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# Texas Register

Volume 14, Number 17, March 3, 1989

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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 proclamations

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Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

a section of the  
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Subscriptions—one year (96 regular issues), \$90; six months (48 regular issues and two index issues), \$70. Single copies of most issues are available at \$4 per copy.

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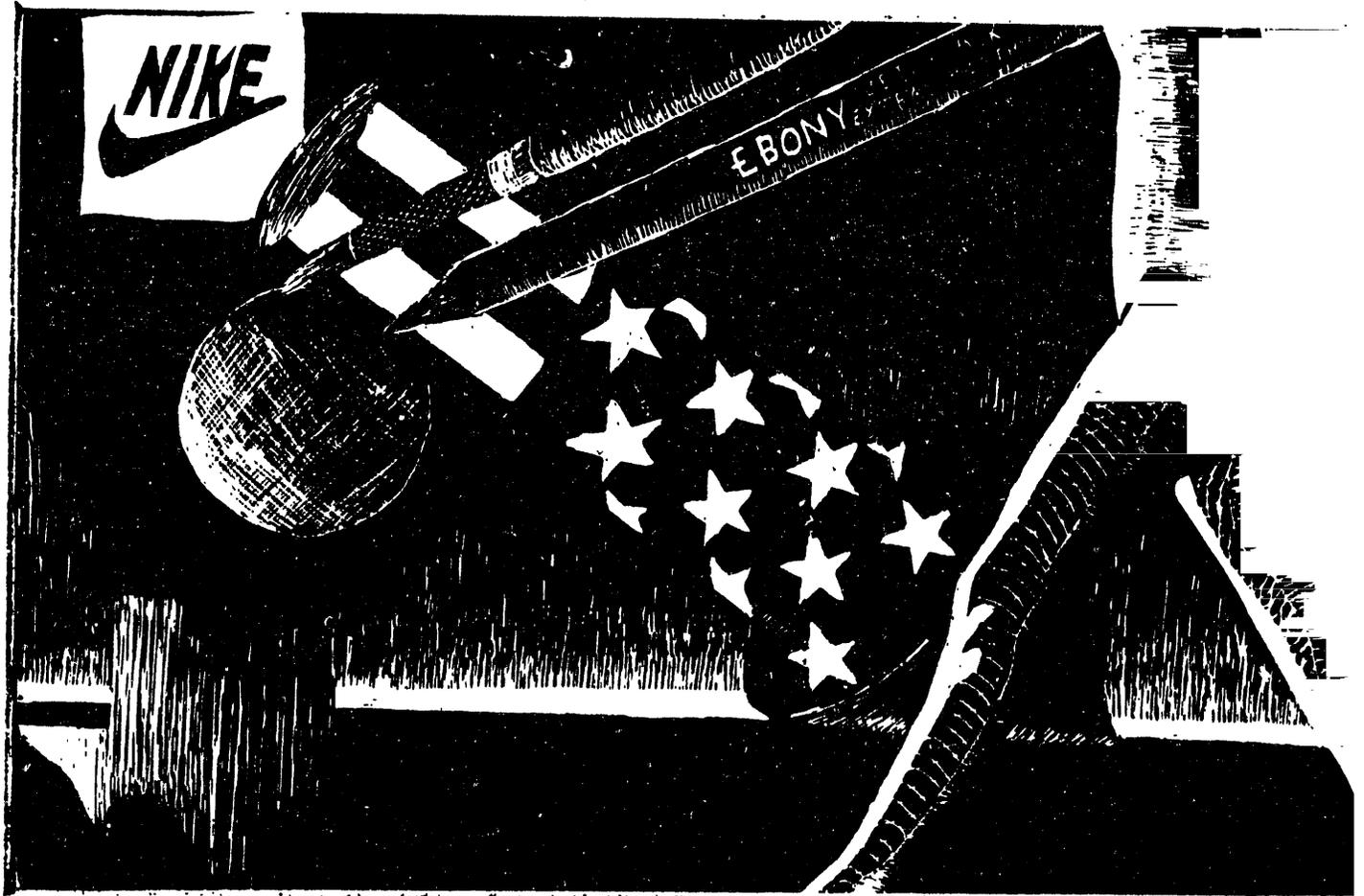
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Name: Randy Knuckles

Grade: 12

School: Plano East High, Plano

# TAC Titles Affected

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## TAC Titles Affected—March

The following is a list of the administrative rules that have been published this month.

### TITLE 4. AGRICULTURE

#### *Part I. Texas Department of Agriculture*

4 TAC §11.2—1073

### TITLE 7. BANKING AND SECURITIES

#### *Part VI. Credit Union Department*

7 TAC §91.802—1073

### TITLE 16. ECONOMIC REGULATION

#### *Part II. Public Utility Commission of Texas*

16 TAC §23.15—1079

### TITLE 22. EXAMINING BOARDS

#### *Part V. Texas State Board of Dental Examiners*

22 TAC §109.173—1079

#### *Part XXII. Texas State Board of Public Accountancy*

22 TAC §511.26—1079

22 TAC §511.27—1080

#### *Part XXIII. Texas Real Estate Commission*

22 TAC §535.92—1080

### TITLE 31. NATURAL RESOURCES AND CONSERVATION

#### *Part II. Texas Parks and Wildlife Department*

31 TAC §53.22, §53.23—1074

#### *Part IV. School Land Board*

31 TAC §151.3—1081

31 TAC §155.4—1081

31 TAC §155.10—1074

31 TAC §§157.1-157.14—1082

31 TAC §§159.1-159.8, 159.21-159.29, 159.41-159.45, 159.51-159.108, 159.121-159.123, 159.131-159.135—1083

### TITLE 37. PUBLIC SAFETY AND CORRECTIONS

#### *Part I. Texas Department of Public Safety*

37 TAC §17.2—1083

#### *Part III. Texas Youth Commission*

37 TAC §119.01—1075

### TITLE 40. SOCIAL SERVICES AND ASSISTANCE

#### *Part I. Texas Department of Human Services*

40 TAC §§10.4301-10.4306, 10.4308, 10.4311-10.4316—1083

40 TAC §10.6001-10.6005—1083

40 TAC §15.100—1075

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40 TAC §§15.200, 15.201, 15.205, 15.210, 15.215—1088

40 TAC §§15.300, 15.301, 15.305, 15.310, 15.320, 15.325—1089

40 TAC §15.315—1077

40 TAC §§15.400, 15.405, 15.410, 15.415, 15.420, 15.425, 15.430, 15.435, 15.440-15.443—1090

40 TAC §§15.450, 15.455, 15.460, 15.465, 15.466, 15.470, 15.475—1095

40 TAC §§15.500, 15.501, 15.505, 15.510, 15.515—1098

40 TAC §15.502—1076

40 TAC §§15.600, 15.605, 15.610, 15.615, 15.620—1100

40 TAC §§15.700, 15.701, 15.705, 15.710, 15.715, 15.720, 15.725—1102

40 TAC §§15.901-15.903—1103

40 TAC §15.2001—1103

40 TAC §15.2101—1103

40 TAC §§15.2201-15.2203—1103

40 TAC §15.2301—1103

40 TAC §15.3001—1103

40 TAC §§15.3101-15.3107, 15.3109-15.3112—1103

40 TAC §§15.3201-15.3206, 15.3209-15.3211, 15.3214-15.3217, 15.3219-15.3226—1104

40 TAC §§15.3301-15.3323—1104

40 TAC §§15.3401-15.3404, 15.3408-15.3418—1104

40 TAC §15.5002—1104

40 TAC §§15.5101-15.5106—1104

40 TAC §§15.5201-15.5216—1104

40 TAC §§15.5301-15.5305—1104

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# The Governor

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

## Appointments Made February 23, 1989

To be a member of the Texas State University System Board of Regents, a term to expire February 1, 1995: Daniel N. Matheson, III, 3811 Green Trails South, Austin, Texas 78731. Mr. Matheson will be replacing Ruben M. Escobedo of San Antonio, whose term expired.

To be a member of the Texas A&M University System Board of Regents for a term to expire February 1, 1995: Ross D. Margraves, Jr., 5100 San Felipe, 181 East Tower, Houston, Texas 77056. Mr. Margraves will be replacing John Brady Coleman, M.D. of Houston whose term expired.

To be a member of the Texas A&M University System Board of Regents for a term to expire February 1, 1995: Raul B. Fernandez, 9111 Powhatan, San Antonio, Texas 78230. Mr. Fernandez will be replacing David Eller of Houston whose term expired.

To be a member of the Industrial Accident Board, for a term to expire September 1, 1993: Mr. Milton E. Fox, 6010 Cape Coral, Austin, Texas 78746. Mr. Fox will be filling the unexpired term of James J. Kaster of Austin who resigned.

To be a member of the Texas Funeral Service Commission, for a term to expire January 31, 1995: Mr. Scott Kurth, 510 Kenya, Cedar Hill, Texas 75104. Mr. Kurth

will be replacing Reverend William Stephenson of Dallas, whose term expired.

To be a member of the Texas Board of Corrections, for a term to expire February 15, 1991: Mr. Ben Gallant, Jr., 13501 Royal Fifth, Corpus Christi, Texas 78418. Mr. Gallant will be filling the unexpired term of a vacant position formerly held by Jerry Hodge. Mr. Hodge was appointed to another position on the board.

Issued in Austin, Texas on February 24, 1989.

TRD-8901831

William P. Clements, Jr.  
Governor of Texas





Name: Shannon Cook

Grade: 12

School: Plano East High, Plano

# Attorney General

**Description of Attorney General submissions.** Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042 and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies maybe held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record.

## Letter Opinions

**LO-89-1-LO-89-13.** To: Mr. John Paul Batiste, Executive Director, Texas Commission on the Arts, P.O. Box 13406, Austin. This LO considers whether the Advisory Review Panel of the Texas Commission on the Arts is subject to the Open Meetings Act. (This LO is currently being reconsidered.)

To: Mr. Gary James, Alderman, in care of City Hall, 213 East Blackjack, Dublin. This LO considers whether one person may hold simultaneously the position of city manager and the position of chief of police.

To: Honorable B. J. Shepherd, Bosque County Attorney, County Attorney's Office, P.O. Box 647, Meridian. This LO considers whether a commissioners court may increase the salaries of county officers at a time other than the annual budget meeting.

To: Honorable Ashley Smith, Chairman, Government Organization, Texas House of Representatives, P.O. Box 2910, Austin. This LO considers whether an audiologist must be licensed by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids in order to fit and dispense hearing aids.

To: Honorable Frank Long, District Attorney, 8th Judicial district, 101 Jefferson, P.O. Box 882, Sulphur Springs. This LO considers whether a county commissioner may use county labor and materials to construct a driveway on the commissioner's private property for the purpose of storing county equipment.

To: Honorable John Vance, District Attorney, Government Center, 600 Commerce Street, Dallas. This LO considers the applicability of Article 6686-1, which governs the sale of motor vehicles on weekends.

To: Honorable Curtis Tunnell, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin. This LO considers whether theft from an Indian burial ground constitutes theft under the Penal Code, §31.03.

