase administrative costs by approximately $100,000 and further worsen the projected deficit. Therefore, the agency is adopting a revised fee structure for the services performed by the division. The revised fee schedule is effective January 1, 1991.

Comments were received regarding adoption of the amendments by the State Board of Education Committee on Personnel at its October 19, 1990, committee meeting. A description of these comments and the changes to the proposed amendments follows. TEA staff presented concerns regarding the ability of some school districts to comply with the 60-day time frame for submission of certain documents. Staff recommended additional language be added to §141.24 that would establish authority for TEA to waive the 60-day requirement under certain conditions. The committee agreed with staff recommendations, and subsection (c) has been changed to provide authority, under certain conditions, to establish an effective date for a certificate or permit in excess of 60 days prior to receipt of an application. The committee also directed that subsection (b)(3) be changed to state that no coverage will be provided for persons determined to be ineligible for the permit requested.

The amendments are adopted under the Texas Education Code, §§11.26(c)(5) and 13.032(h), which provide the State Board of Education with the authority to adopt rules regarding the certification of professional personnel employed in Texas public schools, and to establish and implement appropriate certification fees for the review of credentials and issuance of Texas teaching certificates.

§141.24. Effective Dates of Certificates and Permits

(a) The issuance dates of certificates.

(1) The issuance date of certificates evaluated by the Central Education Agency shall be the date on which the application was signed by the applicant. The date of issuance shall not precede the completion date of all certification requirements.

(2) The issuance date of certificates recommended by approved teacher preparation entities shall be the date on which the recommending entity verifies the applicant satisfied all requirements for certification.

(3) The effective date shall be no more than 60 days prior to receipt of the application by the Central Education Agency.

(4) A certificate shall be considered valid for the entire month in which it is issued; however, the effective date of a certificate may not precede the completion date of all degree and certificate requirements.

(b) The effective dates of permits.

(1) The effective date of a permit shall be the date on which the application was signed by the superintendent or the authorized representative provided the application is received by the Central Education Agency within 60 days of that date.

(2) If the application form is completed and signed by the applicant and superintendent or authorized representative on the date teaching duties begin, it may be kept in the school district's files until all materials are acquired for submission to the Central Education Agency. The effective date of permits held by districts shall be no more than 60 days prior to receipt of the application by the Central Education Agency.

(3) The district shall be notified regarding eligibility or ineligibility for the permit. No coverage will be provided to districts for the employment of individuals who are deemed to be ineligible for the permit requested.

(c) The authority to alter dating procedures. The effective date of a certificate or permit may exceed 60 days prior to receipt of an application by the Central Education Agency if responsibility for the delay is assumed or documented in writing by the appropriate official.

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

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TRD-9012906 W. N. Kirby Commissioner of Education

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

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Chapter 149. Education Personnel Development

Subchapter D. Teacher Career Ladder

19 TAC §149.81

The Texas Education Agency adopts an amendment to §149.81, with changes to the proposed text published in the October 9, 1990, issue of the Texas Register (15 TexReg 5901).

The amendment allows the approval of up to 50% of AAT credit for advancement at each level for instructional activities for curriculum development and peer coaching with the condition that the proposing sponsor establish a developmental link to district instructional goals and/or campus improvement plans. Subsection (a) is also amended to further emphasize student performance expectations.

No comments were received regarding adoption of the amendments, however, changes have been made to the section at the request of the State Board of Education Committee on Personnel. Section 149.81(a) has been changed to delete the reference to the accreditation process because it is inappropriate for the section.

The amendment is adopted under the Texas Education Code, §13.315, which provides the State Board of Education with the authority to adopt rules regarding higher education course work and advanced academic training.

§149.81. Advanced Academic Training

(a) General provisions. Advanced academic training is staff development based upon diagnosed needs or professional goals. Priority shall be given to strengthening needs identified through the appraisal
process. The purpose of advanced academic training is to improve classroom instruction for increased student performance. Such training shall be in addition to the required inservice education and must be highly structured to meet the requirements of the Texas Education Code, §133.315. A teacher must have prior district approval for any training to be considered for advanced academic training.

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

(f) Program approval.

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

(5) Up to 50% of the advanced academic training required for advancement or maintenance on advanced levels of the career ladder may be for activities that are conducted outside of the regular school day and are linked to district goals and/or campus objectives such as developing curriculum materials and peer coaching. These activities will qualify for advanced academic training under the following conditions:

(A) curriculum materials: those which address the scope and sequence of curriculum, revision or restructuring of curriculum, mastery of essential elements, or curriculum development which exceeds the essential elements; and

(B) peer coaching: those that are designed to strengthen peer assistance/mentor relationships for working with individuals such as student teachers, induction year teachers, or teachers new to a district.

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

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TRD-0912928 W. N. Kirby
Commissioner of Education
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Title 28. INSURANCE
Part II. Texas Workers’ Compensation Commission
Chapter 110. General Provisions—Required Notices of Coverage
Subchapter B. Employer Notices

• 28 TAC §110.102 §110.103

The Texas Workers’ Compensation Commission adopts new §110.102, with changes to the proposed text in the September 7, 1990, issue of the Texas Register (15 TexReg 5097) and new §110.103, with changes to the proposed text as published in the September 21, 1990, issue of the Texas Register (15 TexReg 5473).

The new sections are necessary in order to implement the Texas Workers’ Compensation Act, Article 8308, §3.22 and §3.24(d), which requires employers to notify workers’ compensation insurance to so notify the commission and the State Board of Insurance, and require the employer to post a notice in the place of business regarding the existence of workers’ compensation coverage for employees.

New §110.102 sets out, in English and Spanish, the notice that an employer who has workers’ compensation insurance is required to post in the workplace, and the notice that an employer who is not covered by workers’ compensation insurance is required to post. The new section details the requirements of the notice concerning location, type and language, requires the revision of notice when the information in the notice changes, and imposes an administrative penalty for an employer who does not comply with the section.

New §110.103 requires an employer who does not have workers’ compensation insurance coverage on March 20 of each year to notify the commission of this fact in writing on a form prescribed by the commission.

Concerning §110.102, one commenter stated that the section should include information about the ombudsman. The commission disagrees with this suggestion because information about the ombudsman is provided on request or when a notice of injury is received; the purpose of the notice is simply to inform employers about their obligations.

Concerning §110.102, another commenter stated that the notice should contain information about the ombudsman, stating that the commission is required to provide this information to employees. The commission disagrees with this suggestion, as it is covered in another rule.

Concerning §110.103, one commenter stated that the section should include evidence that the employer has given notice to employees, and suggested this be in the form of a signed statement. The commission disagrees with this suggestion, as this is covered in another rule.

Concerning §110.103, one commenter pointed out that a non-covered employer is not likely to know of the filing requirement and suggested that the information be included on the form prescribed by the commission. The commission disagrees, as it is required to be filed on the commission’s forms, and not those of another agency. The commission intends to cooperate with other agencies so that the notice form can be mailed with TWC or state tax forms.

The commission has made changes to the proposed subsection (d) as originally proposed and proposed section (d) as originally proposed. One commenter stated that the notice required by the commission should be adopted as proposed. The commission, however, has adopted changes in the section in response to public comment. Comments against the section as proposed were received from Proctor and Gamble, American Insurance Association, and Texas Association of Business. The Texas Association of Compensation Consumers commented favor of the section as proposed.

Section 110.103 is adopted with changes: in subsection (b), a requirement that the notice
§110.102. Employer’s Notices to be Posted in the Workplace.

(a) An employer who has workers’ compensation insurance coverage shall post the following notice in the workplace:

"[Name of employer] has workers’ compensation insurance coverage from [name of insurance carrier] to protect you. You can get more information about your workers’ compensation rights from any office of the Texas Workers’ Compensation Commission, or by calling [the commission’s assigned toll-free number]."

"[Name of employer] esta cubierto por asegurania de compensacion al trabajador a través de [name of insurance carrier] para su protección. Usted puede obtener información adicional sobre sus derechos de compensación al trabajador de cualquier oficina de la Comisión de Compensación de Trabajadores de Texas, o puede llamar al [the commission’s assigned toll-free number]."

(b) An employer who does not have workers’ compensation insurance coverage shall post the following notice in the workplace:

"[Name of employer] DOES NOT have workers’ compensation insurance coverage to protect you from damages because of work-related illness or injury. However, you may have rights under the common law of Texas.

"[Name of employer] NO ESTA cubierto por asegurania de compensacion al trabajador para su protección contra daños causados por enfermedad o lesiones relacionadas a su empleo. Sin embargo, usted puede tener derechos bajo el derecho común de Texas."

(c) The notices required by this section shall be:

(1) prominently displayed in the employer’s personnel office, if any;

(2) located about the workplace in such a way that each employee is likely to see the notice on a regular basis;

(3) printed in at least 24-point bold type; and

(4) limited to the language required by this rule; no additional language shall appear on the notices.

(d) The notice shall be revised whenever the information it contains is revised.

(e) An employer who does not comply with this section may be assessed an administrative penalty, not to exceed $500, under the Texas Workers’ Compensation Act, §3.24(f).

§110.103. Notice of Noncoverage to the Commission.

(a) Each employer who employs one or more employees and who does not have workers’ compensation insurance coverage on March 20 of each year shall notify the commission that the employer does not have workers’ compensation insurance coverage.

(b) The notice shall be in writing, on a form prescribed by the commission, and shall contain the following information:

(1) the employer’s name, business address, and federal tax identification number;

(2) a description of the employer’s business operations;

(3) the principal business location(s) of the employer’s business operation(s), and the number of employees at each location; and

(4) the name and title of the person providing the information.

(c) The notice shall be filed with the commission no later than May 15 of each year.

(d) An employer who does not comply with this section may be assessed with an administrative penalty, not to exceed $500 for each day of non-compliance, under the Texas Workers’ Compensation Act, §3.22.

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 29, 1990.

TRD-9012857
Susan M. Kelley
General Counsel
Texas Workers’ Compensation Commission

Effective date: January 1, 1991
Proposal publication date: September 7, 1990, September 21, 1990
For further information, please call: (512) 440-3973

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Chapter 132. Death Benefits—Death and Burial Benefits

28 TAC §§132.1-132.15
The Texas Workers’ Compensation Commission adopts new §§132.1-132.15. Sections 132.1-132.8 and 132.11-132.13 are adopted with changes to the proposed text as published in the August 31, 1990, issue of the Texas Register (15 TexReg 5003), including corrections made in the September 14, 1990, issue of the Texas Register (15 TexReg 5390). Sections 132.9, 132.10, 132.14, and 132.15 are adopted without changes and will not be republished.

The new sections are adopted in order to implement the death and burial benefits and autopsy sections of the Texas Workers’ Compensation Act, Article 8308, and to clarify, and describe to the persons to whom workers’ compensation death and burial benefits are paid, how those persons must demonstrate entitlement to benefits, and how long death benefits are paid.

New §132.1 provides the formula for figuring the maximum weekly amount that can be paid to the beneficiaries of a deceased employee.

New §132.2 establishes presumptions to be used to determine whether a claimant was economically dependent on a deceased employee and describes the evidence that must be presented to prove that the presumptions apply or that the claimant was dependent upon the deceased employee.

New §132.3 describes how a spouse must prove a marriage to a deceased employee and how a dispute between more than one spouse can be resolved and puts the burden on any person contesting a spouse’s claim to prove the claimant spouse abandoned the deceased spouse.

New §132.4 sets out how a person proves that he or she was a child of the deceased worker, and how a child who claims entitlement to benefits as a dependent adult child, a full-time student, or mentally or physically handicapped child proves facts to establish eligibility to receive death benefits.

New §132.5 describes how a person establishes that he or she was a dependent grandchild of a deceased worker, on the date of death, and makes clear that such a grandchild is eligible to receive benefits unless the grandchild’s parent is eligible to receive them.

New §132.6 provides for other dependent relatives to receive death benefits, including a dependent parent, sibling, stepparent, or grandparent in the absence of a surviving spouse, child or grandchild, and defines sibling to include persons who share at least one parent with the deceased employee.

New §132.7 requires a spouse who remarries to tel the commission within thirty days after the remarriage and indicates that such spouse is eligible to receive 104 weeks of death benefits after the date of remarriage. The section further requires the commission to inform a spouse who receives death benefits, about the responsibility to notify the commission.

New §132.8 explains how long a child who receives death benefits will be paid, based upon the child’s reason for being eligible for benefits.

New §132.9 explains how long death benefits will be paid to an eligible grandchild, brother, sister, parent, step-parent, or grandparent of a deceased employee.
New §132.10 establishes procedures that an insurance carrier must follow to pay benefits into the subsequent injury fund, when there are no legal beneficiaries of a deceased worker who claim benefits, and provides for reimbursement to the carrier from the fund if any beneficiaries are subsequently determined by a commission or a court order to be entitled to benefits. The new section establishes a rule that the deceased employee did not have beneficiaries if a claim for benefits is not filed within the year after the employee dies.

New §132.11 sets out how the weekly death benefit is to be divided among a deceased employee’s surviving relatives, based on their eligibility for benefits, and makes clear that a child’s share cannot be larger than his parent’s share would have been.

New §132.12 requires the redistribution of death benefits to other beneficiaries of a deceased employee — the surviving spouse’s remarriage, or the death of a beneficiary, and provides for payment of benefits to the subsequent injury fund in the event that no beneficiaries survive and 364 weeks of benefits were not paid.

New §132.13 provides the procedure for a deceased’s family to apply for a burial benefit, which is the lesser of actual cost of burial or $2,500, plus expenses for transporting the deceased’s body.

New §132.14 allows for requesting an autopsy in a claim for death benefits based on occupational disease and sets out the requirements for making such a request, by whom and when. This new section also provides for a hearing on the issue of the need for an autopsy in cases in which a dispute arises.

New §132.15 defines three terms that are referred to in determining the eligibility of certain children of a deceased employee for death benefits.

Concerning proposed §132.1, one commentator suggested that the first sentence of the proposed section should be deleted because it implied that the calculation or payment of death benefits does not begin until a claim is filed. The commission disagrees that the rule is unclear on this, and notes that the requirements for filing a claim are stated in §122.100 of this title (relating to Claim for Death Benefits), which is referenced in this rule merely for clarity. However, the commission has changed the proposed rule by deleting the first sentence of the proposed rule to the end of the rule to clarify any ambiguity. A second commenter stated that it has "no comment except reference to rules required by Rule 122.100." The commission believes this to be an indication of "no comment," in which case it has no response, or a comment similar to that noted previously, in which case the commission’s response is the same.

The Texas Trial Lawyers’ Association commented against the rule. The Texas AFL-CIO likewise had no comment or commented against the rule. No comments specifically in favor of the proposed rule were received.

Concerning §132.2, several commentators suggested that the section should add a minimum monthly time period over which an economic benefit was conferred by the deceased employee, in order for the benefit to be considered regular or recurring; the suggested time frames were between six months to a year. The commission disagrees that a minimum of proof of eligibility for benefits was on the carrier but that proof of eligibility should be on the claimant. The commission disagrees, on the basis that the burden of proof should be on the carrier or individual attempting to prove abandonment. One commentator stated that the language in subsections (a) and (c) requires proof of the termination of a marriage to the deceased employee along with the claim for benefits should be deleted, because it incorrectly implies that a surviving spouse may not be entitled to death benefits until both a claim has been filed and proof of a marital relationship submitted. The commission agrees and deletes the language "along with the claim for benefits" and inserts in its place the phrase "to the insurance carrier." One commentator suggested deleting subsections (a) and (c) as an attempt to regulate the death of a spouse decided by the courts rather than the agency. The commission disagrees, and believes the rule to be within the agency’s authority to construe and implement its statute. One commentator stated that the rule should set forth the elements of common law marriage. The commission disagrees because the elements of common law marriage are established in case law. Another commentator wrote that subsection (c) should be deleted as being needlessly specific. The commission replies that the rule is intended to be an aid to the surviving spouse probably not a legal presumption. The commission disagrees, and notes that the presumption proposed in the section is derived from the Family Code, §2.01. One commentator stated that subsection (c) should be strengthened to make it clearer. It is not clear that there could only be one surviving spouse. The commission disagrees, noting that the language of the proposed rule is adequate to address the concern, as the Family Code does not allow a person to have more than one spouse at a time.

One commentator stated that subsection (b) of the section should clarify when a deceased employee has "caused or agreed to" a separation so that the separation would not constitute abandonment. The commission disagrees, another commentator suggested the following definition as a substitute for a determination of whether a spouse “caused or agreed to" a separation: "The surviving spouse shall be deemed to have abandoned the employee if the surviving spouse and the employee had not been living in the same household for more than one year preceding the employee’s death unless the spouse is: i) hospitalized, ii) institutionalized due to workplace injury, or iii) institutionalized due to career choices, military duty, or other reasons where it is established their separation is not due to the pending break-up of the marriage." In response to both comments, the commission agrees to delete the second and third sentences of the proposed subsection (b), and incorporates in its place the language suggested by the second commenter. Finally, one commentator noted that the published language "present" in subsection (c) should be "presents." The commission agrees and has incorporated the change.

The Texas Association of Compensation Consumers, Texas Trial Lawyers Association, American Insurance Association, Texas AFL-CIO, Alliance of American Insurers, Southwestern Bell Telephone, and Texas Association of Business offered comments against the section as proposed. No comments specifically in favor of the proposed rule were received.

Concerning new §132.3, one commentator stated that the section should be amended to limit the possibility that a person who is technically a spouse, although a divorce is pending, can receive benefits. The commission disagrees, finding no statutory basis to support such a change, because a spouse may assert eligibility to benefits and such a person would still be a spouse. The same commentator stated, for subsection (b), that the burden of proof of eligibility for benefits was on the carrier but that proof of eligibility should be on the claimant. The commission disagrees, on the basis that the
deceased employee be submitted both to the commission and the carrier during the 60-day period during which the carrier can contest the claim. The commission agrees, and adds the phrase "to the carrier and along with the claim." The next phrase of the first sentence of subsection (b). Two technical errors were pointed out by this same commenter in subsection (d): "married to the claimants parents" should read "married to a parent of the claimant," and the use of "and" in subsection (c) should refer to the title of that section: "Determination of Facts of Dependence Status." The commission agrees but notes that these corrections were made in the September 14 issue of the Texas Register. The same commenter stated that subsection (b) should require the submission of proof of enrollment in school at least once every two semesters to ensure continued eligibility. The commission disagrees with the need for the change since §132.8 as proposed permits the insurance carrier to request proof that a child is enrolled in school to ensure continued eligibility to receive benefits, and provides penalties for fraudulently receiving benefits and failing to disclose facts of ineligibility. The same commenter pointed out that the statutory cite in subsection (g)(1) should be to §442.40. This error was corrected in the September 14 edition of the Texas Register. The same commenter suggested amending subsection (g)(1) by adding the phrase "in addition to establishing dependent status" at the beginning of the last sentence in the subsection, or by adding the word "also" between "child" and "shall" in that sentence. The commission agrees with the latter suggestion and incorporates the suggested word in the suggested place. Another commenter stated that the proposed section created hoop for death benefits to jump through, and attempted to increase money being paid to the subsequent injury fund. The commission disagrees that this is the effect of the rule, and believes that the proposed language gives direction to claimants and speeds up delivery of benefits. Texas AFL-CIO and Texas Association of Compensation Consumers commented against the rule as proposed. No comments specifically in favor of the proposed rule were received.

Concerning §132.5, one commenter stated that because subsection (b) of the rule did not specify to whom the proof of relationship to the deceased employee should be submitted (nor the consequences of failing to submit the proof in time for the carrier to make a decision to pay or contest the claim), the rule should be amended to require that this proof be submitted to both the commission and the carrier at the time the carrier finds it can contest the claim. The commission agrees, and amended the section by adding the phrase "to the carrier or along with a claim for death benefits," at the end of the first sentence of section (b). Another commenter suggested that the dependency status should depend not on the status of the beneficiary on the day of the injured worker's death, but for longer period over the past. The commission disagrees, and notes that as the interpretation of the indicates that eligibility of a dependent grandchild to death benefits is measured by status on date of death; comparable statutory provision for dependent children fixes dependent status "at time of death." The same commenter felt that subsection (b) should be deleted as it creates another hoop for minors to jump through in order to obtain benefits, and, further that the statute does not require dependency for a grandchild to receive benefits. The commission disagrees, as the Texas Workers' Compensation Act (the Act), §442.41(9), clearly requires dependency of a grandchild as a qualification of eligibility for death benefits. Another commenter stated that the class of survivors to whom death benefits could be paid was too broad and should be limited only to the spouse, children, and parents if they are totally dependent on the deceased. The commission disagrees and responds that the statute, not just the proposed section, provides for payment of benefits to grandchildren. The Texas Association of Compensation Consumers, Texas AFL-CIO, and Proctor and Gamble commented against the proposed rule. No comments specifically in favor of the proposed rule were received.

Concerning new §132.6, one commenter noted that subsection (b) of the proposed section does not specify to whom the proof of the relationship must be presented, nor the consequences of failing to submit proof of a claim for a day or contest the claim. The commenter suggested that the rule be amended to require that the proof be submitted to the commission and the carrier within the 60-day period in which the carrier can contest a claim. The commission agrees and amends the section by adding the phrase "to the carrier or along with a claim for death benefits." at the end of the last sentence in subsection (b). The same commenter noted that subsection (a) should include a comma between spouse and child; the commission agrees and notes that this was already corrected in the September 14 edition of the Texas Register. Another commenter considered that the beneficiary's dependency status should depend not on the dependency on the day of death, but on a longer period of the past. The commission disagrees, and believes that the intent of the statute is that eligibility for death benefits accrues based on the relationship of the beneficiary and the injured employee on the date of death. The same commenter stated that subsection (b) should be deleted as no reason was given. The commission disagrees and responds that the section provides directions to claimants and carriers on establishing proof of entitlement to benefits, and authors the dependency status. The commenter suggested that the child of a dependent stepparent should also be included among eligible beneficiaries. The commission disagrees because the statute does not allow inclusion of stepchildren. Another commenter considered that the class of possible beneficiaries was too large and should be limited to the spouse, children, and parents if totally dependent on the deceased. The commission disagrees and responds that the statute, not just the proposed section, provides for payment of benefits to parents and certain other relatives.

The Texas Association of Compensation Consumers, Texas AFL-CIO, and Proctor and Gamble commented against the rule. The commission agrees, and amends subsection (c) to make clear that the dependent status must be a result of the handicap by adding the phrase "because of the handicap" at the end of subsection (d). One commenter suggested that in subsection (d) to make clear that the dependent status must be a result of the handicap by adding the phrase "because of the handicap" at the end of subsection (c). Another commenter felt that a spouse receiving benefits should be given notice by the commission of his or her obligation to notify the commission of a remarriage. The commission agrees and adds the phrase "and the date of remarriage at the end of subsection (c). Another commenter felt that the word "knowingly" should be inserted in subsection (e), otherwise the rule would be ineffective to trigger the penalty provisions of the Act. The commission disagrees and amends subsection (c) by adding the word "knowingly," just before the word "accepts," so that the phrase reads: "an eligible spouse who knowingly accepts." The Texas Association of Compensation Consumers, Texas Trial Lawyers Association, Texas AFL-CIO, Alliance of American Insurers, Southwest Bell Telephone, and Texas Association of Business commented against the rule. No comments specifically in favor of the proposed rule were received.

Concerning new §132.8, one commenter stated that subsection (a) should be amended to make a minor ineligible to receive benefits upon marriage or other emancipation. The commission disagrees, because the statute provides for payment of benefits to minors until they reach 18, without the limitations as the commenter suggests. The same commenter considered that subsection (b)(1) was unclear as to whether the phrase "consecutive semesters" included both regular and summer semesters, and suggested that the rule be amended to clarify whether summer semesters would be considered as "consecutive." The commission agrees with the need for clarification, and amends the section by inserting the parenthetical phrase "(excluding summer semesters)" in subsection (b)(1). One commenter inquired whether the new section allows for requalification if a child drops out of school for two semesters, which the commission believes indicates disagreement with the proposed section. The commission considers that the statute does not provide for requalification of ineligible beneficiaries, and disagrees with including this in the proposed section. Two commentators considered that subsection (d) conflicted with the Act, §442.41(9)(C), which indicates that a child is eligible for death benefits if he or she was dependent on a deceased employee because of a mental or physical handicap, while the proposed section only indicates that a child is "in a hospital" when the rule is applied. No comments specifically in favor of the proposed rule were received.

Concerning new §132.7, two commenters noted an error in subsection (a): the word "update" should be "date," in the phrase "until the date of the spouse's death." The commission agrees, but notes that this error was already corrected in the Texas Register edition of September 14, 1990. Three commenters felt that subsection (b) of the section should include the elements of common law marriage. The commission disagrees, because the elements of common law marriage are found in case law. One commenter stated that subsection (c) should be amended to require the notice of remarriage should contain the date of the remarriage. The commission agrees and adds the phrase "and the date of remarriage at the end of subsection (c). Another commenter felt that a spouse receiving benefits should be given notice by the commission of his or her obligation to notify the commission of a remarriage. The commission agrees and adds the phrase "and the date of remarriage at the end of subsection (c). Another commenter felt that the word "knowingly" should be inserted in subsection (e), otherwise the rule would be ineffective to trigger the penalty provisions of the Act. The commission disagrees and amends subsection (c) by adding the word "knowingly," just before the word "accepts," so that the phrase reads: "an eligible spouse who knowingly accepts." The Texas Association of Compensation Consumers, Texas Trial Lawyers Association, Texas AFL-CIO, Alliance of American Insurers, Southwest Bell Telephone, and Texas Association of Business commented against the rule. No comments specifically in favor of the proposed rule were received.

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(g) the word "knowingly" should be added in the phrase "who fails to disclose the facts of ineligibility to the carrier or the commission," as the rule as proposed would otherwise be ineffective to trigger the penalty provisions of §10.04. The commission agrees and has added the word "knowingly" to the second clause of the first sentence.

The Texas Association of Compensation Consumers, Texas AFL-CIO, Texas Trial Lawyers' Association, and the Texas Association of Business and Alliance of American Insurers commented against the rule. No comments specifically in favor of the proposed rule were received.

Concerning new §132.9, one commenter felt that subsection (a) of the section should be amended to make ineligible a minor grandchild who marries or otherwise becomes emancipated. The commission disagreed and notes that the change would not be supported by the statute if payment of benefits until age 18. Another commenter felt that statute merely rewrote the statute, and indicated it was therefore unnecessary. The commission disagrees, and believes that the new rule clarifies the duration of benefits paid to grandchild dependents. The Texas Association of Compensation Consumers and the Texas AFL-CIO commented against the rule. No comments specifically in favor of the proposed rule were received.

Concerning new §132.10, one commenter felt that the rule was simply a rewritten version of the statute and indicated that the rule was unnecessary. The commission disagrees, and believes that the section clarifies duties with respect to payments into the second injury fund (SIF). Another commenter felt that it was wrong to fund the second injury fund with payments of unused death benefits, suggesting instead that the second injury fund should be funded through a percent of temporary total disability claims, and that for those with no surviving eligible dependents, a lump sum of $10,000 could be paid to the state by the employer for funding it. The commission disagrees that this should change the rule, because the funding of the subsequent injury fund is established by statute. Texas AFL-CIO and Proctor and Gamble commented against the rule. No comments specifically in favor of the rule were received.

Concerning new §132.11, one commenter felt that the rule was unclear whether the word "eligible," the fourth word in subsection (a), applied to both children and grandchildren, or just to children; the commenter suggested clarifying the section by adding the word "eligible" before the word "grandchildren." The commission agreed and incorporated the suggested change.

Another commenter felt that a nominal sum should be available for vocational rehabilitation for the spouse of a deceased employee. The commenter disagrees with incorporating this suggestion because the statute provides only for the payment of weekly death benefits to the eligible spouse of the deceased employee, and not for any other funds. Comments against the rule were received from the Texas Association of Compensation Consumers and Proctor and Gamble. No comments specifically in favor of the rule were received.

Concerning new §132.12, one commenter suggested that subsection (a) of the rule was unclear as to whether redistributed death benefits go to beneficiaries eligible at the time of death. The commenter offered that the phrase of death or ineligibility of a legal beneficiary. The commenter suggested that the rule be amended by adding the phrase "eligible to receive death benefits at the time of death of the employee," at the end of subsection (a). The commission agrees and has incorporated the suggested change.

Two commenters noted that subsection (b) conflicted with the distribution system established in §132.11 of this title (concerning Distribution of Death Benefits), in that the rule stated that redistributed benefits are divided equally among remaining beneficiaries, with no provision for per stripes distribution to grandchildren as set forth in §132.11. The commission agrees and amends the section by deleting the language "by dividing the weekly death benefit originally paid to the spouse by the number of remaining legal beneficiaries" after "recalculated" in the last sentence of subsection (b), and replacing it with the phrase "as provided in §132.11." The Texas Association of Compensation Consumers, Alliance of American Insurers, and Texas Association of Business commented against the proposed section. No comments specifically in favor of the section were received.

Concerning new §132.13, one commenter felt the rule should be amended by adding the words "city or county of" between "place of employer died" and "the employee's usual place of employment" in the last sentence of subsection (c). The commission disagrees, as the rule provides for payment of transportation to transport the body of a deceased employee from the place of death to usual place of employment, and does not require that the employee actually be transported to the usual place of employment.

Another commenter felt that the last sentence of subsection (a) should be eliminated because the law does not require funeral or burial expenses to be included with benefits paid to an insurance carrier within 12 months of the date of death of the employee. According to this commenter, the claims of minors and incompetents might not be filed during that 12-month period, and the carrier should not be relieved of liability for burial benefits. The commission disagrees, noting that minors and incompetents cannot legally incur these liabilities, and, thus, the situation described will not arise; the 12-month deadline parallels the time period provided in the statute for filing a death benefits claim.

Along the same line, another commenter stated that the second sentence of subsection (a) exceeded the statute. The commission disagrees, and believes that the rule parallels the requirements that a claim for death benefits be filed in one year. Another commenter noted that in subsection (c), the word "of" should be "for," and that in subsection (d) the word "death" should be "burial." The commission agrees with both of these suggestions and incorporated them into the section. Comments against the rule were received from the Texas Association of Compensation Consumers, the Texas Trial Lawyers Association, Texas AFL-CIO, and Southwestern Bell. No comments specifically in favor of the rule were received.

Concerning new §132.14, one commenter stated that the rule should be expanded to allow the employer to request an autopsy. The commission disagrees, and believes that the restriction in the rule limiting requests for autopsies to carriers and legal beneficiaries is reasonable and within the agency's discretion. Comment against the rule was received from the Texas Association of Business. No comment specifically in favor of the rule was received.

Concerning new §132.15, one commenter felt that the definition of semester was not clear as to whether both regular and summer semesters were included. The commission disagrees with amending this rule, but believes that this problem was adequately dealt with in the response to the same comment on §192.8. (concerning Duration of Death Benefits for an Eligible Child), in which the commission agreed to clarify that rule in response to the same comment.

The sections are adopted under the Act, Article 8308, §20.09(a), which provides the Texas Workers' Compensation Commission with the authority to adopt rules as necessary for the implementation and enforcement of the Act, Article 8308.

§132.1. Calculation of Death Benefits. Death benefits shall be computed by multiplying the employee's average weekly wage by .75. The amount paid shall not exceed 100% of the state average weekly wage as determined by the Texas Workers' Compensation Commission and in effect on the date of injury. A claim for death benefits shall be filed as required by §122.100 of this title (relating to claim for Death Benefits).

§132.2. Determination of Facts of Dependent Status.

(a) This section applies to a person who claims death benefits as a dependent of the deceased employee.

(b) A benefit which flowed from a deceased employee, at the time of death, on an established basis in at least monthly intervals to the person claiming to be dependent, is presumed to be a regular or recurring economic benefit. This presumption may be overcome by credible evidence. The burden is on the claimant to prove that benefits, which flowed less frequently than once a month, were regular or recurring at the time of the employee's death.

(c) It shall be presumed that an economic benefit, whose value was equal to or greater than 20% of the person's net resources in the period (see subsection (d) of this section) for which the benefit was paid, is an economic benefit which contributed substantially to the person's welfare and livelihood. This presumption may be overcome by credible evidence. The burden is on the claimant to prove that benefits whose value was less than 20% of the person's net resources contributed significantly to the

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person's welfare and livelihood.

(d) Net resources for the purpose of subsection (b) of this section are 100% of all wage and salary income and all other income including non-pecuniary income and all income of the individual's spouse, less 100% of social security taxes and federal income tax withholding.

(e) The person claiming to be a dependent shall furnish sufficient information to enable the commission to accurately identify the net resources and to establish the existence of the economic benefit claimed. This information may include, but is not limited to, tax returns, a financial statement of the individual, and check stubs.

(f) If an economic benefit was provided in the form of goods and services, the value shall be the market value of the same or similar goods and services in the same vicinity.

§132.3. Eligibility of Spouse to Receive Death Benefits.

(a) The surviving spouse is entitled to receive death benefits, unless subsection (b) of this section applies. The surviving spouse shall submit a certified copy of the marriage license, or satisfactory evidence of common-law marriage to the deceased employee, to the insurance carrier.

(b) A surviving spouse who aban- doned the employee, without good cause for more than one year immediately preceding the death, shall be ineligible to receive death benefits. The surviving spouse shall be deemed to have abandoned the employee if the surviving spouse and the employee had not been living in the same household for more than one year preceding the employee's death unless the spouse is:

(1) hospitalized;

(2) in a nursing home; or

(3) living apart due to career choices, military duty, or other reasons where it is established their separation is not due to the pending break-up of the marriage. The burden is on a person who opposes the claim of a surviving spouse to prove the spouse abandoned the deceased employee.

(c) If more than one person claims to be the surviving spouse of the deceased employee, the commission shall presume the most recent spouse is the surviving spouse. This presumption may be rebutted by an individual who presents proof of a prior valid marriage to the deceased employee.

§132.4. Eligibility of a Child to Receive Death Benefits.

(a) A child eligible for death benefits is the son or daughter of a deceased employee, including an adoptive child, and including a dependent stepchild, who meets any of the conditions set out in the Texas Workers' Compensation Act (the Act), §42(g)(2).

(b) A person claiming benefits as the biological or adoptive son or daughter of a deceased employee shall submit proof of relationship to the deceased employee to the carrier or along with the claim for death benefits. The claimant shall submit a certified copy of the claimant's birth certificate or decree of adoption. If these documents do not exist, the claimant shall submit other proof of relationship, such as baptismal records, court orders establishing paternity, voluntary admissions of paternity, or affidavits of persons who have personal knowledge of the relationship to the deceased employee. In addition, the claimant must present evidence of dependent status on the deceased employee as defined by §132.2 of this title (relating to Determination of Facts of Dependent Status).

(c) If there are two parents listed on the claimant's birth certificate, but deceased employee is not listed, the claimant is presumed to be the child of the parents actually named and is presumed not eligible to receive death benefits. The presumption may be rebutted by credible evidence.

(d) A person claiming benefits as the dependent stepchild of the deceased employee shall prove that the employee was married to a parent of the claimant, and must also establish dependent status as set out in §132.2 of this title (relating to Determination of Facts of Dependent Status).

(e) A child under 18 years of age, who is married or has been emancipated from the disabilities of minority at the time of the employee's death, shall not be eligible to receive benefits as a minor under the Act, §42(g)(2)(A).