To: Representative Wilhelmina Delco, Texas House of Representatives, P.O. Box 2910, Austin. This LO considers whether a particular type of sales promotion constitutes gambling.

To: Honorable Fred Toler, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 1606 Headway Circle, Suite 100, Austin. This LO considers the meaning of "sexton" and "cemetery association" for purposes of Texas Civil Statutes, Article 912a-26.

To: Honorable Hugo Berlanga, Speaker Pro Tempore, Texas House of Representatives, P.O. Box 2910, Austin. This LO considers the scope of Texas Civil Statutes, Article 4477-6b, which regulates animal shelters.

To: Mr. Joe Jack Mills, Dallas County Attorney, 407 Records Building, Dallas. This LO clarifies LO-88-126, which considered whether a county auditor could sell road materials to the county.

To: Mr. Sam W. Dick, Criminal District Attorney, Fort Bend County Courthouse, Richmond; Mr. B.J. Shepherd, Bosque County Attorney, P.O. Box 196, Cranfills Gap; Ms. Sallie Tomlinson, Bosque County Auditor, P.O. Box 874, Meridian. This LO considers whether a county may pay private attorney's fees incurred in connection with grand jury investigations of county commissioners.

To: Honorable Ralph R. Wallace, III, Chairman, Cultural and Historical Resources Committee, Texas House of Representatives, P.O. Box 2910, Austin. This LO considers the necessity of a public hearing on the transfer of a permit issued under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7. TRD-8901785

## Opinions

**JM-1015 (RQ-1479).** Request from Honorable Donald M. Keith, Criminal District Attorney, Livingston, concerning validity under the Texas Constitution, Article VII, §14 and the Tax Code, §6.30.

**Summary of Opinion.** The Tax Code, §6.30, does not violate the Texas Constitution, Article VIII, §14.

**JM-1016 (RQ-1564).** Request from Honorable Bob Bullock, Comptroller of Public Accounts, Austin, concerning whether certain activities of an independent claims investigator or adjuster constitute a taxable insurance service under the Insurance Code,

§151.0039, and related questions.

**Summary of Opinion.** The exclusion of insurance coverage for which a premium is paid from the definition of "insurance coverage" simply means that a transaction that consists of the payment of a premium for insurance coverage is not a taxable event. It does not mean that any expenditure for which the premium is ultimately used by the insurer is not a taxable event.

**JM-1017 (RQ-1623).** Request from Mr. Clay Salyer, President, Texas Board of Chiropractic Examiners, Austin, concerning authority of the Texas Board of Chiropractic Examiners to establish by rule a minimum amount of prior practice of chiropractic for purposes of satisfying the reciprocity licensing requirement.

**Summary of Opinion.** The Texas Board of Chiropractic Examiners is not authorized to establish by rule a minimum amount of time of practicing chiropractic in another state or territory as a prerequisite for admission to practice in this state under the reciprocity provisions of Texas Civil Statutes, Article 4512b, §9.

## Requests for Opinions

**(RQ-1648).** Request from Honorable Mark Edwards, Reagan County Attorney, Big Lake, concerning whether a county is liable for expenses incurred by a district attorney in contracting with a law firm to do appellate work.

**(RQ-1649).** Request from Honorable Mark Stiles, Chairman, Committee on County Affairs, Texas House of Representatives, Austin, concerning whether the exception for police in Texas Civil Statutes, Article 6701m-2, which requires the marking of vehicle owned by a local political subdivision, is applicable to any department with general policing powers.

**(RQ-1650).** Request from Honorable Mark Stiles, Chairman, Committee on County Affairs, Texas House of Representatives, Austin, concerning whether a private attorney who serves on the board of directors of an appraisal district may contract for delinquent tax collection with a participating taxing unit, and related questions.

(RQ-1651). Request from Honorable Jerry Cobb, Criminal District Attorney, Denton, concerning whether a 9-1-1 emergency communication district may increase its fee without an election, and related questions.

(RQ-1652). Request from Honorable Kenneth H. Ashworth, Commissioner for Higher Education Coordinating Board, Austin, concerning the applicability of Texas Civil Statutes, Article 5165a, §2D, which permits a governing board of an institution of higher education to alter the length of the work day and the work week, to Alamo Community College District.

(RQ-1653). Request from Honorable Clayton L. Hall, District and County Attorney, Clarksville, concerning whether school district employees may purchase items for personal use from the Texas Surplus Property Agency.

(RQ-1654). Request from Honorable Fred Toler, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, Austin, concerning whether an individual employed by the adjutant general may be licensed as an armed security officer.

(RQ-1655). Request from Ms. Lynn Polson, Automated Information and Telecommunication Council, Austin, concerning whether agency proposals to acquire computers and telecommunications systems that are submitted to the Automated Information and Telecommunications Council are public under the Open Records Act.

(RQ-1656). Request from Ms. Iris J. Jones, Acting City Attorney, City of Austin, concerning whether a railroad coal transportation agreement between a city, a river authority, and several railroad companies and subject to federal regulations under the Staggers Act is public under the Open Records Act. TRD-8901780

(RQ-1657). Request from Honorable Hilary B. Doran, Jr., Chairman, Texas Racing Commission, Austin, concerning validity of system for regulating non-parimutuel racing as proposed by the Texas Racing Commission.

(RQ-1658). Request from Honorable Carl A. Parker, Chairman, Education Committee, Texas State Senate, Austin, concerning the authority of a School District Board of Trustees to contract with a bank, when a board member is a bank employee.

(RQ-1659). Request from Honorable Robert Bernstein, Commissioner of Health, Texas Department of Health, Austin, concerning the authority of a registered nurse to perform certain radiologic procedures, and related questions.

(RQ-1660). Request from Honorable G. Dwayne Pruitt, County Attorney, Brownfield, concerning whether sheriffs or constables are entitled to fees for unsuccessful attempts at service of process. TRD-8901784

# Proposed Sections

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

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

## TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

### Chapter 11. Herbicide Regulations

#### • 4 TAC §11.2

The Texas Department of Agriculture proposes an amendment to §11.2, concerning county special provisions. The proposed amendment is made upon request by the county commissioners court for Cottle and Gaines County after public hearing in accordance with the Texas Herbicide Law, §75.018. The amendment changes the beginning date for prohibition of use of hormone herbicides in Cottle County and add special provisions for Gaines county.

Dale Burnett, director of pesticide enforcement, 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 or small businesses as a result of enforcing or administering the section.

Mr. Burnett, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the reduced risk of economic loss and injury to susceptible crops from exposure to hormone-type herbicides. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Dolores Alvarado Hibbs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

The amendment is proposed under the Texas Agriculture Code, §75.018, which provides the Texas Department of Agriculture with the authority to promulgate rules after notice and hearing for administration of the Texas Herbicide Law.

#### §11.2. County Special Provisions.

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

(j) Cottle. The application of hormone-type herbicides is expressly prohibited between June 1 [10] and October 15 of each year.

(k)-(ii) (No change.)

(l) Gaines.

(1) Dcamba may be applied at any time during the calendar year with-

out the requirement of a permit issued by the department or payment of a fee. However, a notice of intent to spray is required and should be filed with the department prior to application.

(2) The application of all 2,4-D herbicides is allowed between October 1 and March 31 of each year without the requirement of a permit issued by the department or payment of a fee. However, a notice of intent to spray is required and should be filed with the department prior to application.

(3) The application of all 2,4-D herbicides is allowed between April 1 and ending September 30 of each year.

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

Issued in Austin, Texas, on February 24, 1989.

TRD-8901820

Dolores Alvarado Hibbs  
Director of Hearings  
Texas Department of  
Agriculture

Earliest possible date of adoption: April 3, 1989

For further information, please call: (512) 463-7583

## TITLE 7. BANKING AND SECURITIES

### Part VI. Credit Union Department

#### Chapter 91. Chartering, Operations, Mergers, Liquidations

#### Investments

#### • 7 TAC §91.802

The Credit Union Commission proposes an amendment to §91.802, concerning the authorization for credit unions to invest in asset-backed corporate bonds and collateralized mortgage obligations which will provide more latitude in credit unions, investment programs, and a more diverse investment portfolio.

John R. Hale, commissioner 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 or small businesses as a result of enforcing or

administering the section.

Mr. Hale also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that credit unions will have greater latitude in making investments in highly rated (AA or better) securities; thereby, obtaining a more diverse investment portfolio which should increase investment stability and provide additional protection to the public's savings. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Harry L. Elliott, Staff Services Officer, 914 East Anderson Lane, Austin, Texas 78752-1699.

The amendment is proposed under the provisions of Texas Civil Statutes, Article 2461-11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

#### §91.802. Other Investments.

(a) (No change.)

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

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

(13) Mortgage related security--A security which meets the definition of mortgage related security in United States Code Annotated, Title 15, §78c(a)(41).

(14) Asset-backed security--A bond, note, or other obligation issued by a financial institution, trust, insurance company, or other corporation secured by either a pool of loans, extensions of credit which are unsecured or secured by personal property, or a pool of personal property leases.

(c) Authorized activities.

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

(13) Mortgage related securities. A credit union may invest in mortgage related securities.

(14) Asset-backed securities. A credit union may invest in asset-backed securities rated AA or better by Standard & Poor's or having an equivalent rating from another nationally recog-

nized rating agency.

(d) (No change.)

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

Issued in Austin, Texas, on February 23, 1989.

TRD-8901730

John R. Hale  
Commissioner  
Credit Union Department

Earliest possible date of adoption: April 3, 1989

For further information, please call: (512) 837-9236

◆ ◆ ◆  
**TITLE 31. NATURAL  
RESOURCES AND  
CONSERVATION**

**Part II. Texas Parks and  
Wildlife Department**

**Chapter 53. Finance**

**License Deputies**

• **31 TAC §53.22, §53.23**

The Texas Parks and Wildlife Commission proposes amendments to §53.22, and §53.23, concerning license deputies. These amendments are proposed to update the rule to allow letters of credit in lieu of surety bonds.

Jim Dickinson, director of finance, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Dickinson, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that license deputies will be able to furnish either a surety bond or a letter of credit in order to obtain licenses and have them available to the public. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jim Dickinson, Director of Finance, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4815.

The amendments are proposed under the Texas Parks and Wildlife Code, §§12.001(b), 42.011, 46.009, 46.010, and 46.011, which provide the Texas Parks and Wildlife Department with the authority to appoint license deputies as agents of the department to issue hunting and fishing licenses to the public.

**§53.22. License Deputy Appointment Procedures.**

(a) A person is appointed as a license deputy when forms, prescribed by the executive director, have been properly executed and received by the Texas Parks and Wildlife Department. Such forms may in-

clude, but are not limited to, the following:

(1) (No change.)

(2) public official bond or letter of credit;

(3) (No change.)

(b) These forms may be inspected at the Texas Parks and Wildlife Department Headquarters Complex, 4200 Smith School Road, Austin, Texas 78744.

**§53.23. Surety Bond Requirements.** A public official (surety) bond or letter of credit is required of all persons approved as license deputies with the exception of departmental employees and county clerks. The public official (surety) bond must be executed by a bonding company licensed by the State Board of Insurance. The minimal penal sum and terms of the license deputy bond or letter of credit shall be prescribed by the executive director.

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

Issued in Austin, Texas, on February 24, 1989.

TRD-8901818

Boyd M. Johnson  
General Counsel  
Texas Parks and Wildlife  
Department

Proposed date of adoption: September 1, 1989

For further information, please call: (512) 389-4805 or 1-800-792-1112.

◆ ◆ ◆  
**Part IV. School Land  
Board**

**Chapter 155. Land Resources**

**Coastal Public Lands**

• **31 TAC §155.10**

The School Land Board proposes an amendment to §155.10, concerning coastal public land fees. The amendment increases the late penalty fee and aligns the fee schedule to reflect the elimination of assignments of structure permits. The amendment will equitably apply these changes to the large volume of new and renewal structure permit contracts that will be issued due to the cycle of contract issuance.

Sally Davenport, director of the Coastal Section of the Land Management Division of the General Land Office, has determined that for the first five-year period the proposed section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an estimated increase in revenue of approximately \$470 for fiscal years 1989-1993 annually collected in late payment penalties, and \$4,000 for new contract issuance fees in lieu of assignment fees. There will be no fiscal implications for local government or small businesses as a

result of enforcing or administering the section.

Ms. Davenport also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is that it allows more efficiency and insures effective administration of the structure permit program. The anticipated economic cost to individuals who are required to comply with the section as proposed will be approximately \$30 on the average for late payment of annual rental, an increase of \$200 should the individual accept a transfer of a structure permit contract, and approximately \$7,500 should relocation of a structure be required under the new section.

Comments on the proposal may be submitted to Sally Davenport, Land Management Division, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The amendment is proposed under the Natural Resources Code, §33.064, which provides the School Land Board with the authority to adopt rules considered necessary to administer, implement, and enforce the management of coastal public lands.

**§155.10. Coastal Public Land Fees.**

(a) (No change.)

(b) Coastal fees. The School Land Board will charge the following fees for coastal leases, coastal easements, and structure registrations and permits. On coastal easement fees, the School Land Board will charge a fee based on either the fixed fee schedule or the alternate commercial and industrial formulas as delineated in paragraph 1(A) and (B) of this subsection. In the event that the fixed fee schedule is applied on a coastal easement, the alternate commercial and industrial formulas will not be applied to the same coastal easement. Only one easement will be issued for each project. The alternate commercial and industrial formulas may only be applied to commercial or industrial activity. The fill formula will be applied to any fill activity.

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

(4) Structure [Cabin] permit.

(A) Fees:

(i) (No change.)

(ii) annual fee for all structures excluding piers, docks, and walkways will be calculated at \$.60 per square foot per year. Annual fees for permits issued by the board between July 7, 1987, and the first anniversary date of adoption of this provision may be calculated based upon dimensions of the structure as proposed to be modified. If the proposed modifications are not completed within the period specified in the permit contract, the annual fee will be recalculated based upon the actual dimensions of the structure and charged back to the beginning date of the period specified in the contract. Permittee shall also be subject to assessment of late pen-

alties and the contract will be amended to reflect the recalculated fee for remainder of the term [ , per square foot of floor space (roofed and unroofed) excluding piers, docks, and walkways-\$\$.60];

(iii) (No change.)

(iv) new contract issuance-\$325 [assignment-\$125];

(v) late payment penalty-25% of past due amount [permit reissuance-\$325];

(vi) minimum annual payment-\$175.00 [late payment penalty-10% of annual rent].

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

(c)-(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 February 22, 1989.

TRD-8901897

Gary Mauro  
Chairman  
School Land Board

Earliest possible date of adoption: April 3, 1989

For further information, please call: (512) 463-5009

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part III. Texas Youth Commission

#### Chapter 119. Agreements With Other Agencies

##### Memorandums of Understanding

###### • 37 TAC §119.01

The Texas Youth Commission proposes new §119.01, concerning statewide coordinated services for multiproblem children and youth. Senate Bill 298, passed by the regular session of the 70th Texas Legislature, 1987, requires the adoption by rule of a memorandum of understanding among the Texas Youth Commission and the Texas Commission for the Blind, Texas Department of Human Services, Texas Department of Mental Health and Mental Retardation, Texas Education Agency, Texas Rehabilitation Commission, and the Texas Juvenile Probation Commission regarding the coordination of services for multiproblem children and youth. To coordinate these services, the memorandum provides for the implementation of a system of community resource coordination groups.

Neil Nichols, assistant executive director, 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 or small businesses as a result of enforcing or administering the section.

Mr. Nichols also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to eliminate duplication of effort and improve services to multiple problem children and youth. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Gail Graham, Texas Youth Commission, P.O. Box 9999, Austin, Texas 78766

The new section is proposed under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules and policies necessary to accomplish its function.

##### §119.01. Coordinated Services for Multiproblem Children and Youth.

(a) The Texas Youth Commission adopts by reference a joint memorandum of understanding with the Texas Commission for the Blind, Texas Department of Health, Texas Department of Human Services, Texas Department of Mental Health and Mental Retardation, Texas Education Agency, Texas Rehabilitation Commission, and the Texas Juvenile Probation Commission concerning coordinated services for multiproblem children and youth which provides for the implementation of a system of community resource coordination groups.

(b) The memorandum of understanding was published in the November 15, 1988, issue of the *Texas Register* (13 TexReg 5727) by the Texas Department of Human Services. Copies of the memorandum of understanding are available from the Texas Youth Commission, 8900 Shoal Creek Boulevard, Building 300, Austin.

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

Issued in Austin, Texas, on February 21, 1989.

TRD-8901731

Ron Jackson  
Executive Director  
Texas Youth Commission

Earliest possible date of adoption: April 3, 1989

For further information, please call: (512) 452-8111, ext. 107

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 15. Medicaid Eligibility

##### Subchapter A. General Information

The Texas Department of Human Services proposes an amendment to §15.100 and new §15.502, concerning deduction of incurred medical expenses, in its Medicaid Eligibility chapter. Section 15.100 is amended to add a definition for medically necessary; and new §15.502 is proposed to allow the department to deduct, when determining the amount an institutionalized client must pay toward his care, certain incurred medical expenses that are not covered by a third party.

Burton F. Raiford, deputy commissioner for support operations, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state government as a result of enforcing and administering the sections. The anticipated estimated costs to state government will be \$3,204,712 for fiscal year 1989; \$7,153,787 for fiscal year 1990; \$7,761,327 for fiscal year 1991; \$8,074,926 for fiscal year 1992; and \$8,487,675 for fiscal year 1993. There will be no fiscal implications for local governments or small businesses as a result of enforcing or administering the sections.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the section will be that institutionalized clients will pay less applied income toward the cost of their care. There is no anticipated economic costs to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-810, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

##### • 40 TAC §15.100

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

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

**Medically necessary**—The need for medical services in an amount and frequency sufficient, according to accepted standards of medical practice, to preserve health and life and to prevent future impairment.

This agency hereby certifies that the proposal has been reviewed by legal counsel and

found to be within the agency's authority to adopt.

Issued in Austin, Texas, on February 27, 1989.

TRD-8901854

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Proposed date of adoption: May 1, 1989.

For further information, please call: (512) 450-3765

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**Subchapter F. Budget and  
Payment Plans**

• **40 TAC §15.502**

The new section is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

**§15.502. Deduction of Incurred Medical Expenses.**

(a) Public Law 100-360 requires the department to deduct, when determining a client's applied income, certain incurred medical expenses not covered by a third party. The department limits these expenses

to Medicare and other general health insurance premiums, deductibles, and coinsurance and to medical care and services that are recognized by state law but not covered under the Medicaid state plan. Deductions are not allowed for medical services received before the client's certification date. Health insurance benefits must be assignable. This deduction applies only to MAO clients.

(b) Allowable deductions include, but are not limited to

- (1) oxygen;
- (2) parenteral fluids;
- (3) dental services, including dentures, for ICF and SNF clients;
- (4) medically necessary prosthetic devices;
- (5) medically necessary walking aids and special shoes/support devices for feet; and
- (6) physicals.

(c) The department does not allow deductions for

- (1) items covered by the nursing home vendor rate (including, but not limited to, diapers, sitters, durable medical equip-

ment, dietary supplements or physical, speech, or occupational therapy);

(2) covered services that are beyond the amount, duration, and scope of the Medicaid state plan (including, but not limited to, additional prescription drugs);

(3) service covered by the Medicaid state plan but delivered by non-Medicaid providers; or

(4) premiums for cancer or other disease-specific insurance policies, income maintenance policies, or general health insurance policies with benefits that cannot be assigned.

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

Issued in Austin, Texas, on February 27, 1989.

TRD-8901855

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Proposed date of adoption: May 1, 1989.

For further information, please call: (512) 450-3765

# Withdrawn Sections

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

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## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Department of Human Services

#### Chapter 15. Medicaid Eligibility

#### Subchapter C. Basic Program Requirements

##### • 40 TAC §15.315

The Department of Human Services has withdrawn from consideration for permanent adoption a proposed new §15.315 which appeared in the September 13, 1988, issue of the *Texas Register* (13 TexReg 4484). The effective date of this withdrawal is February 23, 1989.