(f) A child who is a full-time student at the time of the employee's death and is less than 25 years old shall submit evidence of enrollment at an accredited educational institution. A child shall only be considered a full-time student if the child meets the educational institution's requirements for a full-time student in the child's course of study.

(g) An adult child claiming eligibility to receive benefits under the Act, §42(g)(2), shall be required to establish dependent status as set out in §132.2 of this title (relating to Determination of Facts of Dependent Status). A physically or mentally handicapped child also shall submit medical evidence of the handicap.

§132.5. Eligibility of a Grandchild to Receive Death Benefits.

(a) A grandchild who was dependent on the deceased employee on the day of death shall be entitled to receive death benefits, unless the grandchild's own parent is eligible for benefits.

(b) A person claiming to be an eligible grandchild shall submit proof of the relationship to the deceased employee to the carrier or along with the claim for death benefits. The claimant shall submit a certified copy of the claimant's birth certificate or decree of adoption, and a certified copy of the birth certificate or decree of adoption of the parent who was a child of the deceased employee. If these documents do not exist, the claimant shall submit other proof of relationship, such as baptismal records, court orders establishing paternity, voluntary admissions of paternity, or affidavits of persons who have personal knowledge of the relationship to the deceased employee. In addition, the claimant must present evidence of dependent status on the deceased employee as defined by §132.2 of this title (relating to Determination of Facts of Dependent Status).

§132.6. Eligibility of Other Surviving Dependents to Receive Death Benefits.

(a) A parent, stepparent, sibling, or grandparent of a deceased employee who was dependent on the employee on the day of death is entitled to receive death benefits, only if there is no eligible spouse, child, or grandchild.

(b) A person claiming to be an eligible beneficiary under the Texas Workers' Compensation Act, §42(e), is required to present proof of the relationship to the deceased employee to the carrier or along with the claim for death benefits. The evidence presented as proof of a relationship shall include certified copies of applicable birth certificates, or decrees of adoption, or proof of marriage. If these documents do not exist, the claimant shall submit other proof of relationship, such as baptismal records, court orders establishing paternity, voluntary admissions of paternity, or affidavits of persons who have personal knowledge of the relationship to the deceased employee. In addition, the claimant shall submit evidence of dependence on the deceased employee as defined in §132.2 of this title (relating to Determination of Facts of Dependent Status).

(c) The term "Sibling" means a brother or sister who shares at least one parent, through birth or adoption, with the deceased employee.

§132.7. Duration of Death Benefits For Eligible Spouse.

(a) A spouse who is determined eligible for death benefits is entitled to receive benefits until the date of the spouse's death or until remarriage. The carrier shall notify the eligible spouse of the requirements of this section within 60 days of initiating benefits to that spouse.

(b) An eligible spouse who enters into a ceremonial or common law marriage is entitled to receive a lump-sum payment of 104 weeks of death benefits.

(c) An eligible spouse shall notify the commission and the carrier in writing within 30 days of the date of remarriage. The notice shall include the name and social security number of the deceased em-
employee, the date of death, the workers' compensation claim file number, and the date of remarriage.

(d) The amount of the lump-sum payment shall be calculated by multiplying the amount paid to the spouse the week prior to the remarriage by 104. If the carrier paid any weekly benefits to the eligible spouse after the remarriage, the total amount of such payments shall be deducted from the amount of the commuted payment.

(e) An eligible spouse who knowingly accepts death benefits after remarriage in excess of the amount allowed by this section, and who does not notify the commission or the carrier of remarriage, may be subject to administrative penalties under the Texas Workers' Compensation Act, §10.04.

§132.8. Duration of Death Benefits For An Eligible Child.

(a) A child, who is eligible to receive death benefits because the child is a minor on the date of the employee's death, is entitled to receive benefits until the date on which the child turns 18. However, if the child is enrolled as a full-time student in an accredited educational institution on that date, benefits continue as described in subsection (b) of this section.

(b) A child, who is eligible to receive death benefits as a full-time student in an accredited educational institution on the date of the employee's death or on the child's 18th birthday, is entitled to receive benefits until the earliest of:

(1) the date on which the child ceases, for the second consecutive semester (excluding summer semesters), to be enrolled as a full-time student;
(2) the date on which the child turns 25; or
(3) the date on which the child dies.

(c) The insurance carrier may request proof that a child eligible for benefits is enrolled as a full-time student in an accredited educational institution; the child shall furnish such proof within 20 days of receiving such request.

(d) A child, who is eligible to receive death benefits because the child had a mental or physical handicap and was dependent on the employee because of the handicap on the date of the employee's death, is entitled to receive benefits until the earlier of:

(1) the date on which the child is no longer handicapped; or
(2) the date on which the child dies.

(e) Once each year, the insurance carrier may request proof that a child eligible under subsection (d) of this section is still mentally or physically handicapped.

The carrier shall pay all reasonable medical and travel related expenses incurred in obtaining the requested proof.

(f) A child, who is otherwise eligible to receive benefits because the child was dependent on the employee on the date of the employee's death, is entitled to receive benefits until the earlier of:

(1) the date on which the child dies; or
(2) the expiration of 364 weeks of death benefit payments.

(g) A person who knowingly or intentionally continues to receive benefits as an eligible child or on behalf of an eligible child when the person is no longer entitled to receive them, or who knowingly fails to disclose the facts of ineligibility to the carrier or the commission, may be assessed administrative penalties under the Texas Workers' Compensation Act, §10.04.

§132.11. Distribution of Death Benefits.

(a) All of the death benefits shall be paid to the eligible spouse if the deceased employee had no eligible children or eligible grandchildren.

(b) Death benefits shall be paid in equal shares to each eligible child per capita and to each eligible grandchild per stripe if there is no eligible spouse.

(c) If there is an eligible spouse and an eligible child or eligible grandchild, half of the death benefits shall be paid to the eligible spouse. The remaining half shall be paid:

(1) if there are no eligible grandchildren, in equal shares to the eligible children;
(2) if there are no eligible children, per stripes to the eligible grandchildren; or
(3) if there are eligible children and eligible grandchildren, the eligible children shall be paid equal shares per capita and the eligible grandchildren shall be paid per stripes.

(d) If there is no eligible spouse, child, or grandchild, the death benefits shall be paid in equal shares to any other eligible beneficiaries. The amount to be paid to each shall be calculated by dividing the weekly death benefit by the number of eligible beneficiaries.

(e) If the deceased employee has no legal beneficiaries as defined by the rules and the Texas Workers' Compensation Act, the death benefits shall be paid to the subsequent injury fund, as set out in §132.10 of this title (relating to Payment of Death Benefits to the Subsequent Injury Fund).

(f) The term "per stripe" means that the grandchildren shall be entitled to share in only the amount of benefits that the parent of those grandchildren would have received had the parent been alive or otherwise eligible to receive death benefits.


(a) Death benefits shall be redistributed if a legal beneficiary dies or becomes ineligible to receive benefits. The benefits shall be redistributed to the remaining legal beneficiaries eligible to receive death benefits at the time of death of the employee.

(b) If an eligible spouse becomes disqualified from continued payment of death benefits because of remarriage, the amount of benefits paid to each remaining legal beneficiary shall remain the same for 104 weeks. At the expiration of 104 weeks, the amount of benefits paid to each remaining legal beneficiary shall be recalculated as provided in §132.11 of this title (relating to Distribution of Death Benefits).

(c) If 364 weeks of death benefit payments have not been paid and the only remaining legal beneficiary is the subsequent injury fund, the insurance carrier shall pay any remaining amounts to the subsequent injury fund in accordance with §132.10 of this title (relating to Payment of Death Benefits to the Subsequent Injury Fund).

(d) In no case shall the insurance carrier pay an amount less than the weekly death benefit multiplied by 364, taking into consideration the discount rate set out in the Texas Workers' Compensation Act, §1.04, for a commuted payment to the subsequent injury fund in subsection (c) of this section.


(a) When an employee has died as the result of a compensable injury, a person claiming burial benefits shall file a request for payment of burial benefits and the bills showing the amount of burial and transportation costs incurred. The request and the documentation shall be filed with the insurance carrier within 12 months of the date of death of the employee.

(b) The person who incurred liability for the costs of burial is entitled to receive the lesser of:

(1) the actual costs incurred for reasonable burial expenses; or
(2) $2,500.

(c) The person who incurred liability for the costs of transporting the body of the employee is entitled to be reimbursed for the reasonable cost of transportation if the employee died away from the usual place of employment. The insurance carrier's liability for transportation costs under this subsection shall not exceed the cost equivalent to transporting the body from the place the employee died to the employee's usual place of employment.

(d) The insurance carrier shall review each claim for burial benefits. The insurance carrier must either pay or deny the claim within seven days of the date the
claim was received by the carrier. If the claim is denied, the insurance carrier must notify the person claiming burial benefits and the commission in writing of its denial and the facts supporting the denial.

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 29, 1990.

TRD-9012859  Susan M. Kelley
General Counsel
Texas Workers' Compensation Commission

Effective date: January 1, 1991
Proposal publication date: August 31, 1990
For further information, please call: (512) 440-3973

Chapter 156. Representation of Parties Before the Agency-Carrier's Austin Representative

• 28 TAC §156.1
The Texas Workers' Compensation Commission adopts new §156.1, with changes to the proposed text as published in the September 7, 1990, issue of the Texas Register (15 TexReg 5096).

The new section is necessary in order to implement the provisions of the new Workers' Compensation Commission Act, Article 8308, relating to an Austin representative for carriers for representation before the commission. The commission finds that, for various notices which must be given to carriers, there is a substantial savings in postage released from direct delivery to Austin representatives. Also, there is an advantage in processing several claims at one reliable person is the contact for the carrier.

The new section requires insurance carriers of workers' compensation insurance to appoint a person in Austin to give and receive notice to the commission relating to workers' compensation claims.

Several comments against the new section as proposed were received. No comments specifically in favor of the new section as proposed were received. One commenter stated that as self-insurance becomes more common, this new rule would be inappropriate, though no specific change to the rule as proposed was requested. Another commenter stated it was not justifiable that one individual should be used by the carrier to file documents with the commission. The commission agrees, and deletes the final phrase in subsection (a) requiring that one person file required information with the commission.

The same commenter stated that the 30-day requirement should be deleted, or some allowance for an extension based on good cause be allowed. The commission disagrees on the basis that 30 days' notice is needed by the commission to adjust its records. Another commenter stated that the Austin representative requirement was unrealistic for a small business that exercised the self-insurance option, and pointed out that, though the rule cited no economic cost would be incurred by persons required to comply, there is in fact a fee charged by such representatives for receiving notices and filing information. The commission disagrees; the rule does not create additional cost or change to current law, and there is considerable benefit to having self-insurers have Austin representatives.

Comments against the new section as proposed were received from Proctor and Gamble, American Insurance Association, and Memorial Hospital.

The new section is adopted under the Texas Workers' Compensation Act, Article 8308, §3.30 which provides the Texas Workers' Compensation Commission with the authority to require by rule that an insurance carrier designate a person in Austin, Travis County as a representative to act as the insurance carrier's agent before the commission in Austin and to impose penalties for noncompliance.

§156.1. Carrier's Austin Representative.

(a) Each insurance carrier shall designate a person in Austin, Travis County, Texas as its representative to the commission, to act as agent for receiving notice from the commission.

(b) The designation required by this section shall be in writing, delivered to the commission at its Austin office, and contain the representative's name, address, and telephone number.

(c) Any notice from the commission, sent to the designated representative's Austin address, is notice from the commission to the insurance carrier.

(d) A person designated under this section continues as agent for the insurance carrier until 30 days after the commission receives notice that the insurance carrier designates another representative.

(e) An insurance carrier that fails to comply with this rule may be assessed an administrative penalty not to exceed $1,000 for each day of noncompliance.

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 29, 1990.

TRD-9012858  Susan M. Kelley
General Counsel
Texas Workers' Compensation Commission

Effective date: January 1, 1991
Proposal publication date: September 7, 1990
For further information, please call: (512) 440-3973

TITLE 34. PUBLIC FINANCE
Part I. Comptroller of Public Accounts
Chapter 3. Tax Administration
Subchapter O. State Sales and Use Tax

• 34 TAC §3.346
The Comptroller of Public Accounts adopts an amendment to §3.346, without changes to the proposed text as published in the September 28, 1990, issue of the Texas Register (15 TexReg 5667).

The amendment implements recent legislation and follows a decision in which the United States Supreme Court upheld use tax assessed by the State of Louisiana against a purchaser doing business in Louisiana on purchases of catalogs that were shipped from outside Louisiana to Louisiana residents. The court held that the purchaser had sufficient business presence in Louisiana to warrant the tax assessment and the assessment did not violate the commerce clause of the federal constitution.

Several comments were received regarding adoption of the amendment. One of these was that the Louisiana tax statute actually contains the word "distribution" in its definition of "use." While the Texas statute does not include the term, the Comptroller is of the opinion that the wording of the Tax Code, §151.101 ("storage, use, or other consumption"), is sufficient to cover the distribution of materials to a third party as in the Louisiana case.

A comment was also received concerning the wording of subsection (b)(3)(B) of this section. It was suggested that "some physical presence" be changed to "substantial nexus" or "significant economic presence." At this time, the Comptroller prefers not to incorporate the more restrictive terms in the section.

The amendment is adopted under the Tax Code, §111.002, which provides the Comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 30, 1990.

TRD-9012861  Bob Bullock
Comptroller of Public Accounts

Effective date: December 21, 1990
Proposal publication date: September 28, 1990
For further information, please call: (512) 463-4004
TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
Chapter 3. Income Assistance Services
Subchapter J. Budgeting

- 40 TAC §3.1003

The Texas Department of Human Services (DHS) adopts an amendment to §3. 1003, without changes to the proposed text as published in the October 26, 1990, issue of the Texas Register (15 TexReg 6183).

The purpose for the amendment is to clarify that dependent care deductions are only allowed for dependents who are receiving AFDC.

The justification for the amendment is to comply with federal requirements.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 31, which provides the department with the authority to administer public assistance programs.

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

Issued in Austin, Texas, on November 29, 1990.

TRD-9012933 Nancy Murphy
Agency Liaison, Policy and Document Support
Texas Department of Human Services

Effective date: January 1, 1991
Proposal publication date: October 26, 1990
For further information, please call: (512) 450-3765

Chapter 72. Memoranda of Understanding with Other State Agencies
Memorandum of Agreement Concerning the Texas Department on Aging Options for Independent Living Program

- 40 TAC §72.2001

The Texas Department of Human Services (DHS) adopts new §72.2001, without changes to the proposed text as published in the October 26, 1990, issue of the Texas Register (15 TexReg 6184).

The justification for the new section is to help elderly persons remain at home despite limited self-care capacities, through provision of short-term support services for the purposes of restoring functional capacities after illness or hospitalization, and educating and preparing elderly persons and their caregivers to provide self-care.

The section will function by ensuring that clients receive services to which they are entitled and that services be provided efficiently.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical 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 29, 1990.

TRD-9012933 Nancy Murphy
Agency Liaison, Policy and Document Support
Texas Department of Human Services

Effective date: January 1, 1991
Proposal publication date: October 26, 1990
For further information, please call: (512) 450-3765

Chapter 48. Community Care for Aged and Disabled
Waiver Program for Medically Dependent Children

- 40 TAC §48.2501

The Texas Department of Human Services adopts an amendment to §48.2501, without changes to the proposed text as published in the October 26, 1990, issue of the Texas Register (15 TexReg 6183).

The amendment is justified because more children will receive services due to the higher ceiling for participation.

The amendment will function by establishing a minimum of four hours per five-day workweek of nursing service and allowing the department to serve as many as 250 medically dependent children at any one time. The amendment will also function by deleting information about copayment after all allowable expenses have been deducted.

The department received no comments regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which the department with the authority to administer public and medical 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 December 3, 1990.
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 has adopted a filing submitted by the Insurance Services Office, Inc. (ISO) of revised rates for Commercial Glass Insurance, Division Five, Commercial Lines Manual.

In accordance with the provisions of the Insurance Code, Article 5.97, a text of the proposed filing has been filed in the office of the Chief Clerk of the State Board of Insurance. The proposed filing has been available for public inspection for 15 days and a public hearing was not requested by any party.

The State Board of Insurance has adopted a 19.4% decrease in the territorial multipliers used to rate commercial glass insurance. The proposed rate level changes are based on a review of the latest five years of experience available, through calendar-accident year 1988, from all companies reporting data to the ISO.

The revised schedule of Territorial Multipliers is as follows: Austin, Classes A-D, 1.72; Class E, 0.86; Waco, Classes A-D, 1.66; Class E, 0.83; Territory 098; Classes A-D, 2.20; Class E, 1.10; Territory 099, Classes A-D, 2.45; Class E, 1.23; and the Remainder of State, Classes A-D, 2.71; Class E, 1.36.

This revision becomes effective April 1, 1991, under the following rule of application: These changes are applicable to all policies effective on or after April 1, 1991. No policy effective prior to April 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 30, 1990.

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: November 30, 1990
For further information, please call: (512) 463-8327

* Adopted Sections December 7, 1990 15 TexReg 7031
Name: Joan P. Montelongo
Grade: 11
School: Del Rio High School, San Felipe Del Rio CISD
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 on Aging
Thursday, December 13, 1990, 10 a.m.
The Texas Board on Aging and State Citizens Advisory Council Joint Meeting of the Texas Department on Aging will meet at the Holiday Inn-Town Lake, 20 North IH-35, Sunflower and Marigold Rooms, Austin. According to the agenda summary, the council will approve minutes, call to order of CAC; approve minutes of CAC; receive public testimony; briefing on ACTION; report on the silver haired legislature; report on federal allocations and TDAA’s LAR; appointment of Ark-Tex AAA’s CAC member; white house conference on aging; program reports to include: Christmas in April, Texas energy and aging consortium, using VISTA volunteers, senior citizens literacy program; adoption of memorandum of agreement with Texas Department of Human Services, adoption of eldercare policies, approval of homemaker I and II standards for publication, approval of area plan amendment; report on progress reviews, award of funds and contract to McLennan Community College/Heart of Texas RSVP; report from North Central Texas AAA; report on housing initiatives; and general announcements.