Issued in Austin, Texas, on February 23, 1989

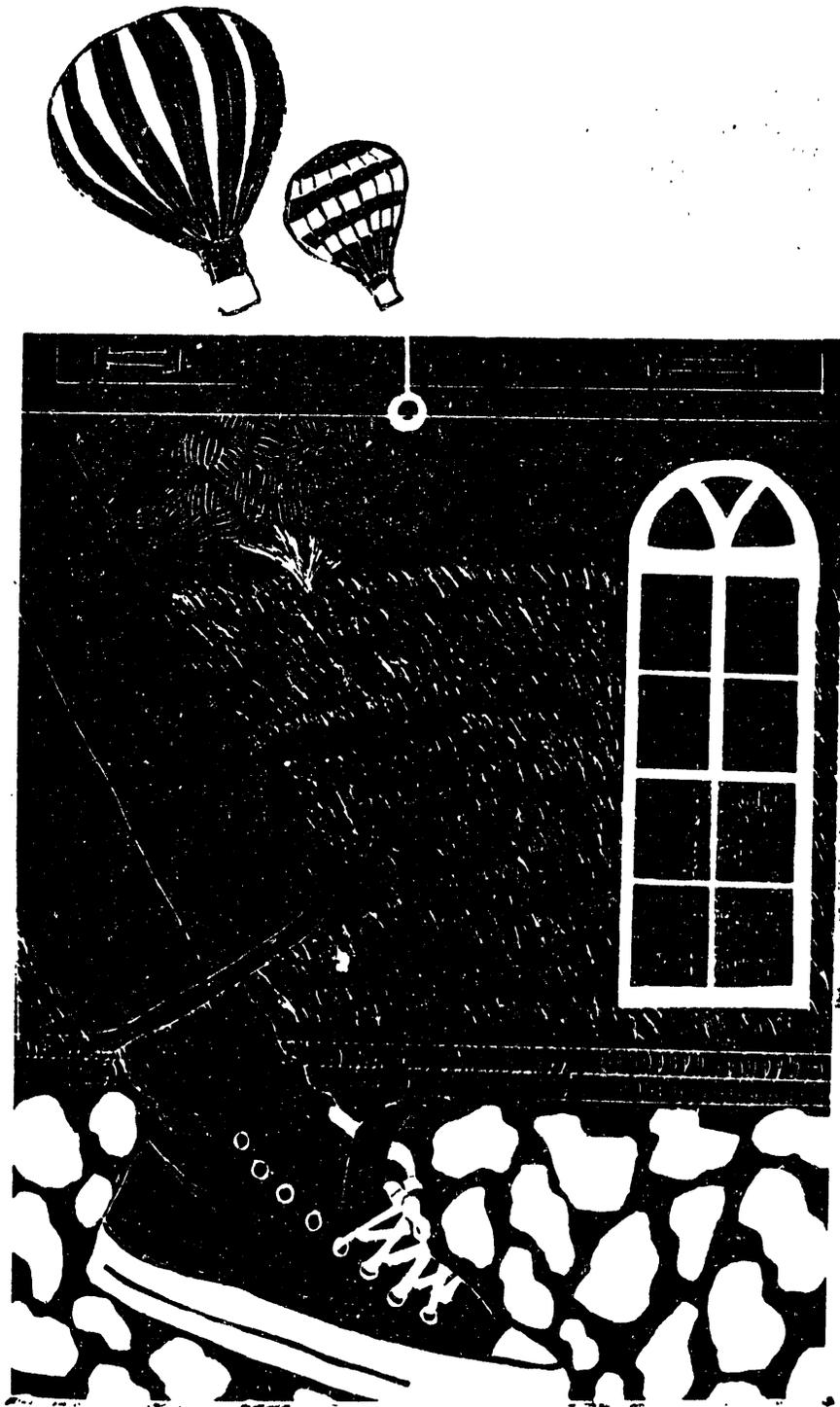
TRD-8901881

Charles Stevenson  
Acting Commissioner  
Department of Human  
Services

Effective date: February 23, 1989

For further information, please call: (512)  
450-3765





Name: Imelda Tinsay

Grade: 11

School: Plano East High, Plano

# 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 16. ECONOMIC REGULATION

### Part II. Public Utility Commission of Texas

#### Chapter 23. Substantive Rules Records and Reports

##### • 16 TAC §23.15

The Public Utility Commission of Texas adopts an amendment to §23.15, with changes to the proposed text as published in the November 22, 1988, issue of the *Texas Register* (13 TexReg 5812).

The amended language reflects actual current practice in developing the assessment, and allows the commission and the office of Public Utility Counsel to develop budget estimates that will produce the most accurate assessment possible.

The amendment will require that the Public Utility Commission and the Office of Public Utility Counsel estimate their Senate Bill 444-related expenditures for the current fiscal year and use those estimates to annually re-establish an assessment rate that will collect those sums.

No comments were received regarding adoption of the amendment.

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

##### §23.15. Local Exchange Company Assessment.

(a) Amount of assessment. Each local exchange company subject to the jurisdiction of the commission shall pay an annual per-access-line assessment. The commission shall establish the assessment rate annually according to projected Public Utility Commission and Office of Public Utility Counsel expenditures for the current fiscal year related to implementation of the provision of Senate Bill 444 as passed by the 70th Legislature, divided by total industry access lines. The assessment shall be based upon access lines in existence during the preceding calendar year.

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

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

Issued in Austin, Texas, on February 23, 1989.

TRD-8901837 Phillip A. Holder  
Secretary  
Public Utility Commission  
of Texas

Effective date: March 17, 1989

Proposal publication date: November 22, 1988

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

## TITLE 22. EXAMINING BOARDS

### Part V. Texas State Board of Dental Examiners

#### Chapter 109. Conduct

##### Anesthesia and Anesthetic Agents

##### • 22 TAC §109.173

The Texas State Board of Dental Examiners adopts an amendment to §109.173, with changes to the proposed text as published in the December 9, 1988, issue of the *Texas Register* (13 TexReg 6068).

The board changed the requirement for CPR courses to every two years because many CPR courses cover a two-year period and the board felt that taking a CPR course every two years would keep a practitioner sufficiently versed in current technology in order to be able to respond to an emergency.

Each dentist licensed by the Texas State Board of Dental Examiners and practicing in Texas shall take a course in basic cardiopulmonary resuscitation sponsored by either the American Heart Association or the American Red Cross every two years.

No comments were received regarding adoption of the amendments.

Texas Civil Statutes, Article 4551d, provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§109.173. *Minimum Standard of Care.* Each dentist licensed by the Texas State Board of Dental Examiners and practicing in Texas shall utilize the following standard of care:

(1) shall maintain a current history and limited physical evaluation on all dental patients. This shall include, but shall not necessarily be limited to, physiologic vital signs, known allergies to drugs and anesthetics, serious illnesses, current medications, previous hospitalizations and surgery, and physiologic systems review;

(2) shall maintain emergency equipment appropriate for patient resuscitation. Such equipment shall include a positive pressure breathing apparatus including oxygen. All emergency equipment shall be present in the dental office and shall be utilized by the licensed dentist or under his/her personal supervision;

(3) shall provide training of emergency procedures to his/her personnel;

(4) shall take a course in basic cardiopulmonary resuscitation sponsored by either the American Heart Association or the American Red Cross every two years. Proof of compliance shall be the responsibility of the dentist; and

(5) should maintain an informed consent for all procedures where a reasonable probability of complications from the procedure exists.

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

Issued in Austin, Texas, on February 17, 1989.

TRD-8901721 Crockett Camp  
Executive Director  
Texas State Board of  
Dental Examiners

Effective date: March 15, 1989

Proposal publication date: December 9, 1988

For further information, please call: (512) 834-6021

## Part XXII. Texas State Board of Public Accountancy

### Chapter 511. Certification as CPA

#### Certification by Examination

##### • 22 TAC §511.26

The Texas State Board of Public Accountancy adopts the repeal of §511.26, without

changes to the proposed text as published in the November 4, 1988, issue of the *Texas Register* (13 TexReg 5536).

The repeal of this section is required to properly inform the examination candidates of education and experience requirements they must meet to receive a certificate as a CPA.

The repeal will allow for a new section that will clearly state the education and experience requirements of CPA candidates under the Public Accountancy Act of 1979.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding education and experience requirements of applicants for examination under the Public Accountancy Act of 1945, as amended.

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

Issued in Austin, Texas, on February 17, 1989.

TRD-8901713      Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: March 15, 1989

Proposal publication date: November 4, 1988

For further information, please call: (512) 450-7066

The Texas State Board of Public Accountancy adopts new §511.26, without changes to the proposed text as published in the November 4, 1988, issue of the *Texas Register* (13 TexReg 5536).

The new section is required to properly inform candidates qualifying for the Uniform CPA Examination under the Public Accountancy Act of 1945, of the education and experience requirements that must be met.

The new section will provide guidelines as to the education and experience requirements of examination candidates under the Public Accountancy Act of 1945.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding education and experience requirements of applicants for examination under the Public Accountancy Act of 1945, as amended.

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

Issued in Austin, Texas, on February 17, 1989.

TRD-8901712      Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: March 15, 1989

Proposal publication date: November 4, 1988

For further information, please call: (512) 450-7066

### • 22 TAC §511.27

The Texas State Board of Public Accountancy adopts the repeal of §511.27, without changes to the proposed text as published in the November 4, 1988, issue of the *Texas Register* (13 TexReg 5536).

The repeal of this section is required to properly inform the examination candidates of education and experience requirements they must meet to receive a certificate as a CPA.

The repeal of this section will allow for a new section that will clearly state the education and experience requirements of CPA candidates under the Public Accountancy Act of 1979.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding qualifications to sit for the Uniform CPA Examination.

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

Issued in Austin, Texas, on February 17, 1989.

TRD-8901711      Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: March 15, 1989

Proposal publication date: November 4, 1988

For further information, please call: (512) 450-7066

The Texas State Board of Public Accountancy adopts new §511.27, without changes to the proposed text as published in the November 4, 1988, issue of the *Texas Register* (13 TexReg 5536).

The new section is required to properly inform candidates qualifying for the Uniform CPA Examination under the Public Accountancy Act of 1979, of the education and experience requirements that must be met.

The new section will provide guidelines as to the education and experience requirements of examination candidates under the Public Accountancy Act of 1979.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding qualifications to sit for the Uniform CPA Examination.

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

Issued in Austin, Texas, on February 17, 1989.

TRD-8901710      Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: March 15, 1989

Proposal publication date: November 4, 1988

For further information, please call: (512) 450-7066

## Part XXIII. Texas Real Estate Commission

### Chapter 535. Provisions of the Real Estate License Act

#### Licenses

### • 22 TAC §535.92

The Texas Real Estate Commission adopts an amendment to §535.92, without changes to the proposed text as published in the January 6, 1989, issue of the *Texas Register* (14 TexReg 102).

The amendment is adopted to permit issuance of licenses without waiving the agency's right to initiate disciplinary action based on a complaint received during the pendency of an application for a license.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6573a, §5(e), which provide the Texas Real Estate Commission with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

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

Issued in Austin, Texas, on February 22, 1989.

TRD-8901794      Mark A. Moseley  
Legal Counsel  
Texas Real Estate  
Commission

Effective date: March 17, 1989

Proposal publication date: January 6, 1989

For further information, please call: (512) 465-3960

# TITLE 31. NATURAL RESOURCES AND CONSERVATION

## Part IV. School Land Board

### Chapter 151. General Rules of Practice and Procedure

#### • 31 TAC §151.3

The School Land Board adopts an amendment to §151.3, without changes to the proposed text as published in the January 13, 1989, issue of the *Texas Register* (14 TexReg 253).

The amendment replaces obsolete procedural rules that have been proposed for repeal.

The amendment concisely states the boards' policy and procedures for rulemaking and hearings.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Natural Resources Code, §32.062 which provides the School Land Board with the authority to adopt rules of procedure.

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

Issued in Austin, Texas, on February 22, 1989.

TRD-8901899

Gary Mauro  
Chairman  
School Land Board

Effective date: March 15, 1989

Proposal publication date: January 13, 1989

For further information, please call: (512) 463-5009

#### • 31 TAC §155.4

The School Land Board adopts new §155.4 concerning permits. The section is adopted with changes to the proposed text as published in the December 13, 1988, issue of the *Texas Register* (19 TexReg 6154).

The section is adopted to conform to changes in procedures, strengthen communication between General Land Office staff and permit holders, and promote efficiency in the administration of the structure permit program.

The section clarifies the requirements for obtaining and maintaining permits to cabins and other related structures located on coastal public lands and aligns the rules with current requirements of the program.

The General Land Office held seven meetings for structure permit holders and guests in various centralized cities along the Texas Coast during September, 1988, to receive comments regarding adoption of the new section. A significant number of individuals supported the proposed changes of the section and made comments. In general, the comments made suggested that the General Land Office take a more active role in manag-

ing barge-mounted structures; that structure permits were not awarded in a fair manner in the past; and that notice to the public concerning School Land Board action on structures is inadequate.