Contact: Polly Sowell, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.
Filed: December 3, 1990, 12:27 p.m.
TRD-9012849

Texas Department of Agriculture
Thursday, December 13, 1990, 10:30 a.m.
The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et seq. by Patillo Produce, Inc. as petitioned by Jerry Estopy.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.
Filed: November 29, 1990, 10:47 a.m.
TRD-9012782

THURSDAY, DECEMBER 13, 1990, 1:30 P.M.
The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will hold an administrative hearing to review alleged violations of Texas Administrative Code, Title IV, §7.22(a) and §7.18(a) by John W. Houston doing business as South Texas Duster Service holder of commercial applicator license.

Contact: Chris Hanger, P.O. Box 12847, Austin, Texas 78711, (512) 463-7703
Filed: November 29, 1990, 10:46 a.m.
TRD-90102781

Monday, December 17, 1990, 1 p.m.
The Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress, Stephen F. Austin Building, Ninth Floor Conference Room, Austin. According to the complete agenda, the department will hold a public hearing to take public comment regarding proposed amendments to the department’s pesticide regulations (Texas Administrative Code, Title IV, Chapter 7) concerning license requirements for the use of the livestock protection collar.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583
Filed: November 29, 1990, 10:46 a.m.
TRD-9012780

Tuesday, December 18, 1990, 1 p.m.
The Texas Department of Agriculture will meet at the Texas A&M Research and Extension Center, 7887 North Highway 87, San Angelo. According to the complete agenda, the department will hold a public hearing to take public comment regarding proposed amendments to the Department’s pesticide regulations (Texas Administrative Code, Title IV, Chapter 7) concerning license requirements for the use of the livestock protection collar.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583
Filed: November 29, 1990, 10:45 a.m.
TRD-9012777

Friday, December 21, 1990, 1 p.m.
The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will hold a public hearing to take public comment regarding proposed amendments to the department’s pesticide regulations (Texas Administrative Code, Title IV, Chapter 7) concerning license requirements for the use of the livestock protection collar.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583
Filed: November 29, 1990, 10:45 a.m.
TRD-9012777

Friday, December 28, 1990, 1 p.m.
The Texas Department of Agriculture will meet at the Texas Department of Agriculture Dis-
Mobile Source Emissions Committee of the Texas Air Control Board will meet at 6330 Highway 290 East, Room 332, Austin. According to the agenda, the committee will discuss the biennial report to legislature on the status of the alternative fuels program in Texas; and necessary legislative changes to the Texas Clean Air Act to accommodate mobile source issues in the new amendments to the Federal Clean Air Act.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 433
Filed: December 4, 1990, 10:01 a.m.

FRIDAY, DECEMBER 14, 1990, 9:30 a.m.

Friday, December 14, 1990, 9:30 a.m.
The State and Federal Affairs Committee of the Texas Air Control Board will meet at 6330 Highway 290 East, Room 332, Austin. According to the agenda, the committee will hear public testimony; enforcement report and consideration of agreed enforcement orders; consideration and action on proposed rule; hear hearing examiner's report; update on the Federal Clean Air Act implementation progress; discuss revised budget; committee meeting reports; hold executive session; and discuss new business.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 433
Filed: December 4, 1990, 10:01 a.m.

FRIDAY, DECEMBER 14, 1990, 10:30 a.m.
The Texas Air Control Board will meet at 6330 Highway 290 East, Auditorium, Austin. According to the agenda summary, the board will approve minutes of the November 1990 board meeting; hear public testimony; enforcement report and consideration of agreed enforcement orders; consideration and action on proposed rule; hear hearing examiner's report; update on the Federal Clean Air Act implementation progress; discuss revised budget; committee meeting reports; hold executive session; and discuss new business.

Contact: Bill Ehret, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 433
Filed: December 4, 1990, 10:01 a.m.

THURSDAY, DECEMBER 19, 1990, 4 p.m.
The Called Board Meeting of the Bond Review Board met in an emergency meeting at the State Capitol, Sergeant's Committee Room, Austin. According to the agenda, the board considered application of the Texas Public Finance Authority for issuance of series 1990B revenue bonds for purchase and renovation of office buildings; issuance of series 1990C revenue bonds; and discussed other business. The emergency meeting was necessary to allow timely consideration by the board of a second application submitted by the Texas Public Finance Authority.

Contact: Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741
Filed: November 29, 1990, 12:11 p.m.

FRIDAY, NOVEMBER 30, 1990, 10 a.m.
The Called Board Meeting of the Bond Review Board met in emergency meeting at the State Capitol, Sergeant's Committee Room, Austin. The meeting was rescheduled from November 29, 1990, 10 a.m. then 4 p.m. According to the agenda, the board considered proposed issues, application of the Texas Public Finance Authority for issuance of series 1990B revenue bonds for purchase and renovation of office buildings; series 1990C building revenue refunding bonds; and discussed other business. The emergency meeting was necessary to allow timely consideration by the board of a second application submitted by the Texas Public Finance Authority.

Contact: Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741
Filed: November 29, 1990, 3:36 p.m.

TUESDAY, DECEMBER 11, 1990, 10 a.m.
The Staff Planning Committee of the Bond Review Board will meet at the Sergeant's Committee Room, State Capitol, Austin. According to the complete agenda, the committee will approve minutes; consideration of proposed issue; application of Texas Higher Education Coordinating Board-College Student Loan Bonds/College Savings Bonds; and discuss other business.

Contact: Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.
Filed: December 3, 1990, 4:06 p.m.

CHILD CARE DEVELOPMENT BOARD

Monday, December 10, 1990, 9:30 a.m.
The Child Care Development Board will meet in Room 114, LBJ State Office Building, 111 East 17th Street, Austin. According to the complete agenda, the board will welcome and approve of minutes from previous meeting; update from legislative council; update from state purchasing on designs for the center; playscape; and new business.

Contact: Lynn Leverty, 111 East 17th Street, Austin, Texas 78701, (512) 463-5979.
Filed: November 30, 1990, 4:21 p.m.
Texas Department of Commerce

Tuesday, December 11, 1990, 10:30 a.m. The Board of Directors of the Texas Department of Commerce will meet at the Lieutenant Governor’s Reception Room, Room 224, State Capitol, Austin. According to the complete agenda, the board will recess into executive session pursuant to Vernon’s Texas Civil Statutes, Article 6252-17a, sections 2(g) and (r); and reconvene.

Contact: Jerry Bailey, 816 Congress Avenue, Suite 1100, Austin, Texas 78701, (512) 320-9611.

Filed: December 3, 1990, 4:31 p.m. TRD-9012986

 Advisory Commission on State Emergency Communications

Thursday, December 13, 1990, 10 a.m. The Executive Committee of the Advisory Commission on State Emergency Communications will meet at 1101 Capital of Texas Highway, South B-100, Austin. According to the complete agenda, the committee will call to order; review the policy subcommittee report, emergency communications issues and recommendations, and consider recommendations to the commission for its adoption; hear staff reports; consider any new business; and hear public comment.

Contact: Glenn Roach, 1101 Capital of Texas Highway South B-100, Austin, Texas 78746

Filed: November 30, 1990, 4:32 p.m. TRD-9012988

 Texas Employment Commission

Friday, December 7, 1990, 10 a.m. The Texas Employment Commission will meet at Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will discuss prior meeting notes; meet in executive session to discuss potential settlement of attorney’s fees in Juan Mijares and Alejandro Veliz v. Texas Employment Commission et al.; reconvene to discuss actions; if any from executive session; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on commission docket 49; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: November 29, 1990 TRD-9012828

 Texas School for the Deaf

Saturday, December 8, 1990, 10 a.m. The Governing Board of the Texas School for the Deaf will meet at the Governing Board Room, 1102 South Congress Avenue, Austin. According to the revised agenda summary, the board will approve minutes of the September 28, 1990 meeting; discuss business for information purposes; business requiring board action; meet in executive session; and hear comments by board members.

Contact: S. Custer, 1102 South Congress Avenue, Austin, Texas 78764, (512) 440-5335.

Filed: November 29, 1990, 3:51 p.m. TRD-9012810

Foundation School Fund Budget Committee

Monday, December 10, 1990, 9 a.m. The Foundation School Fund Budget Committee will meet in the John H. Regan Building, Room 109, Austin. According to the agenda, the committee will conduct a public hearing to receive oral and written testimony from the public regarding the committee’s proposed rule on the cost of education index (Title 19, Part IV, Chapter 205); hear presentation by legislative education board staff and/or consultants, and other public testimony.

Note: A sign-up sheet for public testimony will be available 30 minutes prior to the starting time. Speakers are requested to provide five written copies of their testimony.

Contact: Brian Wilson, Box 12428, Austin, Texas 78771, (512) 463-1778

Filed: November 30, 1990, 3:36 p.m. TRD-9012880

The Texas Department of Health

Friday, December 7, 1990, 11 a.m. The Strategic Planning Committee of the Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-739, Austin. According to the complete agenda, the committee will consider proposed 1991-1996 department strategic plan.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: November 30, 1990, 4:14 p.m. TRD-9012825

Friday, December 7, 1990, 2 p.m. The Public Health Promotion Committee of the Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-752, Austin. According to the complete agenda, the committee will consider public information plan update.
Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.
Filed: November 29, 1990, 4:14 p.m.

TRD-9012824

Friday, December 7, 1990, 2:30 p.m. The Alternate Care Committee of the Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-741, Austin. According to the complete agenda, the committee will consider proposed amendments to kidney health program rules; final adoption of repeal and amendments to abortion facility licensing rules; final adoption of new rule concerning fees charged for vital records services; and final adoption of new rule for local registrars.
Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.
Filed: November 29, 1990, 4:14 p.m.

TRD-9012822

Friday, December 7, 1990, 3 p.m. The Environmental Health Committee of the Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-721, Austin. According to the complete agenda, the committee will consider proposed repeals, amendments and new rules on municipal solid waste management relating to fees, recycling facilities, transfer stations, permit processing procedures, and role of Texas Air Control Board; and proposed new municipal solid waste management rules on assistance grants.
Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.
Filed: November 29, 1990, 4:14 p.m.

TRD-9012823

Friday, December 7, 1990, 4 p.m. The Disease Control Committee of the Texas Board of Health of the Texas Department of Health will meet at the Department of Health, 1100 West 49th Street, Room M-721, Austin. According to the complete agenda, the committee will consider proposed new rules concerning client complaint procedures in HIV education grant program and HIV services grant program; proposed repeal and new rules concerning immunization requirements for institutions of higher education; and final adoption of amendment to Texas HIV medication program rules.
Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.
Filed: November 29, 1990, 4:13 p.m.

TRD-9012821

Friday, December 7, 1990, 4 p.m. The Budget Committee of the Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-741, Austin. According to the complete agenda, the committee will consider approval of purchase of radiochemistry analytical systems; proposed amendment to department internal audit policy; and proposed amendment to board rules concerning board approval of commissioner’s appointments.
Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.
Filed: November 29, 1990, 4:15 p.m.

TRD-9012827

Saturday, December 8, 1990, 8 a.m. The Executive Committee of the Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-749, Austin. According to the complete agenda, the committee will discuss items of procedure for December 8, 1990 board meeting.
Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.
Filed: November 29, 1990, 4:13 p.m.

TRD-9012818

Saturday, December 8, 1990, 8:30 a.m. The Emergency and Disaster Committee of the Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-741, Austin. According to the complete agenda, the committee will consider report on trauma systems; appointments to Texas Emergency Medical Services Advisory Council.
Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.
Filed: November 29, 1990, 4:13 p.m.

TRD-9012820

Saturday, December 8, 1990, 9 a.m. The Chronically Ill and Disabled Children’s Services/Maternal and Child Health Committee of the Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-739, Austin. According to the complete agenda, the committee will approve CIDC Cardiovascular Advisory Committee recommendations; consider proposed repeal and new rules concerning Chronically Ill and Disabled Children’s (CIDC) Services program; final adoption under federal mandate of amendment to women, infants and children (WIC) program rules (amendments to federal regulations concerning WIC special supplemental food program; the fiscal year 1991 WIC state plan of operations; and WIC policy and procedure manual); and fiscal update for CIDC Services Bureau.
Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.
Filed: November 29, 1990, 4:15 p.m.

TRD-9012826

Saturday, December 8, 1990, 9:30 a.m. The Nursing Homes Committee of the Texas Board of Health of the Texas Department of Health 1100 West 49th Street, Room M-741, Austin. According to the complete agenda, the committee will consider appointments to Advisory Committee on Personal Care Facilities; Advisory Committee on Mental Retardation Facilities; Advisory Committee on Nursing Facility Affairs; and appointment of chairperson to Advisory Committee on Nursing Facility Affairs.
Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.
Filed: November 29, 1990, 4:13 p.m.

TRD-9012819

Saturday, December 8, 1990, 10 a.m. The Personnel Committee of the Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-721, Austin. According to the complete agenda, the committee will consider in executive session and in open session appointments to Texas Emergency Medical Services Advisory Council; Advisory Committee on Personal Care Facilities; Advisory Committee on Mental Retardation Facilities; Advisory Committee on Nursing Facility Affairs; appointment of chairperson to Advisory Committee on Nursing Facility Affairs; and proposed amendment to board rules on advisory committee.
Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.
Filed: November 29, 1990, 4:12 p.m.

TRD-9012817

Saturday, December 8, 1990, 11 a.m. The Legislative Committee of the Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health 1100 West 49th Street, Room M-652, Austin. According to the complete agenda, the committee will approve legislative proposals and draft legislation.
Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.
Filed: November 29, 1990, 4:12 p.m.

TRD-9012816

Saturday, December 8, 1990, noon. The Texas Board of Health of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room M-739, Austin. According to the agenda summary, the board will approve
minutes of previous meeting; hear commissioner's report and AIDS update; consider presentation of national community health promotion awards; proposed rules (kidney health; board approval of commissioner's appointments; chronically ill and disabled children's services (CIDC); HIV client complaints; immunization; municipal solid waste management; board advisory committees); final rules (abortion facilities; vital records; local registrars; women, infants and children; HIV medication); committee reports and appointments; purchase of radiochemistry analytical systems; department internal audit policy; CIDC cardiovascular advisory committee recommendations; trauma systems; proposed 1991-1996 department strategic plan; legislative proposals and draft legislation; and announcements and comments.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: November 29, 1990, 4:12 p.m.
TRD-9012815

Texas Historical Commission

Saturday, December 8, 1990, 9 a.m. The Christopher Columbus Quincentenary Texas Jubilee Commission of the Texas Historical Commission will meet at the Lieutenant Governor's Committee Room, Number 220, State Capitol Building, Austin. According to the agenda summary, the commission will approve minutes; hear state commission status report; regional division of state by Homer Reynolds and James Boswell; budget and finance report by General John McGiffert; determination of purpose, long range goals, short term objectives by Dorothy Careen; Texas Commission for the Humanities Grants and Projects report; committee appointments; standards for future meeting sites; meeting invitation and presentation by Janet Rice; and meeting site discussion.

Contact: Cindy Daily, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: November 30, 1990, 3:23 p.m.
TRD-9012878

Texas Department of Human Services

Tuesday, December 11, 1990, 2 p.m. The Children's Trust Fund Council of the Texas Department of Human Services will meet at the CTF Office, 8140 MoPac Expressway, Building Four, Suite 200, Austin. According to the complete agenda, the council will discuss development of objectives for the strategic plan.

Contact: Janie Fields, 8140 MoPac, Building Four, Suite 200, Austin, Texas 78759, (512) 345-9218.

Filed: December 3, 1990, 12:49 p.m.
TRD-9012950

Texas High-Speed Rail Authority

Tuesday, December 11, 1990, 11 a.m. The Texas High-Speed Rail Authority will meet at 823 Congress Avenue, Suite 1502, Austin. According to the complete agenda, the committee will consider publication of proposed rules of practice and procedure for franchised award; and appointment of hearing examiner.

Contact: Allan Rutter, 823 Congress Avenue, Suite 1502, Austin, Texas 78701 (512) 478-5484.

Filed: November 30, 1990, 4:45 p.m.
TRD-9012894

Texas Incentive and Productivity Commission

Wednesday, December 12, 1990, 10 a.m. The Texas Incentive and Productivity Commission will meet at 15th and Congress, Reagan Building, Room 104, Austin. According to the complete agenda, the commission will approve minutes of previous meeting; consideration of employee suggestions for approval; consideration of appeal of employee suggestion; approval of report to 72nd legislature; report on administrative matters; and discussion of new business.

Contact: M. Elaine Powell, P.O. Box 12482, Austin, Texas 78711, (512) 475-2393.

Filed: December 3, 1990, 10:03 a.m.
TRD-9012940

State Board of Insurance

Monday, December 10, 1990, 4 p.m. The Commissioner's Hearing Section of the State Board of Insurance will hold an emergency meeting at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the section will reopen a public hearing to consider the proposed change of control of Texas Health Network, Inc. doing business as Partners National Health Plans. The emergency status is necessary due to notice of need for meeting to be held on this date was not received by hearings office until December 3, 1990.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 3, 1990, 4:45 p.m.
TRD-9012990

Tuesday, December 11, 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 Jeffrey Eugene Brown, Tyler, who holds a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11034.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 3, 1990, 3:02 p.m.
TRD-9012974

Wednesday, December 12, 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 Robert Kent Carr, San Antonio, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Group II, Insurance Agent's license. Docket Number 11041.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 3, 1990, 3:02 p.m.
TRD-9012973
Wednesday, December 12, 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 whether disciplinary action should be taken against Hartford Fire Insurance Company, Hartford, Connecticut, who holds a Certificate of Authority. Docket Number 11024.

Contact: Earl Corbit, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 3, 1990, 3:01 p.m.
TRD-9012972

Friday, December 14, 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 for original charter of Performance Insurance Company, Dallas. Docket Number 11055.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 3, 1990, 3:01 p.m.
TRD-9012970

Friday, December 14, 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 Randall Lawrence Adams, Fort Worth, who holds a Group I, Legal Reserve Life Insurance Agent’s license and a Group II, Insurance Agent’s license. Docket Number 11019.

Contact: Earl Corbit, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

TRD-9012971

Monday, December 17, 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 for approval of the merger of Hill Country Life Insurance Company, Austin, into Hill Country Life Insurance Company of Texas, Austin, and for approval of amendments to Articles of Incorporation of Hill Country Life Insurance Company of Texas, Austin, changing the company’s name to Hill County Life Insurance Company, providing the names of the present directors, describing the kinds of business the company proposes to transact, increasing the authorized shares and stated capital, and limiting the directors’ liability. Docket Number 11056.

Contact: Earl Corbit, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: December 3, 1990, 3 p.m.
TRD-9012969

Interagency Council for Genetic Services

Friday, December 14, 1990, 8:30 a.m. The Texas Genetics Network (TEXGENE) of the Interagency Council for Genetic Services will meet at the Texas Department of Health, 1100 West 49th Street, Room T-607, Austin. According to the complete agenda, the committee will hear public comments; approve minutes of previous meeting; hear executive committee report; consider resource allocation plan for council genetic services; healthy people 2000; teratogen information systems; training course accreditation for sickle cell counselor certification; genetics involvement with pregnant women with history of substance abuse; education; quality assurance; genetic services; data collection; quality of care; grant objectives-member/committee assignments; regional representative to Council of Regional Networks Ethics Committee; budget status; and schedule next meeting date.

Contact: William E. Moore, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700.

Filed: November 29, 1990, 4:11 p.m.
TRD-9012814

Friday, December 14, 1990, 1 p.m. The Interagency Council for Genetic Services will meet at the Texas Department of Health, 1100 West 49th Street, Room T-607, Austin. According to the complete agenda, the council will hear public comments; approve minutes from previous meetings; consider resource allocation plan recommendations; report of state school screening plan; strategic plan of Department of Mental Health and Mental Retardation (MHMR); common genetic procedures of Departments of Health and MHMR; medicaid statistical data update; inclusion of geneticist on Department of Human Services medical care advisory committee; request for genetics service provider number from Ronald Jorgenson; report of Council of Regional Networks meeting to include healthy people 2000; budget status of special projects of regional and national significance grant; state auditor inquiry regarding insurance coverage; activities of certain individuals who work with council; reimbursement for Doctor Lewandowski’s attendance at November 5, 1990 meeting; legislative mandates/member assignments; and future sites for council meetings.

Contact: William E. Moore, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700.

Filed: November 29, 1990, 4:11 p.m.
TRD-9012813

Texas Department of Licensing and Regulation

Friday, December 14, 1990, 9 a.m. The Texas Commission of Licensing and Regulation of the Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the agenda summary, the commission will approve October 19, 1990 minutes; contested case: Blue Goose Movers, Jessie Warsley; Bob Mayo; Tom Kellum doing business as Kellum Career Services; G.A.S.; Acme Auto; City Auto Salvage; agreed orders; hear public comment; boxing, proposed changes to fees collected by the department; employee grievance procedure, proposed changes to Industrialized Housing and Building rules 70.20, 7.100, 7.101; agency report; Homeowners Recovery Fund; executive session under 6252-17, Sections 2(e) and 2(g) to discuss ad possibly act on Edmund Couder, versus TDSL, George Foster versus TDSL, Karen Clayborne versus TDLR, Brenda Wilkerson versus TDSL, Job Journal versus TDLR, Faces International versus TDLR, Ricky Henderson versus TDSL, Miguel Munoz versus TDLR, Brady Mobile Homes versus TDSL, Bob Reed versus TDLR, Baker versus HOF; and personnel matters.

Contact: Lary E. Kosta, 920 Colorado Street, Austin, Texas 78701, (512) 463-3173.

Filed: December 3, 1990, 4:21 p.m.
TRD-9012984

Friday, December 21, 1990, 10 a.m. The Texas Department of Licensing and Regulation will meet at 920 Colorado Street, E. O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will discuss proposed amendment to the Vehicle Storage Facilities rules, Chapter 70, §79.101(e). The proposed amendment contains language concerning fees set by a municipal ordinance or charter provision between the $5 minimum and the $15 maximum set by the legislature.

Contact: Elvis G. Schulze, 920 Colorado Street, Austin, Texas 78711, (512) 463-3127.

Filed: November 30, 1990, 10:47 a.m.
TRD-9012851

Texas State Board of Medical Examiners

Monday, December 3-4, 1990, 8 a.m. The Texas State Board of Medical Examiners met at 1101 Camino LaCosta, Austin. According to the emergency revised agenda
The board in addition to previously posted agenda: deletion of reinstatement appearance; addition of more agreed board orders; deletion of hearing; change in times for probationary appearances; hear executive director's report to include auditor responses: long range planning; legislative proposals; weight control; and impaired physicians legislation. The emergency status was necessary as information had come to the agency's attention and merited prompt consideration.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: November 30, 1990, 9:28 a.m.

TRD-9012835

Monday-Tuesday, December 3-4, 1990, 8 a.m. The Texas State Board of Medical Examiners met at 1101 Camino LaCosta, Suite 201, Austin. According to the emergency revised agenda summary, the board also discussed proposed rule changes, Chapters 187 and 189. The emergency status was necessary as information had come to the agency's attention and merited prompt consideration.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: November 30, 1990, 4:07 p.m.

TRD-9012890

The Texas Council on Offenders with Mental Impairments

Tuesday, December 11, 1990, 9:30 a.m. The MR/DD Committee of the Texas Council on Offenders with Mental Impairments will meet at the TDCJ-Parole Division, 8610 Shoal Creek Boulevard, Building 8, Austin. According to the agenda summary, the committee will receive status reports on the Texas Council, MR/DD committee expectations, and project CHANCE evaluation. There will be a report from the local coordinating council on their activities and a discussion of the relationship between the MR/DD committee and the local coordinating council. Any new business will be discussed and a meeting date will be set for the next MR/DD committee meeting.

Contact: Pat Hamilton, P.O. Box 12546, Austin, Texas 78711, (512) 459-2720.

Filed: December 3, 1990, 1:30 p.m.

TRD-9012953

Texas Department of Criminal Justice Board of Pardons and Paroles

Monday-Friday, December 10-14, 1990, 10 a.m. The Board of Pardons and Paroles of the Texas Department of Criminal Justice will meet at 2503 Lake Road, Suite 2, Huntsville. According to the agenda summary, a panel (composed of 3 board members) will meet to receive, review and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Karin Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: November 30, 1990, 10:47 a.m.

TRD-9012852

Monday-Friday, December 17-21, 1990, 10 a.m. The Board of Pardons and Paroles of the Texas Department of Criminal Justice will meet at 2503 Lake Road, Suite 2, Huntsville. According to the agenda summary, a panel (composed of 3 board members) will meet to receive, review and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Karin Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: November 30, 1990, 10:47 a.m.

TRD-9012853

Public Utility Commission of Texas

Tuesday, December 11, 1990, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the commission will consider the following dockets: 9300, 6350, 9561, 9584, 9716, 8900, 9305, 9201, 9499, 9598, 9580, 9453, 9486, 9540, 9575, 9581, 9762, 9180, 9277, 9407, 9674, and 9799. The commissioners will also consider P0444, P0639, P9676, P9868, P9887, and P9894.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 30, 1990, 3:06 p.m.

TRD-9012872

Friday, December 14, 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 hold a prehearing conference in Docket Number 9863-petition of Houston Lighting and Power Company to resolve fuel cost recovery.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 30, 1990, 3:06 p.m.

TRD-9012871

Thursday, February 28, 1991, 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 hearing on the merits in Docket Number 9767-application of Southwestern Bell Telephone Company to revise section 7 of the intrastate access service tariff regarding DS-1 access service.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.
Tuesday, December 11, 1990, 10:30 a.m.
The Board of the Texas Public Finance Authority will meet at the State Capital, 11th and Congress Avenue, Lieutenant Governor's Committee Room, Number 220, Austin. According to the complete agenda, the board will consider a resolution authorizing the issuance of revenue bonds to refund the outstanding Series 1985A building revenue bonds and the Series 1986 building revenue refunding bonds; the execution and delivery of documents associated therewith; and the taking of action to effect the sale and delivery of bonds; and related matters; consider a resolution authorizing the issuance of revenue bonds to finance the purchase and renovation of the Republic Plaza Office Complex and the Guaranty Federal Office Building; the execution and delivery of documents associated therewith; and the taking of action to effect the sale and delivery of bonds; and related matters.

Contact: Pamela Scivicque, 1201 Brazos Street, Suite 313, Austin, Texas 78701, (512) 463-5544.

Filed: December 3, 1990, 4:43 p.m.

TRD-9012989

Texas Racing Commission

Tuesday, December 18, 1990, 9:30 a.m.
The Greyhound Racing Section of the Texas Racing Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the section will meet to conduct an administrative hearing on TExRC Cause Number 89-R1-001, the applications for a pari-mutuel greyhound racing license in Galveston County. The Greyhound Racing Section will hear argument from the applicants, deliberate and vote to award the license.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78711, (512) 794-8461.

Filed: November 30, 1990, 10:57 a.m.

TRD-9012855

Railroad Commission of Texas

Monday, December 10, 1990, 9 a.m.
The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 Congress Avenue, 12th Floor Conference Room, 12-126, Austin. Agendas follow.

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: Sue D. Boykin, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7033.

Filed: November 30, 1990, 10:52 a.m.

TRD-9012855

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; commission chairmanship; 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, reassignment, duties, discipline and/or dismissal of personnel, and pending litigation.

Contact: Brenda Loudermilk, P.O. Box 12967, Austin, Texas 78711, (512) 463-7274.

Filed: November 30, 1990, 10:51 a.m.

TRD-9012854

The commission will consider category determinations under sections 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 30, 10:44 a.m.

TRD-9012850

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, reassignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-7187.

Filed: November 30, 1990, 10:43 a.m.

TRD-9012849

The commission will consider and act on the Administrative Services Division Director's report on division administration, budget, procedures and personnel matters.
Texas Rehabilitation Commission

Thursday and Friday, December 13 and 14, 1990, 9:30 a.m. The Work Session and Regular Board Meeting Board of the Texas Rehabilitation Commission of the Texas Rehabilitation Commission will meet in the Brown-Healy Building, Public Hearing Room, First Floor, 4900 North Lamar Boulevard, Austin. According to the agenda, on December 13, the commission will hear commissioner's comments; hold a board work session-social security administration strategies; executive session; on December 14, the commission will introduce guests; approve minutes, board meeting of October 25-26, 1990, commissioner's comments, update on interactive planning, update on TRC internal auditor, resolution to change the internal audit act; hold an executive session. If all agenda items have been completed, the board will adjourn. If all agenda items have not been completed, the board will recess until 9:30 a.m. Friday, December 14, 1990, to reconvene in the Public Hearing Room, First Floor, Brown-Healy Building, 4900 North Lamar Boulevard, Austin.

Contact: Charles W. Schiesser, 4900 North Lamar Boulevard, Suite 7300, Austin, Texas 78756, (512) 483-4051.

Filed: December 4, 1990, 9:23 a.m. TRD-9012994

Senate and House

Wednesday, December 5, 1990, 9:30 a.m. The Special Joint Committee on Insurance Regulation of the Senate and House met in the Senate Chamber of the State Capitol Building, Austin. According to the complete agenda, the committee considered recommendations and a final report.

Contact: John Opperman, Room 325, Capitol Building, Austin, Texas 78701, (512) 463-0128.

Filed: December 3, 1990 TRD-901264

Texas A&M University System

Wednesday, December 5, 1990, 10:30 a.m. The Committee for Service Units of the Board of Regents of the Texas A&M University System met at the Board of Regents Annex, College Station. According to the agenda summary, the committee gave authorization to establish regional divisions-TEES; appointment of peace officers-TFS; authorization to execute right-of-way easements-TAES; authorization to pursue name change-TEAX; authorization to establish a center.

Contact: Vickie Running, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: November 30, 1990, 10:15 a.m. TRD-9012842

State Securities Board

Tuesday, December 18, 1990, 10 a.m. (rescheduled from December 6, 1990, 10 a.m.) The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto, Austin. According to the revised agenda summary, the commissioner will hold a hearing to determine whether the registration of Momentum Securities, Inc., should be revoked or suspended and whether a cease and desist order should be issued prohibiting the sale of securities issued by Momentum Oil and Gas Corporation and whether a cease and desist order should be issued prohibiting Momentum Oil and Gas Corporation and Paul A. Galvin from acting as unregistered dealers.

Contact: Denise Voight Crawford, P.O. Box 13167, Austin, Texas 78711-3167, (512) 474-2233.

Filed: November 29, 1990, 3:44 p.m. TRD-9012802

Texas Real Estate Commission

Monday, December 10, 1990, 1 p.m. The Investment Committee of the Texas Real Estate Commission will meet at 1101 Camino La Costa, Conference Room Second Floor, Austin. According to the complete agenda, the committee will discuss investment policy for real estate recovery funds.

Contact: Mark A. Moseley, P.O. Box 12188, Austin, Texas 78771-2188, (512) 465-3900, ext. 6070

Filed: November 29, 1990, 1:48 p.m. TRD-9012784

Open Meetings December 7, 1990

State Securities Board
the Board of Regents of the Texas A&M University System met at the Board of Regents Annex, College Station. According to the agenda summary, the committee discussed action on bids; appropriations; initiation of major construction projects; report of contract action by the chancellor; report of construction project appropriations/authorization by the chancellor; status of system construction projects authorized by the board of regents.

Contact: Vickie Running, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: November 30, 1990, 10:06 a.m.

TRD-9012837

Wednesday, December 5, 1990, 2:30 p.m. The Committee for Academic Campuses of the Board of Regents of the Texas A&M University System met at the Board of Regents Annex, College Station. According to the agenda summary, the committee discussed adoption of resolutions; authorization to establish institutes and centers; adoption of policy for honorary degrees; authorization to charge fees; granting emeritus titles; authorization to offer degrees.

Contact: Vickie Running, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: November 30, 1990, 10:15 a.m.

TRD-9012841

Wednesday, December 5, 1990, 5 p.m. The Board of Regents of the Texas A&M University System met at the Board of Regents Annex, College Station. According to the agenda summary, the board discussed authorization to establish regional divisions; appointment of peace officers; execution of right-of-way easements; authorization to pursue name change; adoption of resolutions; authorization to establish institutes and centers; adoption of policy for honorary degrees; authorization to charge fees; granting emeritus titles; authorization to offer degrees; report of appropriations from unappropriated sources; appropriations from the AUF; establishment of quasi-endowments; authorization to use state funds; authorization of programs; authorization to seek legislation; budget and fiscal transfers, salary increases, and new positions; acceptance of gifts, grants, loans and bequests; confirmation of terminations; approval of tenure; confirmation of appointments and promotions; authorization for and appointments of members of board of visitors; authorization to purchase land; acceptance of state's authorization to sell land; ratification of interests in oil and gas lease; naming of facilities; consideration of any and all things leading to the appointment of chancellor; consideration of pending or proposed real estate acquisitions, disposals, leases or other matters related to real estate; construction matters for the system parts; appointment of coordinator of system agencies; appointments to the Panhandle Plains historical society.

Contact: Vickie Running, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: November 30, 1990, 10:14 a.m.

TRD-9012840

Thursday, December 6, 1990, 8:30 a.m. The Executive Committee of the Board of Regents of the Texas A&M University System met at the Board of Regents Annex, College Station. According to the agenda summary, the committee gave authorization of programs; authorization to seek legislation; adoption of resolution; budget and fiscal transfers, salary increases, and new positions; acceptances of gifts, grants, loans, and bequests; confirmation of terminations; approval of tenure; confirmation of appointments and promotions; authorization for and appointment of members of board of visitors; authorization to purchase land; acceptance of land; authorization to sell land; ratification of assignments of interests in oil and gas lease; appointment of coordinator of system agencies; appointments to the Panhandle Plains historical society.

Contact: Vickie Running, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: November 30, 1990, 10:15 a.m.

TRD-9012843

Texas Woman's University

Wednesday, December 5, 1990, 9 a.m. The Board of Regents Committee on Institutional Advancement of the Texas Woman's University met at Texas Woman's University, Administration and Conference Tower, 16th Floor, Denton. According to the complete agenda, the committee considered the approval of the minutes of the August 29, 1990 meeting; report on alumni relations, development and public information activities of the Office of Institutional Advancement; and heard committee chair report.

Contact: Dr. Shirley S. Chater, Texas Woman's University, Denton, Texas 76204, (817) 898-3201.

Filed: November 29, 1990, 10:21 a.m.

TRD-9012770

Wednesday, December 5, 1990, 9:20 a.m. The Board of Regents Student Affairs Committee of the Texas Woman's University met at Texas Woman's University, Administration and Conference Tower, 16th Floor, Denton. According to the complete agenda, the committee considered the approval of the minutes of the August 29, 1990 meeting; heard report on compliance with the drug-free schools and communities act amendments of 1989; considered approval of the TWU drug-free campus policy; and heard committee chair report.

Contact: Shirley S. Chater, Texas Woman's University, Denton, Texas 76204, (817) 898-3201.