The General Land Office has determined that the section is fair and reasonable and that compliance with all notice and posting requirements for adoption has occurred.

The new section is adopted under the Natural Resources Code, §33.064, which provides the School Land Board with the authority to adopt procedural and substantive rules for the implementation of the Coastal Public Lands Management Act.

#### §155.4. Permits.

(a) Issuance. The board may issue permits authorizing limited continued use of previously unauthorized structures, as defined in subsection (b) of this on coastal public lands, where such use is sought by one claiming an interest in any such structure but is not incident to the ownership of littoral property. This section is not intended to limit the authority granted to the commissioner or the School Land Board in the management of the surface estate in coastal public lands, or to be the exclusive means by which the commissioner or board may grant permission for the use of coastal public lands.

(b) Definition. A structure under this section shall be defined as any housing, capable of residential use or which otherwise would typically be considered an improvement on real property, which is in any manner attached or affixed to coastal public land and is not associated with the ownership of littoral property.

(c) Criteria. Permits granted pursuant to this section shall be subject to the following policies, provisions, and conditions, in addition to those generally applicable in the Act.

(1) The board may not:

(A) grant any permit authorizing the continued use of any structure located within 1,000 feet of:

(i) privately owned littoral property, without the written consent of the littoral owner;

(ii) any federal or state wildlife sanctuary or refuge;

(iii) any federal, state, county, or city park bordering on coastal public lands;

(B) grant any permit which would be in violation of the public policy of this state as expressed in these sections and regulations;

(C) grant any permit for any structure not in existence on August 27, 1973; or

(D) grant more than one permit per person, immediate family, organization, company, or group.

(2) A permit authorizing continued use of a previously unauthorized structure on coastal public lands shall be deemed automatically revoked and terminated if the coastal public land where the structure is located is subsequently leased for public purposes or exchanged for littoral property, or if such land is conveyed to a navigation district as provided by law.

(3) Every permit shall provide that in the event the terms of the permit are broken, the permit may, at the option of the board, be terminated.

(4) Permitted structures may be used only for noncommercial recreational purposes. Acceptance of payment for use of a permitted structure, or for services connected with use of the structure, is expressly prohibited.

(d) Nuisance. All structures now existing or which shall be built, for which a permit is required pursuant to this section, have been declared by law to be the property of the state, and any construction, maintenance, or use of such structure except as authorized in this section is declared a nuisance per se and is expressly prohibited.

(e) Interest claim. Any person seeking to obtain an interest in a structure shall apply to the board for a permit. The application shall be accompanied by the appropriate fees, as set forth in §155.10 of this title (relating to coastal Public Land Fees), and any documentation requested by the board.

(f) Board approval. The board may approve, deny, or approve with qualifications an application for a permit. If an application is approved by the board, the appropriate contract forms and related materials shall be forwarded to the applicant for completion. The board may include in its approval any provisions deemed necessary to protect the state's interest in coastal public lands and the public welfare.

(g) Term. The board shall set the term of the permit, which shall not exceed five years. No construction or other activities may commence at the site prior to execution of the structure permit by the commissioner of the General Land Office.

(h) Renewal. The board may, at its discretion, renew a permit upon receipt of a renewal request and the required fees from the current permit holder if all previous contractual conditions have been met.

(i) Relocation. The board may require relocation of any structure permitted under this section if it is determined to be in the best interest of the state. The permit holder shall be provided written notice stating that relocation of the permit is required, and explaining the reasons for relocation.

Failure to comply with terms of a relocation notice may be considered grounds for termination of a permit.

(j) **Transfer of interest.** Board approval is required for the transfer of any interest in a permit from a current permit holder to another person. To transfer a permit, the current permit holder shall notify the board in writing of intent to terminate the existing contract, and shall provide the name of a person who seeks to assume responsibility for that site. The prospective permittee shall be forwarded the appropriate forms, and shall submit a completed permit application request and required fees to the board. To accomplish the transfer of interest, the board shall then terminate the original permit and, during the same meeting, issue a new permit for the same site to the person specified by the original permit holder, providing all original contract requirements have been complied with and all fees have been paid.

(k) **Major repairs.** Any action which alters the square footage of an existing permitted structure shall be considered a major repair and shall require prior approval from the board. The board may approve, deny, or approve with qualifications a request for major repairs to, or for the rebuilding of, a permitted structure. Examples of major repairs include, but are not limited to:

(1) modification or renovation work which alters the dimensions of structures currently in existence;

(2) the addition of any structure to an existing permitted facility;

(3) the relocation of any structure or facility from its permitted location; or

(4) any activity requiring dredging or filling.

(l) **Minor repairs.** Minor repairs may be made to a permitted structure without prior approval of the board. Minor repairs shall include routine repairs to existing docks, piers, and the structure, and other normal maintenance required to maintain a structure in a safe and secure manner but which does not alter the authorized dimensions. Examples of minor repairs include, but are not limited to:

(1) replacement of tin or shingles on roofs, boards on floors, walls, walkways, or decks when the structural dimensions are not increased;

(2) replacement of pilings or other structural members that do not require dredging or filling;

(3) painting and maintenance activities; and

(4) addition of windows, doors, or rails to an existing structure.

(m) **Abandoned structures.** Structures determined by the board to be abandoned

may be removed from coastal public lands or permitted to an interested party. Structures may be considered abandoned if:

(1) no response is received to a notice posted on the structure citing the act which requires board authorization for the structure, and containing a request that the interest holder contact the General Land Office within a specified period of time;

(2) the interest holder in an unpermitted structure fails to complete the permit application process within 60 days once contact with the General Land Office has been made; or

(3) all reasonable attempts to contact a permit holder at the last known address have failed.

(n) **Termination.** Failure to comply with these rules and regulations shall be justification for termination of the permit by the board. A permit holder shall have 60 days from the date of termination by the board to remove all personal property from the structure provided all required fees have been paid. The board shall have discretionary authority to revise this time limit, to require permittee to remove any or all structures and man made improvements, or to assess the costs for repair of any damage to state lands and/or for any necessary removal of debris at the permit site. Any personal property remaining at the site after the 60 days, or the prescribed period set by the board, shall become property of the state and may be disposed of at the board's discretion.

(o) **General provisions.** Each permit issued by the board shall be subject to the following general provisions.

(1) The permit number must be displayed on the structure in block numerals no less than 10 inches high. The numerals must be readily visible from the normal route of access and should be of a color that contrasts with the color of the structure. Decals, paint, or metal numerals may be used.

(2) All structures on coastal public lands shall be subject to inspection at any time by the board or its authorized representatives without prior notice to the permit holder.

(3) All structures shall be maintained in good repair and safe condition, and shall be kept in a clean and sanitary condition acceptable to the state.

(4) No domestic or wild animals of any type shall be permanently released upon state-owned islands. Domestic animals shall be prevented from disturbing nesting birds on state-owned islands.

(5) An applicant, by accepting a permit for a structure on coastal public land, agrees and consents to the following:

(A) to comply with all regulations which the board determines to be

necessary and proper for the protection, conservation, and orderly development of coastal public lands;

(B) to indemnify the State of Texas against any and all liability for damage to life, person, or property arising from the permittee's occupation and use of the area covered by the interest granted; and

(C) to keep the commissioner of the General Land Office informed at all times of his or her current mailing address and telephone number.

(6) The approval of a structure permit by the board grants exclusive rights to the permit holder for the permitted structure only, and does not prevent the board from issuing other grants of interest for the same area or implementing specific land management practices at its discretion.

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

Issued in Austin, Texas, on February 22, 1989.

TRD-8901696 Gary Mauro  
Chairman  
School Land Board

Effective date: March 15, 1989

Proposal publication date: December 13, 1988

For further information, please call: (512) 463-5009

## Chapter 157. Planning Division

### • 31 TAC §§157.1-157.14

The School Land Board adopts the repeal of §§157.1-157.14, without changes to the proposed text as published in the January 13, 1989, issue of the *Texas Register* (14 TexReg 253).

The repeals assure consistency between School Land Board procedures, the Open Meeting Act, and the Administrative Procedures Act by removing obsolete provisions.

The repeals detail the current procedures of the School Land Board.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the authority of the Natural Resources Code, §32.062, which provides the School Land Board with the authority to adopt procedural and substantive rules which it considers necessary to administer, implement, and enforce the statutes applying to public lands under its jurisdiction.

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

Issued in Austin, Texas, on February 22, 1989.

TRD-8901700

Garry Mauro  
Chairman  
School Land Board

Effective date: March 15, 1989

Proposal publication date: January 13, 1989

For further information, please call: (512) 463-5009

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**Chapter 159. Procedure**

- 31 TAC §§159.1-159.8, 159.21-159.29, 159.41-159.45, 159. 51-159.108, 159.121-159.123, 159.131-159.135

The School Land Board adopts the repeal of Chapter 159, §§159.1-159.8, 159.21-159.29, 159.41-159.45, 159.51-159.108, 159.121-159.123, and 159.131-159. 135, without changes to the proposed text as published in the January 13, 1989, issue of the *Texas Register* (14 TexReg 254).

The repeals will remove obsolete provision and assure consistency between School Land Board procedures, the Open Meeting Act, and the Administrative Procedures Act.

The repeals are adopted to allow new sections which will reflect the current procedures of the School Land Board.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the authority of the Natural Resources Code, §32.062, which provides the School Land Board with the authority to adopt procedural and substantive rules which it considers necessary to administer, implement, and enforce the statutes applying to public lands under its jurisdiction.

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

Issued in Austin, Texas, on February 22, 1989.

TRD-8901701

Garry Mauro  
Chairman  
School Land Board

Effective date: March 15, 1989

Proposal publication date: January 13, 1989

For further information, please call: (512) 463-5009

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**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

**Part I. Texas Department of Public Safety**  
**Chapter 17. Commercial Driver Training School Regulations**

- 37 TAC §17.2

The Texas Department of Public Safety adopts an amendment to §17.2, without changes to the proposed text as published in

the January 20, 1989, issue of the *Texas Register* (14 TexReg 449).

The amendment will ensure the public that the Texas Department of Public Safety properly approves driving safety course certificates of course completion from certain entities as required by statute.

Paragraph (4)(G) is added to require those entities other than commercial driver training schools to submit their approved driving safety course certificate of course completion to the department for approval in the same manner as is required of a commercial driver training school.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6701d, §143A, Article 4413(29c), Article 6687b, §4 and §12, §411.004(3) and §411.006(4), which provide the Texas Department of Public Safety with the authority to approve driving safety courses and the certificate of completion. The department may also promulgate rules to comply with legislative intent to license and supervise commercial driver training schools and instructors. The Public Safety Commission is authorized to adopt rules necessary for carrying out the department's work. The director, subject to the approval of the commission, shall have the authority to adopt rules necessary for the control of the department.

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

Issued in Austin, Texas, on February 21, 1989.