Filed: November 29, 1990, 10:21 a.m.

TRD-9012771

Wednesday, December 5, 1990, 9:40 a.m. The Board of Regents Academic Affairs Committee of the Texas Woman's University met at Texas Woman's University, Administration and Conference Tower, 16th Floor, Denton. According to the complete agenda, the committee considered the approval of the minutes of the August 29, 1990 meeting; recommending approval of cooperative memorandum of understanding between Texas Woman's University and Texas Engineering Experiment Station; approval of Research Mission Statement; master of science degree in exercise and sports nutrition; small class report; and heard committee chair report.

Contact: Shirley S. Chater, Texas Woman's University, Denton, Texas 76204, (817) 898-3201.

Filed: November 29, 1990, 10:21 a.m.

TRD-9012772

Wednesday, December 5, 1990, 10:30 a.m. The Board of Regents Finance Committee of the Texas Woman's University met at Texas Woman's University, Administration and Conference Tower, 16th Floor, Denton. According to the agenda summary, the committee considered the approval of the minutes of the August 29, 1990, meeting; recommending approval of personnel additions and changes, gifts and grants, agreements and contracts, allocation of federal funds, insurance, sale of surplus property, certificates of substantial completion and change orders; purchase of property, construction project; opening of new bank accounts, change in late registration fee, increase in bad check charge, and heard committee chair report.

Contact: Shirley S. Chater, Texas Woman's University, Denton, Texas 76204, (817) 898-3201.

Filed: November 29, 1990, 10:22 a.m.

TRD-9012773

Wednesday, December 5, 1990, 1:30 p.m. The Board of Regents of the Texas Woman's University met at Texas Woman's University, Administration and Conference Tower, 26th Floor, Denton. According to the agenda summary, the board met in executive session to consider legal, personnel, and real estate matters; considered the approval of the August minutes, approved the TWU drug-free campus policy, cooperative memorandum of understanding between Texas Woman's University and Texas Engineering Experiment Station, the TWU Research Mission Statement, master of science degree in exercise and sports nutrition, small class report, personnel additions and changes, gifts and grants, agreements and
contracts, allocations of federal funds, schedule of renewal and extension of insurance, sale of surplus property, certificates of substantial completion and change orders, purchase of property, construction phase II of the student center basement project, opening of new bank accounts, a change in the late registration fee and an increase in the bad check charge; and heard the committee chairs and president reports.

Contact: Shirley S. Chater, Texas Woman's University, Denton, Texas 76204 (817) 898-3201.

Filed: November 29, 1990, 10:25 a.m.

TRD-9012774

Texas Turnpike Authority

Tuesday, December 4, 1990, 9:15 a.m.
The Board of Directors of the Texas Turnpike Authority held an emergency meeting at the Doubletree Hotel at Intercontinental Airport, 15747 John F. Kennedy Boulevard, Houston. According to the agenda summary, the board considered the following: approval of prior board minutes; meet in executive session; adoption of response to sunset advisory commission staff; adoption of 1991 budgets; appointment of contract award committee; two agreements with Texas SDHPT; and with respect to Dallas north tollway, purchase of right-of-way, award of aerial photographic contract and resolution in re-supplemental agreements. The emergency status was necessary because an emergency and public necessity exists which was reasonably unforeseeable in that the authority was notified November 29, 1990, that is must respond to "Decision Materials on the Texas Turnpike Authority" from the sunset advisory commission by December 5, 1990, and other items which were to be considered at the previously scheduled meeting of the authority board of directors on December 12, 1990, will be on the agenda for this meeting.

Contact: Harry Kahler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: November 30, 1990, 4:23 p.m.

TRD-9012891

University of Texas System

Thursday, December 6, 1990, 10 a.m.
The Board of Regents and Standing Committees of the University of Texas System met at the R. Lee Clark Clinic Building, U.T.M.D. Anderson Cancer Center, 1515 Holcombe Boulevard, Conference Rooms A&B, 10 Floor, Houston. According to the agenda summary, the committee considered amendment of PUF refunding bonds, series 1985, escrow agreement; chancellor's docket (submitted by system administration); appointments to endowed academic positions; degree programs; agreements; establishment of dental school advisory council; buildings and grounds matters including approval for projects, preliminary and final plans; award of contracts; land and investment matters; acceptance of gifts, bequests and estates; establishment of endowed positions and funds; U.T. System-standards of conduct policy for investment professionals and guidelines for investment of PUF and CTF; litigation, land acquisition and negotiated contracts; and personnel matters.

Contact: Arthur H. Dilly, P.O. Box N, U.T. Station, Austin, Texas 78713-7328, (512) 499-4402.

Filed: November 30, 1990, 1:16 p.m.

TRD-9012865

Texas Water Commission

Wednesday, December 12, 1990, 9 a.m.
The Texas Water Commission will meet at 1700 North Congress Avenue, Stephen F. Austin Building, 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 78771, (512) 463-7898.

Filed: November 20, 1990, 3:34 p.m.

TRD-9012884

Thursday, January 3, 1991, 10 a.m.
The Office of Hearings Examiner of the Texas Water Commission will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 618, Austin. According to the agenda summary, the office will consider an application by Coronado Shores Water Company for rate increase, Docket Number 8694-G.

Contact: Clay Harris, P.O. Box 13087, Austin, Texas 78771, (512) 463-7875.

Filed: November 30, 1990, 3:44 p.m.

TRD-9012885

Tuesday, January 22, 1991, 9 a.m.
The Office of Hearings Examiner of the Texas Water Commission will meet at the Central Jury Room, 919 Houston Street, Laredo. According to the agenda summary, the office will consider an application by America Provides Foundation, Inc. for proposed Permit Number 03193 authorizing disposal of waste and wastewater from a dairy. The dairy is in La Salle and Webb Counties. The outlet ranch entry is on State Highway 44, approximately 29 miles east of the intersection of Interstate Highway 35 and State Highway 44.

Contact: James Murphy, P.O. Box 13087, Austin, Texas 78771, (512) 463-7875.

Filed: November 30, 1990, 3:46 p.m.

TRD-9012888

Tuesday, January 22, 1991, 9 a.m.
The Office of Hearings Examiner of the Texas Water Commission will meet at the Central Jury Room, 1515 Holcombe Boulevard, Conference Rooms A&B, 10 Floor, Houston. According to the agenda summary, the office will consider an application by America Provides Foundation, Inc. for proposed Permit Number 03193 authorizing disposal of waste and wastewater from a dairy. The dairy is in La Salle and Webb Counties. The outlet ranch entry is on State Highway 44, approximately 29 miles east of the intersection of Interstate Highway 35 and State Highway 44.

Contact: James Murphy, P.O. Box 13087, Austin, Texas 78771, (512) 463-7875.

Filed: November 30, 1990, 3:46 p.m.

TRD-9012888
Texas Workers' Compensation Commission

Thursday-Saturday, December 6-8, 1990, 9 a.m. The Texas Workers' Compensation Commission will meet at 200 East Riverside Drive, Room 255, Austin. According to the agenda summary, the commission will approve minutes; discuss and consider the Rules Process; proposed rules; rules for adoption; report on rules chapters ready for release to Texas Register; progress report on TWCC Implementation of Senate Bill 1; and discussion of future public meetings and agenda.

Contact: George E. Chapmain, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7962.

Filed: November 30, 1990, 4:29 p.m.

TRD-9012893

Regional Meetings

Meetings Filed November 29, 1990

The Bosque Central Appraisal District Board of Directors met at the Bosque Central Appraisal District Office, 104 West Morgan Street, Meridian, December 5, 1990, at 9 a.m. Information may be obtained from Walter Stoneham, 355 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9012786.

The Bexar Appraisal District Board of Directors met at 535 South Main Street, San Antonio, December 5 and 6, 10-14, 17-21, 26-28, 1990, at 8:30 a.m. Information may be obtained from Walter Stoneham, 355 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9012866.

The Bexar Appraisal District Board of Directors met at 535 South Main Street, San Antonio, December 7, 1990, at 9 a.m. Information may be obtained from Walter Stoneham, 355 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9012867.

The Dawson County Central Appraisal District Board of Directors met at 920 North Dallas Avenue, Lamesa, December 5, 1990, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9012832.

The Hunt County Tax Appraisal District Board of Directors met at the Hunt County Tax Appraisal District, Board Room, 4801 King Street, Greenville, December 6, 1990, at 9 a.m. Information may be obtained from Mildred Compton or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510. TRD-9012833.

The Jasper County Appraisal District Board of Directors met at 200 North Loop West, Eighth Floor, Houston, December 5, 1990, at 1:30 p.m. Information may be obtained from Margie Hillard, P.O. Box 920975, Houston, Texas 77292, (713) 957-5291. TRD-9012830.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3700 Lake Austin Boulevard, Austin, December 4, 1990, at 10 a.m. Information may be obtained from Don J. Peters, 818 East Main Street, Kilgore, Texas 75662, (903) 984-3071. TRD-9012874.

The Region VII Education Service Center Board of Directors met at The Texas Association of Regional Councils Board of Directors will meet at the Capital Ballroom, Radisson Plaza Hotel, Austin. Information may be obtained from Sheila Jennings, 508 West 12th Street, Austin, Texas 78701, (512) 478-4715. TRD-9012838.
Meetings Filed December 3, 1990.

Austin-Travis County MHMR Center Operations & Planning Committee will meet at 1430 Collier Street, Board Room, Austin, December 7, 1990, at 7:30 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4414. TRD-9012976.

Bexar Appraisal District Board of Directors will meet at 535 South Main, San Antonio, December 4, 1990, at 5 p.m. Information may be obtained from Bexar Appraisal District, 535 South Main, San Antonio, Texas 78204, (512) 224-8511. TRD-9012980.

Bexar-Medina-Atascosa Counties Water Control 7 Board of Directors will meet Highway 81, Natalia, December 10, 1990, at 8 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132. TRD-9012993.

Brown County Appraisal District Board of Directors will meet at 403 Fisk Avenue, Brownwood, December 10, 1990, at 7 p.m. Information may be obtained from Bob Young, Chief Appraiser, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676. TRD-9012947.

Capital Area Planning Council General Assembly will meet at Howard Johnson Plaza-Hotel South, Austin, December 12, 1990, at 11:30 a.m. Information may be obtained from Richard G. Bean, 2520 IH 35 South, Suite 100, Austin, Texas 78704, (512) 443-7653. TRD-9012961.

Capital Area Planning Council Executive Committee will meet at Howard Johnson Plaza-Hotel South, Austin, December 12, 1990, at 1:15 p.m. Information may be obtained from Richard G. Bean, 2520 IH 35 South, Suite 100, Austin, Texas 78704, (512) 443-7653. TRD-9012962.

Central Texas Economic Development District Executive Committee will meet at TSTI Campus, Food Service Technology Building, Waco, December 13, 1990, at 1:30 p.m. Information may be obtained from Bruce Gaines, P.O. Box 154118, Waco, Texas 76715, (817) 799-0258. TRD-9012935.

Education Service Center-Region XVII Board of Directors Meeting will meet at 1111 West Loop 289, Board Room, ESC Region XVII, Lubbock, December 19, 1990, at 9 a.m. Information may be obtained from Weldon E. Day, 1111 West Loop 289, Lubbock, Texas 79416, (806) 793-4802. TRD-9012938.

Garza County Appraisal District Board of Directors will meet at 124 East Main, Appraisal Office, Post, December 13, 1990, at 9 a.m. Information may be obtained from Billie Y. Windham, P.O. Drawer F, Post, Texas 79356, (806) 495-3518. TRD-9012960.

Henderson County Appraisal District Board of Directors will meet at 1751 Enterprise, Athens, December 10, 1990, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas 75751, (903) 675-9296. TRD-9012968.

Lavaca County Central Appraisal District Board of Directors will meet at 113 North Main, Lavaca County Central Appraisal District, Hallettsville, December 10, 1990, at 9 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9012963.

Lavaca County Central Appraisal District Appraisal Review Board will meet at 113 North Main, Lavaca County Central Appraisal District, Hallettsville, December 13, 1990, at 9 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9012937.

Lavaca County Central Appraisal District Agricultural Appraisal Advisory Board will meet at 113 North Main, Lavaca County Central Appraisal District, Hallettsville, December 28, 1990, at 8 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9012936.

Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, December 13, 1990, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9012946.

Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, December 19, 1990, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9012945.

Regen III Education Service Center Board of Directors will meet at 1905 Leary Lane, Victoria, December 10, 1990, at 1:30 p.m. Information may be obtained from Dr. Julius Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731. TRD-9012948.

Region IV Education Service Center Board of Directors Meeting will meet at 7145 West Tidwell, Board Room, Region IV Education Service Center, Houston, December 7, 1990, at 11 a.m. Information may be obtained from W. L. McKinney, 7145 West Tidwell, Houston, Texas 77092-2096, (713) 462-7708. TRD-9012934.

Region V Education Service Center Board of Directors will meet at 2295 Delaware, Board Room, Beaumont, December 12, 1990, at 1 p.m. Information may be obtained from Robert E. Nicks, 2295 Delaware Street, Beaumont, Texas 77703, (409) 835-5212. TRD-9012954.

San Patricio County Appraisal District Board of Directors will meet at 1146 East Market, Sinton, December 13, 1990, at 9:30 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78379, (512) 364-5402. TRD-9012959.

Texas Panhandle Mental Health Authority Executive Committee Meeting will meet at 7120 I-40 West, Suite 150, Amarillo, December 3, 1990, at 9 a.m. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235. TRD-9012955.

Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, December 6, 1990, at 5 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75779, (409) 283-3736. TRD-9012951.

Tyler County Appraisal District Appraisal Review Board will meet at 806 West Bluff, Woodville, December 11, 1990, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75779, (409) 283-3736. TRD-9012952.

Meetings Filed December 4, 1990.

High Plains Underground Water Conservation District Number 1 Board of Directors Meeting will meet at 2930 Avenue Q, Conference Room, Lubbock, December 11, 1990, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9012995.

Meetings Filed December 3, 1990.

Comal Appraisal District Board of Directors will meet at 430 West Mill Street, New Braunfels, December 17, 1990, at 7 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9012992.

Region 18 Education Service Center Board of Directors met 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) 580-7840, TRD-9012993.
Name: Blanca Montinez
Grade: 9
School: Richardson Junior High School, Richardson 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.

State Aircraft Pooling Board
Notification of Rates for Aircraft Use

The following rates, indicated in bold type, are now in effect for the various types of aircraft operated by the State Aircraft Pooling Board. These rates have been established in accordance with procedures developed by the Legislative Budget Board.

Also listed are approximate charges for a round trip flight to various cities in Texas. The charges have been calculated based on estimated flying times, and may differ from actual flight times due to weather conditions or alternate routing by traffic controllers.

<table>
<thead>
<tr>
<th>Round trip:</th>
<th>Waco</th>
<th>Huntsville</th>
<th>Del Rio</th>
<th>Wichita Falls</th>
<th>Amarillo</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austin to and return</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of Aircraft</th>
<th>Rate*</th>
<th>Capacity**</th>
</tr>
</thead>
<tbody>
<tr>
<td>King Air 200</td>
<td>$525/hr.</td>
<td>196 Miles</td>
</tr>
<tr>
<td>$735.00</td>
<td>$945.00</td>
<td>$1,155.00</td>
</tr>
<tr>
<td>7 to 10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>King Air 90</td>
<td>$475/hr.</td>
<td>260 Miles</td>
</tr>
<tr>
<td>$665.00</td>
<td>$950.00</td>
<td>$1,235.00</td>
</tr>
<tr>
<td>5 to 8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cessna 425</td>
<td>$415/hr.</td>
<td>408 Miles</td>
</tr>
<tr>
<td>$581.00</td>
<td>$830.00</td>
<td>$996.00</td>
</tr>
<tr>
<td>5 to 7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cessna 402</td>
<td>$265/hr.</td>
<td>516 Miles</td>
</tr>
<tr>
<td>$424.00</td>
<td>$636.00</td>
<td>$1,219.00</td>
</tr>
<tr>
<td>4 to 5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Barron 58</td>
<td>$260/hr.</td>
<td>516 Miles</td>
</tr>
<tr>
<td>$416.00</td>
<td>$624.00</td>
<td>$780.00</td>
</tr>
<tr>
<td>3 to 4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cessna 310</td>
<td>$250/hr.</td>
<td>516 Miles</td>
</tr>
<tr>
<td>$450.00</td>
<td>$700.00</td>
<td>$850.00</td>
</tr>
<tr>
<td>3 to 4</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* There is currently an additional fuel surcharge due to increased fuel prices.  
** The higher capacity for passengers allows minimal luggage and requires the use of the copilot's seat and or jump seat(s).
Please call Georgia Hopper, Scheduler, at (512) 477-8900 with any questions, any need to schedule a flight, or any need for estimated charges for other locations.

Issued in Austin, Texas, on November 27, 1990.

TRD-9012728
Bob DuLaney
Executive Director
State Aircraft Pooling Board

Filed: November 28, 1990

For further information, please call: (512) 477-8900

Texas Attorney General’s Office
Request for Proposals

This request for proposal is filed pursuant to Texas Civil Statutes, Article 6252-11c.

The Texas Attorney General’s Office (AGO) invites professionals with documented expertise in the field of indirect cost recovery and cost allocation plans for governmental units to submit proposals to prepare the fiscal year 1992 Cost Allocation Plan and develop a standardized billing rate for legal services provided by the AGO.

The AGO administers millions of dollars of federal funds for the Child support Title IV-D and Medicaid Fraud Title XIX programs. Currently, the AGO is recouping its indirect costs from these federal programs based on rates approved by the Department of Health and Human Services (HHS).

The AGO also provides legal services to other state agencies. The AGO recognizes a need for the development of standardized billing rates for its legal service which will recover the full costs of the services provided.

The applicant selected to prepare the Cost Allocation Plan and develop standardized billing rates must demonstrate the necessary qualifications and experienced listed in the Qualifications section and will be required to perform the various services and generate the reports listed in the Scope of Services section. The acceptance of an offer by the AGO, made in response to this request, will be based on its evaluation of cost and other factors described below. The total contract award will not exceed $50,000.

Scope of Services. The successful candidate will be required to render the following services and reports.

- Prepare Cost Allocation Plan: identify the sources of financial information to be used; classify all AGO divisions; inventory all Federal and other programs administered by AGO; determine administrative divisions; determine allocation bases for allocating services to benefiting divisions; develop allocation data for each allocation base; prepare allocation worksheet based upon actual expenditures for Fiscal Year 1991; summarize costs by benefiting division; collect cost data for all of the programs included in the inventory of federal programs and other programs administered by the AGO; determine indirect cost rates throughout the AGO on an annual basis; formalize plan and present it to HHS by February 28, 1991; negotiate the cost plan’s approval with HHS; provide indoctrination session for assigned personnel; monitor first year recoveries.

- Develop standardized billing rate for legal services: review current basis used by AGO for charging various agencies; determine what services are provided to the agencies; compile direct hours for each service; determine effort reporting requirements; develop billing rate options; determine the cost of service; analyze and confirm revenues and cost analyses; prepare and provide draft report; present final report and negotiate approval with HHS (anticipated completion date for report is March 18, 1991).

Consultant staff will accumulate and analyze all data that is required. AGO is not expected to provide any staff time to the consultant. The AGO will also provide a liaison with staff within the AGO and with other state agencies as appropriate.

Qualifications. Each company/organization submitting an offer must present evidence or otherwise demonstrate to the satisfaction of the AGO that such entity: has the experience to prepare and negotiate this type of cost Allocation Plan; has a thorough understanding of Cost Allocation issues and preparation of state agency’s Cost Allocation Plans; can program and execute such a proposition within a required time frame.

Please provide evidence of the above requirements and a proposal which includes: a detailed description of the plan of action to convey the requirements described in the Scope of Service; information on the staff who will be assigned to work with the AGO program staff; the proposed fee amount for providing the desired services.

Your response must be received no later than 5 p.m., January 14, 1991. Responses received after this date and time will not be considered. We anticipate entering into the resulting contract on or about January 15, 1991.

The AGO reserves the right to accept or reject any or all offers submitted in response to this request and to negotiate modifications necessary to improve the quality or cost effectiveness of any offer to the AGO. The AGO is under no legal obligation to enter into a contract with any offer on the basis of this request and intends any material provided herein only as means of identifying the scope of services requested.

The state assumes no responsibility for expenses incurred in preparing responses to this solicitation. Please address your responses to Julie Geeslin, Texas Attorney General’s Office, P.O. Box 12548, Austin, Texas, 78711-2548, (512) 463-2008.

Issued in Austin, Texas, on November 29, 1990.

TRD-9012799
Lou McCready
Executive Assistant Attorney General
Texas Attorney General’s Office

Filed: November 29, 1990

For further information, please call: (512) 463-2040

Comptroller of Public Accounts
Consultant Services Request

Notice of Request for Proposals. Pursuant to Texas Civil Statutes, Article 6252-11c, the Comptroller of Public Accounts (CPA) announces a consultant services’ request for proposals (RFP) to conduct a comprehensive performance audit of the management and operations of the Comptroller of Public Accounts. The performance audit is intended to provide an analysis of various management processes and operating systems within the agency. Detailed specifications concerning the audit’s scope are contained in the RFP.

Contact Person. Parties interested in offering services to conduct such an audit should contact Charles C. “Chuck” Johnstone, Executive Assistant, Comptroller of Public Accounts, 111 East 17th Street, Room 124, Austin, Texas 78774, (512) 463-4091, for a complete copy of the RFP. The RFP will be available on December 14, 1990, after 1 p.m.
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).

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 Articles 1.04, 1.05, 1.11, and 15.02, Title 79, Revised Civil Statutes of Texas, as amended (Articles 5069-1.04, 1.05, 1.11, and 15.02, Vernon's Texas Civil Statutes).
<table>
<thead>
<tr>
<th>Types of Rate Ceilings</th>
<th>Effective Period (Dates are Inclusive)</th>
<th>Consumer (3)/Agricultural/ Commercial (4) thru $250,000</th>
<th>Commercial over $250,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indicated (Weekly) Rate - Art. 1.04(a)(1)</td>
<td>11/19/90-11/25/90</td>
<td>18.00%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Monthly Rate - Art. 1.04 (c)(1)</td>
<td>11/01/90-11/30/90</td>
<td>18.00%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Standard Quarterly Rate - Art. 1.04(a)(2)</td>
<td>10/01/90-12/31/90</td>
<td>18.00%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Retail Credit Card Quarterly Rate - Art. 1.11(3)</td>
<td>10/01/90-12/31/90</td>
<td>18.00%</td>
<td>N.A.</td>
</tr>
<tr>
<td>Lender Credit Card Quarterly Rate - Art. 1.15.02(d)(3)</td>
<td>10/01/90-12/31/90</td>
<td>15.02%</td>
<td>N.A.</td>
</tr>
<tr>
<td>Standard Annual Rate - Art. 1.04(a)(2)</td>
<td>10/01/90-12/31/90</td>
<td>18.00%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Retail Credit Card Annual Rate - Art. 1.11(3)</td>
<td>10/01/90-12/31/90</td>
<td>18.00%</td>
<td>N.A.</td>
</tr>
<tr>
<td>Annual Rate Applicable to Pre-July 1, 1983 Retail and Lender Credit Card Balances with Annual Implementation Dates from:</td>
<td>10/01/90-12/31/90</td>
<td>18.00%</td>
<td>N.A.</td>
</tr>
</tbody>
</table>

(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.

TRD-9012262  Al Endley  Consumer Credit Commissioner

Filed: November 15, 1990

For further information, please call: (512) 479-1280

\* \* \* \* \* \* \*

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).
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<th>Commercial (4) over $250,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indicated (Weekly) Rate - Art. 1.04(a)(1)</td>
<td>12/03/90-12/09/90</td>
<td>18.00%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Monthly Rate - Art. 1.04 (c)(1)</td>
<td>12/01/90-12/31/90</td>
<td>18.00%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Standard Quarterly Rate - Art. 1.04(a)(2)</td>
<td>01/01/91-03/31/91</td>
<td>18.00%</td>
<td>N.A.</td>
</tr>
<tr>
<td>Retail Credit Card Quarterly Rate - Art. 1.11(3)</td>
<td>01/01/91-03/31/91</td>
<td>18.00%</td>
<td>N.A.</td>
</tr>
<tr>
<td>Lender Credit Card Quarterly Rate - Art. 15.02(d)(3)</td>
<td>01/01/91-03/31/91</td>
<td>14.37%</td>
<td>N.A.</td>
</tr>
<tr>
<td>Standard Annual Rate - Art. 1.04(a)(2)</td>
<td>01/01/91-03/31/91</td>
<td>18.00%</td>
<td>18.00%</td>
</tr>
<tr>
<td>Retail Credit Card Annual Rate - Art. 1.11(3)</td>
<td>01/01/91-03/31/91</td>
<td>18.00%</td>
<td>N.A.</td>
</tr>
<tr>
<td>Annual Rate Applicable to Pre-July 1, 1983 Retail and Lender Credit Card Balances with Annual Implementation Dates from:</td>
<td>01/01/91-03/31/91</td>
<td>18.00%</td>
<td>N.A.</td>
</tr>
<tr>
<td>Judgment Rate - Art. 1.05, Section 2</td>
<td>12/01/90-12/31/90</td>
<td>10.00%</td>
<td>10.00%</td>
</tr>
</tbody>
</table>

(1) For variable rate commercial transactions only. (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. (3) Credit for personal, family or household use. (4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on November 26, 1990.

TRD-9012725 AI Endsey Consumer Credit Commissioner

Filed: November 28, 1990

For further information, please call: (512) 479-1280

Employees Retirement System of Texas
Consultant Proposal Request

In accordance with the Texas Insurance Code, Article 3.50-2, §4, as amended, and Texas Civil Statutes, Article 6252-11c, the Employees Retirement System of Texas (ERS) announces a request for proposals (RFP) to provide flexible benefits (cafeteria) plan general consultant services to the ERS.

Firms wishing to respond to the request must have prior demonstrated work experience in flexible benefits general consultant services. In addition, firms should have a working knowledge of the State of Texas policies and procedures which may affect the delivery of a flexible benefits program.

The RFP instructions which detail information regarding the project are available upon request from ERS.

The deadline for receipt of the proposals in response to this request will be 5 p.m., central standard time, on December 17, 1990.

ERS reserves the right to accept or reject any or all proposals submitted. ERS is under no legal requirement to execute a resulting contract on the basis of this request.

The ERS will base its choice on cost, demonstrated competence, superior qualifications, and evidence of conformance with the RFP criteria.

This RFP does not commit the ERS to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates the ERS toward a contract or to pay any costs incurred in the preparation of a response. The ERS specifically reserves the right to vary all provisions set forth at any time prior to execution of a contract where the ERS deems it to be in the best interest of the State of Texas.

For further information regarding this notice, or to obtain copies of the RFP instructions, please contact Yuri Prentice, Employees Retirement System of Texas, Flexible Benefits Program, 18th and Brazos, P.O. Box 13207, Austin, Texas 78711-3207, (512) 867-3296.

Issued in Austin, Texas, on November 28, 1990.

TRD-9012708 Charles D. Travis Executive Director Employees Retirement System of Texas

Filed: November 28, 1990

For further information, please call: (512) 867-3213

Governor’s Energy Division
Consultant Proposal Requests-Extension of Submission Deadline

The deadline for receiving proposals from prospective contractors to provide training sessions for design professionals in identifying and implementing energy efficient design strategies for school facility construction as published in the November 2, 1990, issue of the Texas Register (15 TexReg 6336) is hereby extended from November 30, 1990, to December 18, 1990. The contractor selection date is extended from December 21, 1990, to January 4, 1991. The starting date for the seminars is also extended to February 4, 1991.

For further information and to obtain a copy of the required proposal format and information package, contact Dave Boerner, Architect, Governor’s Energy Management Center, P.O. Box 12428, Austin, Texas 78711. Proposal packets will be sent first class mail. The Energy Management Center will not fax proposal packets.
The deadline for submission of proposals from prospective contractors for Regional Public School Energy Coordinators as published in the November 2, 1990, issue of the Texas Register (15 TexReg 6336) is hereby extended from November 30, 1990 to December 20, 1990. The contractor selection date is extended from December 21, 1990, to January 8, 1991.

For further information and to obtain a copy of the required proposal format and information package, contact Dave Boemer, Architect, Governor's Energy Management Center, P.O. Box 12428, Austin, Texas 78711. Proposal packets will be sent first class mail. The Energy Management Center will not fax proposal packets.

Texas Department of Health
Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

<table>
<thead>
<tr>
<th>Location</th>
<th>Name</th>
<th>License#</th>
<th>City</th>
<th>Amendment #</th>
<th>Date of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>El Paso</td>
<td>Nuclear Medicine Consultants</td>
<td>LO4418</td>
<td>El Paso</td>
<td>0</td>
<td>10/31/90</td>
</tr>
<tr>
<td>Throughout Texas</td>
<td>Lide Tank Company</td>
<td>LO4443</td>
<td>Media</td>
<td>0</td>
<td>10/31/90</td>
</tr>
<tr>
<td>Throughout Texas</td>
<td>Colorado River Municipal Water District</td>
<td>LO4446</td>
<td>Big Spring</td>
<td>0</td>
<td>11/07/90</td>
</tr>
<tr>
<td>Throughout Texas</td>
<td>Baker Hughes M4D, Inc.</td>
<td>LO4452</td>
<td>Houston</td>
<td>0</td>
<td>11/12/90</td>
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AMENDMENTS TO EXISTING LICENSES ISSUED:

<table>
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<tr>
<th>Location</th>
<th>Name</th>
<th>License#</th>
<th>City</th>
<th>Amendment #</th>
<th>Date of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Addison</td>
<td>MCP Machining Company/Dallas Turbine, Inc.</td>
<td>LO4272</td>
<td>Addison</td>
<td>1</td>
<td>10/30/90</td>
</tr>
<tr>
<td>Amarillo</td>
<td>Southwestern Public Service Company</td>
<td>LO1981</td>
<td>Amarillo</td>
<td>24</td>
<td>11/12/90</td>
</tr>
<tr>
<td>Austin</td>
<td>Texas Department of Health</td>
<td>LO1155</td>
<td>Austin</td>
<td>47</td>
<td>10/31/90</td>
</tr>
<tr>
<td>Austin</td>
<td>Texas Department of Health</td>
<td>LO1155</td>
<td>Austin</td>
<td>48</td>
<td>11/07/90</td>
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<tr>
<td>Austin</td>
<td>Syncor International Corporation</td>
<td>LO2117</td>
<td>Austin</td>
<td>47</td>
<td>10/09/90</td>
</tr>
<tr>
<td>Corpus Christi</td>
<td>Humana Hospital Corpus Christi</td>
<td>LO2816</td>
<td>Corpus Christi</td>
<td>20</td>
<td>11/13/90</td>
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<tr>
<td>Dallas</td>
<td>Southwestern Institute of Forensic Sciences</td>
<td>LO2184</td>
<td>Dallas</td>
<td>5</td>
<td>11/08/90</td>
</tr>
<tr>
<td>Dallas</td>
<td>Central Diagnostic Center</td>
<td>LO3867</td>
<td>Dallas</td>
<td>4</td>
<td>11/06/90</td>
</tr>
<tr>
<td>Deer Park</td>
<td>Soltek Polymer Corporation</td>
<td>LO0068</td>
<td>Deer Park</td>
<td>37</td>
<td>11/12/90</td>
</tr>
<tr>
<td>Denison</td>
<td>Texoma Medical Center</td>
<td>LO1624</td>
<td>Denison</td>
<td>30</td>
<td>11/02/90</td>
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<tr>
<td>Duncanville</td>
<td>Duncanville Diagnostic Center</td>
<td>LO3717</td>
<td>Duncanville</td>
<td>6</td>
<td>11/06/90</td>
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<tr>
<td>El Paso</td>
<td>El Paso Water Utilities</td>
<td>LO2272</td>
<td>El Paso</td>
<td>6</td>
<td>11/12/90</td>
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<tr>
<td>El Paso</td>
<td>Ansell Incorporated</td>
<td>LO4214</td>
<td>El Paso</td>
<td>3</td>
<td>11/12/90</td>
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<tr>
<td>Houston</td>
<td>Houston Lighting and Power</td>
<td>LO2063</td>
<td>Houston</td>
<td>43</td>
<td>11/07/90</td>
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<tr>
<td>Houston</td>
<td>Exxon Production Research Company</td>
<td>LO3205</td>
<td>Houston</td>
<td>37</td>
<td>11/12/90</td>
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<tr>
<td>Houston</td>
<td>Lyondell Petrochemical Company</td>
<td>LO0187</td>
<td>Houston</td>
<td>35</td>
<td>11/12/90</td>
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<tr>
<td>Houston</td>
<td>IMAGENS, Inc.</td>
<td>LO4107</td>
<td>Houston</td>
<td>8</td>
<td>11/09/90</td>
</tr>
<tr>
<td>Midland</td>
<td>The Imaging Center, Inc.</td>
<td>LO3850</td>
<td>Midland</td>
<td>4</td>
<td>11/13/90</td>
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<tr>
<td>Midlothian</td>
<td>Chemtall Steel Company</td>
<td>LO2015</td>
<td>Midlothian</td>
<td>14</td>
<td>11/12/90</td>
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<tr>
<td>Midlothian</td>
<td>Texas Industries, Inc.</td>
<td>LO1421</td>
<td>Dallas</td>
<td>23</td>
<td>11/13/90</td>
</tr>
<tr>
<td>Pasadena</td>
<td>Hoechst Celanese Corporation</td>
<td>LO4008</td>
<td>Houston</td>
<td>4</td>
<td>11/06/90</td>
</tr>
<tr>
<td>Pasadena</td>
<td>Graver Tank &amp; Manufacturing Co. Inc.</td>
<td>LO2176</td>
<td>Houston</td>
<td>26</td>
<td>11/06/90</td>
</tr>
<tr>
<td>Pasadena</td>
<td>Pasadena Mammography Services</td>
<td>LO4346</td>
<td>Pasadena</td>
<td>1</td>
<td>11/07/90</td>
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</table>