TRD-8901787

Joe E. Miner  
Director  
Texas Department of Public Safety

Effective date: March 16, 1989

Proposal publication date: January 20, 1989

For further information, please call: (512) 465-2000

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**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department of Human Services**

**Chapter 10. Family Self-support Services**

**Temporary Emergency Relief Program**

The Texas Department of Human Services (DHS) adopts amendments to §§10.4301-10.4306, 10.4308, and 10.4311-10.4316 and new §§10.6001-10.6005, without changes to the text as published in the January 3, 1989, issue of the *Texas Register* (14 TexReg 41).

The sections are justified to give counties a 50% match to reimburse for energy-related items provided to indigent persons through

contracts with the department.

The sections will function by establishing the requirements for participation in the Oil Overcharge Program.

No comments were received regarding adoption of the amendments and new sections.

- 40 TAC §§10.4301-10.4306, 10.4308, 10.4311-10.4316

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 24, 1989.

TRD-8901828

Charles Stevenson  
Acting Commissioner  
Texas Department of Human Services

Effective date: March 20, 1989.

Proposal publication date: January 3, 1989.

For further information, please call: (512) 450-3765.

◆ ◆ ◆  
**Oil Overcharge Funding Program**

- 40 TAC §§10.6001-10.6005

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 24, 1989.

TRD-8901829

Charles Stevenson  
Acting Commissioner  
Texas Department of Human Services

Effective date: March 20, 1989.

Proposal publication date: January 3, 1989.

For further information, please call: (512) 450-3765.

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**Chapter 15. Medicaid Eligibility**

**Subchapter A. General Information**

The Texas Department of Human Services adopts the repeal of §§15.901-15. 903, 15.2001, 15.2101, 15.2201-15.2203, 15.2301, 15.3001, 15.3101-15.3107, 15.3109-15.3112, 15.3201-15.3206, 15.3209-15.3211, 15.3214-15.3217, 15.3219-15.3226, 15.3301-15.3323,

15.3401-15.3404, 15.3408-15.3418, 15.5002, 15.5101-15.5106, 15.5201-15.5216, 15.5301-15.5305, 15.5401, 15.5403-15.5417, 15.5501-15.5513, 15.5802-15.5806, 15.8901-15.8904, and new §§15.325, 15.405, 15.420, 15.440, 15.470, 15.705, 15.710, and 15.720, without changes to the proposed text as published in the September 13, 1988, issue of the *Texas Register* (13 TexReg 4484) and will not be republished. New §§15.100, 15.105, 15.200, 15.201, 15.205, 15.210, 15.215, 15.300, 15.301, 15.305, 15.310, 15.320, 15.400, 15.410, 15.415, 15.425, 15.430, 15.435, 15.441-15.443, 15.450, 15.455, 15.460, 15.465, 15.466, 15.475, 15.500, 15.501, 15.505, 15.510, 15.515, 15.600, 15.605, 15.610, 15.615, 15.620, 15.700, 15.701, 15.715, and 15.725, are adopted with changes to the proposed text. This adoption neither affects the client's eligibility nor changes eligibility requirements.

The repeals and new sections are justified because they provide a clearer and more concise statement of rules that govern the Medicaid Program.

The repeals and new sections will function by reorganizing the chapter for clarity, not changing policy.

Although no comments were received regarding adoption of the proposal, the department initiated editorial changes to clarify the language and comply with federal regulations that occurred during the rulemaking process. Section 15.201, concerning qualified Medicare beneficiaries, is being adopted by federal mandate, effective January 1, 1989. Also, the department is not adopting §15.315, concerning eligibility requirements for residents of medical care facilities, because the Social Security Administration is authorized to control and administer this policy; therefore, it is unnecessary for the department to include §15.315 in its Medicaid Eligibility chapter.

#### • 40 TAC §15.100, §15.105

The following new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

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

**Aid and attendance (A&A)**—Veterans Administration (VA) benefits for people living in a nursing home who need regular aid and attendance from another person.

**Aged and disabled (A&D)**—Usually refers to financial and social services for individuals who are aged and disabled.

**Aid to families with dependent children (AFDC)**—Financial assistance to low income families under Title IV-A of the Social Security Act. AFDC clients are also eligible for Medicaid.

**Alimony allowance**—Made by a court to one spouse from funds of the other spouse, either pending decision on a suit for separation or divorce or after a decision in the suit.

**Alternate care**—A service provided in a client's home or community as an alternative to institutional care.

**Annuity**—An amount payable yearly or at other regular intervals.

**Appeal**—A client's request for a fair hearing concerning a department action.

**Applicant**—An individual with a pending application for medical assistance.

**Application**—A completed, signed, and dated application for assistance (aged and disabled).

**Applied income**—The amount of personal income a client in a long-term care facility must pay, to the facility, toward his cost of care.

**Assets**—All items that have monetary value and are owned by an individual.

**Audit reconciliation**—The process by which a facility with audit exceptions takes corrective action to clear the exceptions.

**Award**—Something of value conferred or bestowed on an individual as a result of merit or need.

**BENDEX (beneficiary data exchange)**—Computer tape from the Social Security Administration (SSA) giving retirement, survivors, and disability insurance (RSDI) and Medicare information about the department's clients.

**Blind**—An individual is considered blind under supplemental security income (SSI) requirements if the visual acuity in his better eye is 20/200 or less with corrective lenses, or if he has tunnel vision that limits his field of vision to 20 degrees or less.

**Bond**—A written obligation to pay a sum of money at a future date.

**Budgeting**—The process of determining a client's eligibility and applied income.

**Burial space**—A grave site, urn, casket, headstone, crypt, mausoleum, or other repository for the remains of the deceased.

**Buy-in**—The payment of Medicare Part B premiums by the department and for eligible Medicaid clients.

**Client**—Either an applicant for or a recipient of medical assistance.

**Common law marriage**—A relationship in which the parties live together and represent themselves to the public as husband and wife.

**Community care for aged and disabled (CCAD)**—A group of alternate care services, either home-based or community based, for eligible aged and disabled Texans.

**Community care service**—A service provided in a client's home or community, as opposed to services provided in an institution. The terms community care and alternate care are synonymous.

**Compensation**—Any money, real or personal property, food, shelter, or services received by a client that are not usually provided by a family member.

**Countable income**—The amount of a client's income after all exemptions and exclusions.

**Countable resource**—Any resource that the department would have counted, in whole or in part, toward the resource limitation.

**Current market value**—Current value of a resource at the time of sale or transfer. See the definition of fair market value in this section.

**Deeming**—Counting all or part of the income or resources of another person (parent or spouse) as income or resources available to the client.

**Disabled**—An individual who is unable to engage in any substantial, gainful activity because of any medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of at least 12 months.

**Discounting**—The advancement of money on a negotiable note or agreement and the deduction of interest or a premium in advance.

**Early and periodic screening, diagnosis, and treatment (EPSDT)**—Services offered under Medicaid for eligible children.

**Earned income**—Income a client receives for services performed as an employee or as a result of self-employment.

**Earned income credits (EIC)**—Payments from the Internal Revenue Service (IRS) to persons who have tax dependents and gross monthly earnings at or below levels established by IRS.

**Equity**—The fair market value of a resource minus all money owed on it.

**Excluded income**—Income that is not counted when determining eligibility but that is counted to determine applied income.

**Excluded resource**—Any resource that the department does not count toward the resource limitation.

**Exempt income**—Income that is not counted in eligibility nor applied income determination.

**Extended care facility (ECF)**—A nursing home that is participating in Medicare as a skilled nursing facility.

**Fair hearing**—A meeting conducted by a regional hearing officer with a client or his representative who disagrees with and wishes to appeal some action taken on the client's case.

**Fair market value**—Amount of money an item would bring if sold in the current local market.

**Federal benefit rate (FBR)**—Standard payment amount in the SSI program.

**Fiduciary agent**—An individual who has authority to manage another person's funds.

**Financial management**—The way a client manages his income, pays expenses, and maintains any remaining funds.

**Fraud**—Deliberate misrepresentation or willful withholding of information for the purpose of obtaining public assistance; either for self or another individual.

**Health insurance claim (HIC)**—Medicare claim number, which is the same as Social Security claim number or railroad retirement claim number (number with an alpha suffix).

**Home**—A structure in which a client lives (including mobile homes, houseboats,

and motor homes), other buildings, and all adjacent land.

Housebound Veterans Administration benefits (HB)—Veteran's Administration benefits for persons living in the community who need regular aid-and-attendance from another person.

Hospital insurance benefits (HIB)—Part A of Medicare.

Income—Receipt of any property or service a client can apply, either directly or by sale or conversion, to meet basic needs for food, clothing, and shelter. Countable income is the amount of a client's income after all exemptions and exclusions. Income eligibility verification system (IEVS)—Computer tape matches required by federal law.

Infrequent payment—A payment that is received no more than once per calendar quarter.

Inheritance—Cash, other liquid resources, noncash items, or any right in real or personal property received at the death of another. An individual may not have access to his inheritance pending legal action.

Institution—An establishment that makes available some treatment or services, besides food and shelter, to four or more persons who are not related to the proprietor. Also see the definition of public institution in this section.

Institutional care—Long-term nursing care in a nursing home, ICF-MR facility, or state institution.

Institutional cases—Medical assistance only cases in state institutions.

Insurance—The following terms apply to the definition of insurance.

(A) The insured is the individual upon whose life a whole life or straight life policy is effected.

(B) The beneficiary is the individual (or entity) named in the contract to receive the proceeds of the policy upon the death of the insured.

(C) The owner is the individual paying the premiums on the policy, with the right to change it as he may see fit. The owner is the only individual who can receive the cash surrender amount of the policy.

(D) The insurer-assurer is the company that contracts with the owner.

(E) The face value amount is the basic death benefit or maturity amount, which is specified on the policy's face. The face value does not include dividends, additional amounts payable because of accidental death, or other special provisions.

(F) The cash surrender value is the amount that the insurer pays if the policy is cancelled before death or before it

has matured. The cash surrender value usually increases with the age of the policy.

(G) A participating life insurance policy is one in which dividends are distributed to the policy holder.

(H) A nonparticipating life insurance policy means that dividends are not distributed to the policy holders.

(I) Default is the failure to pay the insurance premiums. There may be conditions in the policy relating to default.

(J) Ordinary life insurance (also known as whole life or straight life) is a contract for which the owner pays premiums and the insurer pays the face amount of the policy to the beneficiary upon the death of the insured.

(K) An individual policy is a policy that is paid for entirely by the owner.

(L) A group policy is usually issued through an employer or organization. The premiums may include some contribution from the employer.

(M) Dividends are shares of surplus funds allocated to the policy holders of participating insurance policies. They generally represent a previous overpayment of premiums. Dividends may be received as cash payments; used to reduce future premium payments; applied to the existing insurance to increase coverage; or left as a separate accumulation of funds that draw interest.

Intermediate care facility (ICF)—Medium level of nursing home care. Formerly ICF III.

Intermediate care facility for mentally retarded (ICF-MR)—Public or private facilities that provide client care in 24-hour specialized residential settings for the mentally retarded.

Intermediate Care II (ICF II)—Level of care in a nursing home for persons who need minimal nursing care.

Irregular payment—A payment made without an agreement or understanding and without any reasonable expectation that payment will occur again.