15 TexReg 7052 December 7, 1990 Texas Register
## AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

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<tr>
<th>Location</th>
<th>Name</th>
<th>License#</th>
<th>City</th>
<th>Amendment #</th>
<th>Date of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Angelo</td>
<td>San Angelo Electric Service Company</td>
<td>L02588</td>
<td>San Angelo</td>
<td>5</td>
<td>10/31/90</td>
</tr>
<tr>
<td>San Antonio</td>
<td>Southwest Research Institute</td>
<td>L00775</td>
<td>San Antonio</td>
<td>36</td>
<td>11/01/90</td>
</tr>
<tr>
<td>San Antonio</td>
<td>Southwest Texas Methodist Hospital</td>
<td>L00594</td>
<td>San Antonio</td>
<td>84</td>
<td>11/02/90</td>
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<tr>
<td>Sea Drift</td>
<td>Union Carbide Chemicals and Plastics Company Inc.</td>
<td>L00051</td>
<td>Port Lavaca</td>
<td>54</td>
<td>10/31/90</td>
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<tr>
<td>Sherman</td>
<td>Wilson N. Jones Memorial Hospital</td>
<td>L02384</td>
<td>Sherman</td>
<td>12</td>
<td>11/01/90</td>
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<tr>
<td>Texas City</td>
<td>Sterling Chemicals, Inc.</td>
<td>L03952</td>
<td>Texas City</td>
<td>3</td>
<td>11/13/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Corpus Christi Inspection &amp; Engineering Inc.</td>
<td>L04379</td>
<td>Corpus Christi</td>
<td>3</td>
<td>10/30/90</td>
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<tr>
<td>Throughout Texas</td>
<td>ASDM Instruments, Inc.</td>
<td>L02788</td>
<td>Austin</td>
<td>25</td>
<td>10/26/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Koch Engineering Company Inc.</td>
<td>L03913</td>
<td>La Porte</td>
<td>29</td>
<td>10/31/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Pool and Rogers Paving Company, Inc.</td>
<td>L04237</td>
<td>Bula</td>
<td>2</td>
<td>10/31/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Young Brothers, Inc., Contractors</td>
<td>L04095</td>
<td>Waco</td>
<td>4</td>
<td>10/31/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Alpha Testing, Inc.</td>
<td>L03411</td>
<td>Dallas</td>
<td>11</td>
<td>10/31/90</td>
</tr>
<tr>
<td>Throughout Texas</td>
<td>Professional Service Industries, Inc.</td>
<td>L00263</td>
<td>Houston</td>
<td>39</td>
<td>11/02/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Triple C X-Ray &amp; Testing Labs Inc.</td>
<td>L03136</td>
<td>Hambly</td>
<td>10</td>
<td>11/02/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Petroleum Industry Inspectors</td>
<td>L04081</td>
<td>Houston</td>
<td>11</td>
<td>11/01/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Midland Inspection and Engineering Incorporated</td>
<td>L03724</td>
<td>Midland</td>
<td>22</td>
<td>11/01/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Columbia Scientific Industries</td>
<td>L01381</td>
<td>Austin</td>
<td>47</td>
<td>11/06/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Radiographic Specialists Inc.</td>
<td>L02742</td>
<td>Houston</td>
<td>17</td>
<td>11/01/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Applied Standards Inspection Inc.</td>
<td>L00072</td>
<td>Beaumont</td>
<td>22</td>
<td>11/06/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Coolsby Testing Laboratories Inc.</td>
<td>L01111</td>
<td>Hambly</td>
<td>29</td>
<td>11/05/90</td>
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<td>Throughout Texas</td>
<td>Texas Industrial X-Ray Inc.</td>
<td>L01851</td>
<td>Pasadena</td>
<td>44</td>
<td>11/06/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Non-Destructive Inspection Corporation</td>
<td>L02712</td>
<td>Lake Jackson</td>
<td>17</td>
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<tr>
<td>Throughout Texas</td>
<td>Midwest Inspection Service</td>
<td>L03120</td>
<td>Perryton</td>
<td>28</td>
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<tr>
<td>Throughout Texas</td>
<td>Ebasco Services Incorporated</td>
<td>L02662</td>
<td>Houston</td>
<td>22</td>
<td>11/08/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Southern Services, Inc.</td>
<td>L02683</td>
<td>Lake Jackson</td>
<td>26</td>
<td>11/09/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Service and Compliance Consultants</td>
<td>L03873</td>
<td>Coldspring</td>
<td>5</td>
<td>11/07/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Ace Perforators, Inc.</td>
<td>L03559</td>
<td>Odessa</td>
<td>6</td>
<td>11/09/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Tuboscope, Inc.</td>
<td>L02287</td>
<td>Houston</td>
<td>5</td>
<td>11/09/90</td>
</tr>
<tr>
<td>Throughout Texas</td>
<td>Sperry-Sun Drilling Services, Inc.</td>
<td>L02603</td>
<td>Houston</td>
<td>30</td>
<td>11/09/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Computalog Wireline Services, Inc.</td>
<td>L04286</td>
<td>Houston</td>
<td>5</td>
<td>11/09/90</td>
</tr>
<tr>
<td>Throughout Texas</td>
<td>American Pipe Inspection, Inc.</td>
<td>L02576</td>
<td>Houston</td>
<td>10</td>
<td>11/13/90</td>
</tr>
<tr>
<td>Throughout Texas</td>
<td>Wedge Wireline Inc.</td>
<td>L03115</td>
<td>Arlington</td>
<td>68</td>
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<tr>
<td>Victoria</td>
<td>E I Du Pont De Nemours &amp; Co., Inc.</td>
<td>L03886</td>
<td>Victoria</td>
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<td>11/12/90</td>
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<tr>
<td>Vinton</td>
<td>Border Steel Rolling Mills, Inc.</td>
<td>L03137</td>
<td>El Paso</td>
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<tr>
<td>Waco</td>
<td>Hillcrest Baptist Medical Center</td>
<td>L02326</td>
<td>Waco</td>
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## RENEWALS OF EXISTING LICENSES ISSUED:

<table>
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<tr>
<th>Location</th>
<th>Name</th>
<th>License#</th>
<th>City</th>
<th>Amendment #</th>
<th>Date of Action</th>
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<tbody>
<tr>
<td>Texas City</td>
<td>TEX TIN CORPORATION</td>
<td>L01270</td>
<td>Texas City</td>
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<td>11/02/90</td>
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<tr>
<td>Throughout Texas</td>
<td>Dallas Water Utilities</td>
<td>L03829</td>
<td>Dallas</td>
<td>2</td>
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<td>Wharton</td>
<td>Gulf Coast Medical Center</td>
<td>L01390</td>
<td>Wharton</td>
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## TERMINATIONS OF LICENSES ISSUED:

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<th>License#</th>
<th>City</th>
<th>Amendment #</th>
<th>Date of Action</th>
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<tbody>
<tr>
<td>Throughout Texas</td>
<td>Thorpe Inspection Service, Inc.</td>
<td>L03788</td>
<td>Corpus Christi</td>
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<td>10/29/90</td>
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</tbody>
</table>

* In Addition  December 7, 1990  15 TexReg 7053
In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with Texas Regulations for Control of Radiation in such a manner as to minimize danger to public health and safety or property and the environment; the applicants proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the Texas Regulations for Control of Radiation.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, from 8 a.m. to 5 p.m. Monday-Friday (except holidays).

Issued in Austin, Texas, on November 27, 1990.

TRD-9012783 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

15 TexReg 7054 December 7, 1990 Texas Register •
Texas Department of Health
Permit Application for Municipal Solid Waste Site Notice of Filing

Glasscock County has filed Application Number 2154 with the Texas Department of Health for a permit to operate a proposed Type III municipal solid waste site to be located one mile south southeast of the intersection of RM 33 and FM 461, in Glasscock County, Brewster County.

The site covers approximately 20 acres of land, and is to daily receive approximately one ton of solid waste under the regulatory jurisdiction of the Texas Department of Health for disposal or other processing in accordance with the department's municipal solid waste management regulations. A technical review of the application is being made by the Department's Bureau of Solid Waste Management and various state and local agencies which have a jurisdictional interest.

No public hearing will be held on this application unless a person affected 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, has suffered or will suffer actual injury or economic damage by the granting of the application. If a hearing is requested by a person affected, or if the Bureau of Solid Waste Management determines that a public hearing should be held, notice of such hearing will be provided to the requester and will also be published in a newspaper regularly published or circulated in the county in which the site is located at least 30 days prior to the date of such hearing.

Requests for a public hearing and/or requests for a copy of the application shall be submitted in writing to the Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. A copy of the complete application may be reviewed at the Bureau of Solid Waste Management; (512) 458-7271.

Issued in Austin, Texas, on November 29, 1990.

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:

<table>
<thead>
<tr>
<th>Percent (%) Copay:</th>
<th>10%</th>
<th>20%</th>
<th>30%</th>
<th>40%</th>
<th>50%</th>
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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

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For additional member, add: $2,556 $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.*

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 Bosque County, County Number 018, which appeared in the November 21, 1989, issue of the Texas Register (14 TexReg 6144). The solicitation is being closed effective the date of this public notice.

Issued in Austin, Texas, on December 3, 1990.

TRD-0012931 Nancy Murphy
Agency Liaison, Policy and Document Support
Texas Department of Human Services

Filed: December 3, 1990

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

Public Notice-Open Solicitation

Pursuant to 40 TAC §19.2004, as amended in the September 11, 1990, issue of the Texas Register (15 TexReg 5315), and Title 2, Chapters 22 and 32, of the Human Resources Code, the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days, effective the date of this public notice, for the county identified below, where Medicaid contracted nursing facility occupancy rates exceed the threshold (90% occupancy) in each of five months in the continuous May-October, six-month period.

Potential contractors seeking to contract for existing beds which are currently licensed as nursing home beds or hospital beds in the county identified in this public notice must submit a written reply (as described in 40 TAC §16.2004) to TDHS, Gary L. Allen, Institutional Program Section, Long Term Care Department, Mail Code 5-01, Post Office Box 149030, Austin, Texas 78714-9030. The written reply must be received by TDHS by 5 p.m. January 7, 1991, the last day of the open solicitation period.

15 TexReg 7056 December 7, 1990 Texas Register
Potential contractors will be placed on a waiting list for the primary selection process in the order in which the Texas Department of Health originally licensed the beds that are being proposed for Medicaid participation. The primary selection process will be completed on January 17, 1990. If there are insufficient available beds after the primary selection to reduce occupancy rates to less than 80%, TDHS will place a public notice in the Texas Register announcing an additional open solicitation period for those individuals wishing to construct a facility.

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<th>County Number</th>
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<th>Number of Months Over</th>
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Issued in Austin, Texas, on December 3, 1990.
TRD-9012929   Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: December 3, 1990
For further information, please call: (512) 450-3765

Pursuant to 40 TAC §19.2004, in the September 11, 1990, issue of the Texas Register (15 TexReg 5315), and Title 2, Chapters 22 and 32 of the Human Resources Code, the Texas Department of Human Services (TDHS) is announcing the reopening of the open solicitation period for Hardeman County, County Number 099, identified in the January 12, 1990, issue of the Texas Register (15 TexReg 234).

Potential contractors desiring to construct a 90-bed nursing facility in the above referenced area must submit a written reply (as described in 40 TAC §19. 2004) to TDHS, Gary L. Allen, Institutional Program Section, Long Term Care Department, Mail Code E-501, P.O. Box 149030, Austin, Texas 78714-9030.

Upon receipt of a reply from a potential contractor, TDHS will place a notice in the Texas Register to announce the closing date of the reopened solicitation period.

Issued in Austin, Texas, on December 3, 1990.
TRD-9012930   Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: December 3, 1990
For further information, please call: (512) 450-3765

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 16, 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 Public Service Company for a certificate of convenience and necessity in Terry and Gaines County, Docket Number 9870 before the Public Utility Commission of Texas.

The Application: In Docket Number 9870, Southwestern Public Service Company requests approval of its application to construct approximately 35.6 miles of 115kV transmission line and approximately 10 miles of 69kV transmission line in Terry and Gaines Counties.

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 Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas, on November 27, 1990.
TRD-9012751   Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

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 Philadelphia Indemnity Insurance Company, a foreign casualty company. The home office is in Wynnewood, Pennsylvania.
Filed: November 28, 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), (18)(b), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of Cumby Telephone Cooperative Inc. to amend certificate of convenience and necessity in Hunt County, Docket Number 9853 before the Public Utility Commission of Texas.

The Application: In Docket Number 9853, Cumby Telephone Cooperative Inc. seeks approval of its application in order to provide residential telephone service at a subscriber's request in Hunt County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shool Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas, on November 27, 1990.
TRD-9012748 Mary Ross McDonald Secretary of the Commission Public Utility Commission of Texas

Filed: November 28, 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 15, 1990, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), (18)(b), 50, 52, and 54. A summary of the application follows.

Docket Title and Number: Application of XIT Rural Telephone Cooperative Inc. to amend certificate of convenience and necessity in Sherman and Moore Counties, Docket Number 9865 before the Public Utility Commission of Texas.

The Application: In Docket Number 9865, XIT Rural Telephone Cooperative Inc. seeks approval of its application in order to provide telephone service to a residential customer from its Coldwater exchange.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shool Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas, on November 27, 1990.
TRD-9012749 Mary Ross McDonald Secretary of the Commission Public Utility Commission of Texas

Filed: November 28, 1990
For further information, please call: (512) 458-0100

Texas Racing Commission
Correction of Errors


The Register published in the third paragraph "Daily business as..." and should read "doing business as...".

The Texas Racing Commission submitted an emergency rule to 16 TAC 311.15 for the November 16, 1990, issue of the Texas Register (15 TexReg 6555). The Register published in §311.15 preamble, paragraph one, "...debts legally owed..." and it should read "...debts legally owed...". In §311.15(f) was published "...is not entitled reimbursement..." and it should read "...is not entitled to reimbursement...".

Texas Water Commission
Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the Texas Register not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Texas Tank Car Works, Inc. Solid Waste Registration Number 39H16, on November 19, 1990, assessing $29,600 in administrative penalties with $9,600 deferred and waived contingent upon compliance.
Information concerning any aspect of this order may be obtained by contacting H. Glenn Hall, III, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on November 29, 1990.

TRD-9012809 Gloria A. Vasquez Notices Coordinator Texas Water Commission

Filed: November 29, 1990

For further information, please call: (512) 463-7898

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the Texas Register not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Skewer Products, Inc., Solid Waste Registration Number 30629; on November 20, 1990, assessing $8,800 in administrative penalties.

An information concerning any aspect of this order may be obtained by contacting Robin Smith, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on November 29, 1990.

TRD-9012808 Gloria A. Vasquez Notices Coordinator Texas Water Commission

Filed: November 29, 1990

For further information, please call: (512) 463-7898

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the Texas Register not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to R. W. McDonnell, Construction Company, Inc., Permit Number 13510-01, on November 21, 1990, assessing $6,543 in administrative penalties with $4,363 deferred contingent upon compliance. Stipulations were also imposed.

Information concerning any aspect of this order may be obtained by contacting Wendall Corrigan, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on November 29, 1990.

TRD-9012807 Gloria A. Vasquez Notices Coordinator Texas Water Commission

Filed: November 29, 1990

For further information, please call: (512) 463-7898

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the Texas Register not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Rio Leche Dairy, Permit Number 03089, on November 20, 1990, assessing $24,140 in administrative penalties with $15,240 deferred or foregone contingent upon compliance. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Margaret A. Kirick, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on November 29, 1990.

TRD-9012806 Gloria A. Vasquez Notices Coordinator Texas Water Commission

Filed: November 29, 1990

For further information, please call: (512) 463-7898

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the Texas Register not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Lubbock Cotton Oil Company, Permit Number 02618, on November 20, 1990, assessing $7,905 in administrative penalties. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Jennifer C. Smith, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on November 29, 1990.

TRD-9012805 Gloria A. Vasquez Notices Coordinator Texas Water Commission

Filed: November 29, 1990

For further information, please call: (512) 463-7898

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the Texas Register not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to the City of Hildago, Permit Number 11080-1, on November 19, 1990, assessing $7,500 in administrative penalties with from the TWC Order issued November 17, 1988.

Information concerning any aspect of this order may be obtained by contacting Margaret A. Kirick, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on November 29, 1990.

TRD-9012804 Gloria A. Vasquez Notices Coordinator Texas Water Commission

Filed: November 29, 1990

For further information, please call: (512) 463-7898

\* In Addition \* December 7, 1990 \* 15 TexReg 7059
Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the Texas Register not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to the City of Burk Burnett; Permit Number 10002-01; on November 21, 1990, assessing $24,000 in administrative penalties with $4,800 deferred. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Wendall Corrigan, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on November 29, 1990.

TRD-9012803  Gloria A. Vasquez  Notices Coordinator  Texas Water Commission
Filed: November 29, 1990
For further information, please call: (512) 463-7898

Meeting Notices

A meeting of the Scientific/Technical Advisory Committee (STAC) of the Galveston Bay National Estuary Program is scheduled for: Thursday, December 6, 1990, 10 a.m., Forest Room-Bayou Building, University of Houston-Clear Lake, 2700 Bay Area Boulevard, Houston.

The STAC will discuss member replacements to the committee. Also, the need to conduct monthly meetings during development of work scopes will be considered. Reports from existing fiscal year 1992 characterization subcommittees will be heard and discussions regarding additional studies to be performed during fiscal year 1992.

Issued in Houston, Texas, on November 26, 1990.

TRD-9012785  Frank S. Shipley, Ph.D.  Program Manager  Galveston Bay National Estuary Program
Filed: November 29, 1990
For further information, please call: (713) 283-3950

Texas Workers’ Compensation Commission

Announcement of Public Hearings on Proposed Rules—December 6

The Texas Workers’ Compensation Commission will hold public hearings on proposed new rules Thursday, December 6, 1990 from 6 p.m. and continuing until oral testimony is completed. The hearing will be held in Austin in Room 225 of the Bevington A. Reed Building at 200 East Riverside Drive.

The hearing on December 6, will cover proposed §102.4 (General Provisions/Practice and Procedures), §104.1 (Rule Making), §§130.1-130.7 (Impairment and Supplemental Income Benefits), §134.100 and §134.101 (Guidelines for Medical Services, Charges, and Payments), §§142.1-142.18 (Benefit Contested Case Hearing), §§143.1-143.5 (Review By the Appeals Panel), §150.1 (Qualifications For Representatives), and §§152.1-152.5 (Attorney’s Fees).

The texts of the proposed rules were published in the November 6, and November 20 issues of the Texas Register.

Depending upon attendance, a time limitation may be placed on oral testimony. Written summaries of testimony will be accepted and are encouraged.

Issued in Austin, Texas, on November 28, 1990.

TRD-9012775  Susan M. Kelley  General Counsel  Texas Workers’ Compensation Commission
Filed: November 29, 1990
For further information, please call: (512) 440-3973
**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.

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