Level of care (LOC)—Type of nursing care a client is eligible to receive.

Level of care determination (LCD)—Determination made by a Texas Department of Health long term care unit regarding the type of nursing care a client requires.

Life estate—A contract transferring certain rights in property to a person for his life time. The person usually has the right to possess, use, receive profits, and sell his estate interest.

Liquid resources—Cash or financial instrument that can be converted to cash

within 20 workdays. Liquid resources include cash, savings accounts, checking accounts, stocks, bonds, and time deposits. Liquid resources may also include promissory notes, loans, and mortgages.

Loan—A transaction whereby one party advances money to another party who promises to repay the debt in full, with or without interest.

Long Term Care Unit (LTCU) of Texas Department of Health (TDH)—A team of TDH health-care professionals responsible for utilization review functions in the Title XIX facilities, determination of ICF or SNF levels of care for Medicaid clients, and survey and certification of nursing facilities for Title XIX.

Medical assistance only (MAO)—Programs providing Medicaid coverage only, with no cash assistance.

Medical care identification card—A monthly computer-issued notice to Medicaid clients, verifying Medicaid coverage. Also referred to as Medicaid card.

Medical effective date (MED)—Date Medicaid coverage begins.

Medicaid—A program of medical care authorized by Title XIX of the Social Security Act and the Human Resources Code. It is a federal/state program that is state administered, utilizing a combination of state and federal dollars to purchase medical care for categorically needy and medically indigent people.

Medicare—Medical coverage available to persons 65 years old or older and to certain disabled persons under Title XVIII of the Social Security Act.

Mineral rights—Ownership interests in the oil, gas, or minerals beneath the surface of a piece of property. Also see surface rights.

National Heritage Insurance Company (NHIC)—Company contracted with the department to serve as the insuring agent in providing health benefits to Medicaid clients.

Old Age, Survivors, and Disability Insurance (OASDI)—Title II of the Social Security Act. Also referred to as RSDI.

Parent—A child's natural or adoptive parent or the spouse of the natural or adoptive parent.

Pension funds—Monies held in a retirement fund under a plan administered by an employer or union, or an individual retirement account (IRA) or Keogh account as described in the Internal Revenue Code.

Prepaid burial contract—An agreement in which a client prepays his burial expenses and the seller agrees to furnish the burial.

Prize—Something of value won in a contest, lottery, or game of chance.

Promissory notes—A written or oral, unconditional agreement by the purchaser to pay the seller a specific sum of money at a specified time or on demand.

Property agreement—A pledge or security of a particular property or properties for the payment of a debt or the performance of some other obligation within a

specified time. Property agreements on real estate (land and buildings) are generally referred to as mortgages but may also be called land contracts, contracts for deed, or deeds of trust.

**Provider**—A person, group, or agency providing a service to a client for a fee that is paid by the department. Providers are sometimes called vendors.

**Public institution**—An establishment that is operated or controlled by a federal or state government unit, or a political subdivision, such as the city or county.

**Purchased health services**—The department's state office division that monitors the NHIC contract.

**Quality control (QC)**—Review of a random sample of cases to determine correctness of assistance provided.

**Railroad retirement benefits (RR)**—Retirement, disability annuity, and survivorship benefits available to railroad employees and their families.

**Real property**—Land and houses or immovable objects attached to the land.

**Redetermination**—The decision concerning a client's continued eligibility for Medicaid benefits.

**Relative**—Son, daughter, grandson, granddaughter, stepson, stepdaughter, half sister, half brother, grandmother, grandfather, in-laws, mother, father, stepmother, stepfather, aunt, uncle, sister, brother, step-sister, stepbrother, nephew, niece. A dependant relative is one who was living in the client's home before the client's absence and who is unable to support himself outside of the client's home due to medical, social, or other reasons.

**Rent**—in-cash or in-kind compensation for the use of real or personal property, such as land, an apartment, a room, or machinery.

**Resources**—Cash, other liquid assets, or any real or personal property or other nonliquid assets owned by a client, his spouse, or parent, that could be converted to cash.

**Restitution**—Securing payment from a client when fraud is not indicated or pursued and when the client has been undercharged applied income because of previously unreported or under-reported monthly income or resources that do not involve income averaging.

**Retirement, survivors, and disability insurance benefits (RSDI)**—Title II of the Social Security Act. Also referred to as OASDI.

**Review**—The process of redetermining a client's continued eligibility for Medicaid.

**Rider 49 status**—Medicaid clients in nursing facilities in March 1980, who qualify for ICF II levels of care. Entitled to continue ICF II and to retain Medicaid after leaving facility, if eligible.

**Royalty**—A payment to an individual for permitting another to use or market his property (such as mineral rights, patents, or copyrights).

**Skilled care**—Intensive care in a

nursing home given by, or under supervision of, a registered nurse 24 hours a day.

**Skilled nursing facility**—A type of nursing home under Medicaid and Medicare. Also referred to as extended care facility, under Medicare.

**Social Security (SS)**—A federal system of old-age, unemployment, or disability insurance for various categories of employed and dependent persons, financed by a fund maintained jointly by employees, employers, and the government.

**Social Security Administration (SSA)**—An organization of the Department of Health and Human Services (HHS). SSA processes SSI/SDX transactions for the states and is involved extensively in the Medicare program.

**Social Security claim number (SSCN)**—Usually same as Medicare claim number.

**Social Security number (SSN)**—A reference number used by the SSA to identify individual contributors to the Social Security fund.

**State data exchange (SDX)**—Computer tape from the SSA giving SSI information about the department's clients. SDX information can be used as a source of verification and is available to workers through the department's computer terminals.

**Stocks**—Shares of ownership in a corporation.

**Supplementary medical insurance benefits (SMB)**—Part B of Medicare.

**Supplemental security income (SSI)**—A needs-tested program, administered by the SSA, that provides monthly income to aged, blind, and disabled individuals.

**Support**—Contributions in cash or in kind that provide some or all of a client's usual needs.

**Support and maintenance**—Food, clothing, or shelter that is given to or received by a client and is purchased by someone else.

**Surface rights**—Ownership interests in the exterior or upper boundary of land.

**Texas Department of Health (TDH)**—The state survey agency responsible for Title XIX survey and certification of nursing facilities, utilization review in Title XIX nursing facilities, and determination of levels of care for Medicaid clients.

**Term life insurance**—Life insurance with no cash or loan value.

**Texas Medical Assistance Program**—Medicaid program in Texas.

**Third-party resource (TPR)**—A source of payment for medical expenses other than the client, the department, or Medicaid.

**Three months prior**—The three calendar months before the month of application for SSI or MAO. Applicants who meet eligibility requirements during this period may receive retroactive medical coverage.

**Time deposit**—A contract between an individual and a financial institution whereby the individual deposits funds for a specified period. In return, the financial in-

stitution agrees to pay an interest rate higher than the passbook rate.

**Titles to Social Security Act Divisions of the Social Security Act—Most common titles:**

(A) Title II RSDI Benefits;

(B) Title XVI SSI;

(C) Title XVIII Medicare;

(D) Title XIX Medicaid;

(E) Title XX Social Services Block Grant Trust Resources held by one person for the benefit of another.

**Uncompensated value**—The fair market value of a resource minus the amount of compensation the client received in exchange for the resource.

**Unearned income**—Income that is not earned.

**Utilization review (UR)**—Department procedures for monitoring Medicaid services.

**Vendor**—Provider of care to clients.

**Vendor payments**—Payment to vendors.

**Vendor situation**—Situation in which the department pays a provider for client care. Usually refers to care in nursing home or other Medicaid facility.

**Veterans Administration (VA)**—Usually refers to VA benefits.

**Whole life insurance**—Life insurance that has or eventually will accumulate cash value.

#### *§15.105. Description of Eligible Clients.*

The Texas Medical Assistance Program provides, under Title XIX (Medicaid) of the Social Security Act, certain benefits to all individuals who meet the department's definition of eligible recipients. Eligible recipients are:

(1) individuals who are eligible for aid to families with dependent children (AFDC) or who would be except for age and school-attendance requirements. Also covered are the caretaker, second parent, and certified children; except when there is an only child who is 18-20 years old and therefore eligible for medical assistance only. In these cases, caretakers and second parents are eligible. To be eligible for Medicaid benefits, a family must meet the eligibility criteria outlined in Chapter 3 of this title, (relating to Income Assistance), of the department's rules;

(2) certain children in approved foster care plans;

(3) individuals who are receiving supplemental security income (SSI) cash benefits under Title XVI of the Social Security Act. The Social Security Administration (SSA) establishes initial and con-

tinuing eligibility by using SSI eligibility criteria. These individuals are eligible for Medicaid benefits as long as they are eligible to receive SSI cash benefits. SSA notifies the department when an individual is added to the SSI eligibility rolls, and the department sends the recipient notification of Medicaid eligibility, identification cards, and an explanation of Title XIX benefits;

(4) individuals who live in a Title XIX-approved long-term care medical facility and who would be eligible for SSI cash benefits if they were living outside the facility except that their incomes exceed the SSI payment standard but are less than a special income limit established by the department. An individual must live in one or more institutions throughout at least 30 consecutive calendar days to be eligible under the special income limit;

(A) Individuals in approved sections of Title XIX intermediate care and skilled nursing facilities may be any age, as long as they are otherwise eligible.

(B) Individuals in approved Title XIX intermediate care facilities or approved Title XIX intermediate care units in institutions for mental retardation may be any age, as long as they are otherwise eligible.

(C) If the individual leaves the Title XIX facility to enter a Title XIX-approved hospital and upon release from the hospital re-enters a Title XIX facility, he remains eligible for Medicaid. If he is released from the hospital to a living arrangement other than a Title XIX facility, he is no longer eligible.

(5) individuals who are eligible for vendor payments in Title XIX-approved long-term care facilities and whose incomes exceed the special income limit because of a cost-of-living increase in any pension or retirement benefits. These individuals continue to be eligible for Title XIX coverage under Type Program 51;

(A) To maintain eligibility under this program, these individuals must continue to live in a Title XIX medical facility, to require long-term care, and to meet all SSI eligibility standards except for income.

(B) Countable income, excluding the amount of the applicable pension or retirement benefit increase(s), must be less than the special income limit established by the department.

(C) In redetermining eligibility, the department excludes all future cost-of-living increases in any pension or retirement benefits as long as an individual remains eligible under Type Program 51.

(6) individuals in a Title-XIX approved medical facility for whom vendor payments were made under Title XIX for the month of December 1973. These individuals remain eligible for Title XIX benefits under Type Program 02, subsequent to January 1, 1974, as long as they:

(A) remain in the facility continuously, except for brief home visits not to exceed three days;

(B) continue to meet the department's December 1973 eligibility standards;

(C) continue to need care as determined under utilization review plans and other professional audit procedures applicable under the Title XIX program. If the individual leaves the Title XIX medical facility to enter a Title XIX approved hospital, and upon release from the hospital re-enters a Title XIX facility, he is considered to have remained in a Title XIX facility on a continuous basis. If upon release, however, he enters a living arrangement other than a Title XIX facility, his Medicaid eligibility ends.

(7) individuals who were receiving both public assistance and Social Security benefits in August 1972. These individuals continue to be eligible for Title XIX coverage under Type Program 03. They must meet SSI eligibility criteria in the current month, with the exclusion of the amount of the October 1972 20% increase. Subsequent increases in Social Security benefits, however, are not exempt for this group;

(8) individuals who were denied SSI cash benefits for any reason since April 1977. These individuals may be eligible for continued Title XIX coverage under Type Program 03, if they meet all current SSI eligibility criteria except for any Social Security cost-of-living increases received since they last received both SSI and Social Security benefits in the same month. The earliest cost-of-living increase that can be excluded under Type Program 03 is the increase received in July 1977;

(9) individuals who are covered under Rider 49 provisions, and who were receiving Level II intermediate care in a Title XIX nursing facility on March 1, 1980. These individuals continue to be eligible for Title XIX medical benefits upon discharge from the facility, if they continue to meet:

(A) the categorical and financial eligibility criteria last used to determine eligibility in the nursing facility; and

(B) the criteria for Level II intermediate care as determined by the long-term care units of the Texas Depart-

ment of Health (TDH). This eligibility category is also available to individuals who were Medicaid eligible and receiving Level III intermediate care or skilled nursing care in a Title XIX nursing facility on March 1, 1980, and who are subsequently determined to need Level II intermediate care. Department staff determine continuing eligibility using the criteria for Type Programs 02, 03, 14, or 51, depending upon which criteria applied when the recipient last lived in a Title XIX nursing facility.

(10) individuals who were denied SSI benefits because of an increase in or receipt of RSDI disabled children's benefits. These individuals may continue to be eligible for Medicaid if they:

(A) are at least 18;

(B) become disabled before they are 22;

(C) are denied SSI benefits because of entitlement to or an increase in RSDI disabled children's benefits received on or after July 1, 1987, and any subsequent increase; and

(D) meet current SSI criteria, excluding the children's benefit specified in this paragraph.

(11) disabled individuals who were denied SSI benefits because of receipt of Social Security early aged widow's or widower's benefits may continue to be eligible for Medicaid until they are eligible for Medicare. Medicaid benefits cannot begin before July 1, 1988, regardless of when an individual became eligible for or was denied SSI. To be eligible, an individual must:

(A) be at least 60; and

(B) continue to meet current SSI eligibility criteria if the early aged widow's or widower's benefit is excluded.

(12) individuals who are aliens living illegally in the United States (as mandated by the Omnibus Reconciliation Act of 1986 and the Immigration Reform Control Act of 1986). The Medicaid coverage is limited to emergency medical conditions (as defined by the National Heritage Insurance Corporation), and aliens are required to meet all of SSI criteria.

(13) individuals who apply for AFDC, SSI, or medical assistance only (MAO) are eligible for Medicaid coverage of unpaid medical bills during the three months before application. When a bona fide agent requests application services, this provision also covers deceased individuals;

(14) individuals who are non-Medicaid eligible but may receive Title XIX primary home care services. Waiver 5

eligibility does not entitle the client to any other Title XIX services;

(15) children who are medically handicapped and are eligible to receive waiver services of a licensed nurse and other HCFA-approved home and community-based Medicaid services;

(16) individuals who are enrolled in Medicare Part A; have income below established poverty levels; have resources no more than twice the limit for the SSI program. These individuals may be eligible to be qualified Medicare beneficiaries (QMBs). QMB clients do not receive regular Medicaid benefits.

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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## Subchapter B. Medicare and Third-Party Resources

### • 40 TAC §§15.200, 15.201, 15.205, 15.210, 15.215

The following new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

#### §15.200. Medicare Benefits.

(a) Title XVIII provides health care benefits for most individuals, beginning when they reach 65.

(b) Medicare is a federal program administered by SSA and is divided into two parts. Part A is a hospital insurance with no premium for its coverage, unless a person has not earned sufficient quarters of coverage under Social Security. Part B is a supplementary insurance for physician fees and other services outside a hospital setting or which the individual must request coverage and pay a monthly premium. In most cases, the Part B premium is deducted from the Social Security or Railroad Retirement check. The client is responsible for calendar-year deductibles and co-pay liabilities for both Parts A and B.

(c) To ensure that Medicaid clients who are entitled to Medicare receive maximum health care protection, the state pays for clients' Part B premiums. This process is called buy-in. For those individuals who

have dual entitlement, Medicare becomes the payor of first resort, with Medicaid paying deductibles and coinsurance for Medicaid-covered services.

#### §15.201. Qualified Medicare Beneficiaries (Type Program 24).

(a) Public Law 100-360, the Medicare Catastrophic Coverage Act of 1988, requires the department to pay Medicare premiums, deductibles, and coinsurance for certain clients. Effective January 1, 1989, the department pays Medicare premiums, deductibles, and coinsurance premiums for clients who:

(1) are enrolled in Medicare Part A;

(2) have income below:

(A) 85% of the federal poverty level in calendar year 1989;

(B) 90% of the federal poverty level in calendar year 1990;

(C) 95% of the federal poverty level in calendar year 1991; and

(D) 100% of the federal poverty level in calendar year 1992 and thereafter.

(3) have resources no more than twice the limits for the SSI program.

(b) The client must have a Medicare card or an enrollment letter from SSA documenting entitlement to Part A. If the client has no proof of entitlement but is 65, is disabled (as determined by SSA), or has chronic renal disease, the department refers the client to SSA for enrollment. The client must enroll himself; the department is not allowed to enroll individuals for Part A as it does for Part B. The open enrollment period for Medicare is January-March, with benefits/premiums beginning in July.

(c) QMB clients do not receive regular Medicaid benefits. The department sends these clients a special medical care identification card that reflects QMB status.

(d) The department pays out-of-pocket Medicare cost-sharing expenses for QMB clients. The department does not limit deductible and coinsurance payments to services covered by the state plan. Medicare Part A premiums are paid through a third-party enrollment, and Part B premiums are paid through the buy-in system.

(e) The size of the household depends on the number of QMBs in the household. SSI deeming policy applies. Support and maintenance policy may apply if any QMB household member is not contributing to the household's support, and the situation is not one in which the deeming policy should be considered.

(f) QMB eligibility begins on the first day of the month following the month the client is determined eligible for QMB benefits.

(g) There is no three months prior medical coverage for QMB clients.

§15.205. Eligibility Requirements for Buy-in. Clients are eligible for buy-in if they are:

(1) 65 or older and United States citizens;

(2) 65 and older and lawfully admitted aliens who have lived in the United States five consecutive years;

(3) under 65 and have received or been eligible to receive Social Security or Railroad Retirement disability benefits for 24 consecutive months; or

(4) under 65 and qualify for Part A Medicare because of chronic renal disease.

#### §15.210. Time Frames for Buy-in Enrollment.

(a) Clients who have Medicare Part B coverage at the time they are certified for Medicaid are enrolled as follows.

(1) SSI and AFDC clients are enrolled for buy-in effective the first month they receive a cash payment.

(2) Type Program 03 clients who are RSDI pass-on clients and who are enrolled effective the first month of eligibility.

(3) Type Program 14 certifications that are accomplished as program transfers with no break in Medicaid coverage are enrolled in continuous buy-in.

(4) Recertification of any type program that is denied in error ensures continuous enrollment.

(5) Type Programs 02 and 14 clients are enrolled for buy-in effective the second month after their month of certification.

(b) Clients who do not have Medicare Part B coverage at the time of Medicaid certification are enrolled in buy-in when they meet Medicare criteria. These clients remain on the buy-in rolls while they are eligible for both Medicare and Medicaid.

(c) When a client is enrolled in buy-in, SSA stops charging for Part B premiums. Usually this occurs the month after SSA has acknowledged receiving the client's name as an addition to the buy-in rolls. If premiums have been withheld from the monthly benefit, the client's check should reflect an upward adjustment by the third month after the month of certification.

#### §15.215. Third-party Resources (TPRs).

(a) TPRs must be applied toward the client's medical and health expenses. Medicaid is usually the payor of last resort.

(b) TPRs include the following:

(1) individual or group health insurance. Health insurance policies include individual or group contracts and commercial hospital, medical, and surgical policies. A client may have medical insurance coverage from current employment, residual coverage from previous employment, or private insurance paid for by the client or a relative. A client's relative may have personal or group insurance that covers the client's medical expenses.

(2) government health insurance. Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) is available to dependent children and spouses of active, retired, and deceased military services personnel. Parts A and B of Medicare provide a TPR for Medicaid clients entitled to Medicare.

(3) liability or casualty insurance and court settlements. Accidental injuries may result in third parties being liable for medical expenses. The usual sources of payment for medical expenses in these situations are automobile insurance; homeowners insurance; owners, landlords, and tenants insurance; workers' compensation; and lawsuit settlements.

(4) direct providers. Direct providers are resources that provide the actual medical care at no cost to the client. These include VA facilities, public clinics, and health maintenance organizations (HMOs).

(c) Persons applying for Medicaid automatically assign to the department their rights of recovery from TPRs to the extent that the department pays for the service. Medicaid clients must report to the department any TPR within 60 days of learning about the coverage or liability.

(d) The two methods for using TPRs are:

(1) cost avoidance, in which available benefits are applied before Medicaid payment is made; and

(2) post-payment recovery, in which Medicaid pays the medical costs before seeking reimbursement. A client must reimburse the department as soon as he receives the third-party payment for medical services already paid by Medicaid.

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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## Subchapter C. Basic Program Requirements

• 40 TAC §§15.300, 15.301, 15.305, 15.310, 15.320, 15.325

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

### §15.300. United States Citizenship and Residence Requirements.

(a) To be Medicaid eligible, an individual must be a resident of the United States (defined as the 50 states and the District of Columbia) and either a United States citizen or an alien lawfully admitted for permanent residence or otherwise permanently living in the United States under color of law.

(b) Permanent residents under color of law include individuals who entered the United States before January 1, 1972, and who may be eligible for permanent residence at the discretion of the attorney general. Residence under color of law also includes any alien who is living in the United States indefinitely with the knowledge and permission of the Immigration and Naturalization Service (INS).

(c) Continuous residence in the United States from January 1, 1972, is proof that an individual is a resident under the color of law unless available information proves otherwise. The color of law provision does not include:

(1) undocumented or illegal aliens whose departure INS would enforce; and

(2) legal aliens who are neither immigrants nor permanent residents of the United States. Legal aliens include, but are not limited to, tourists, students, temporary employees, officials of foreign governments or international organizations, and the families or servants of these officials.

(d) The Immigration and Nationality Act of 1952 provides that a child of unknown parentage found in the United States while he is under five years old, is a citizen of the United States unless it is shown (before he is 21) that he was not born in the United States.

(e) Clients who are outside the United States for an entire calendar month lose their eligibility for all the months. Clients who have been outside the United States for 30 consecutive days or more must again live in the United States for at least 30 consecutive days to reestablish eligibility for medical assistance.

### §15.301. Texas Residence Requirements.

(a) General requirements. To be eligible for the Texas Title XIX Medical Assistance program, an individual must be a resident of the State of Texas; that is, he must have established residence in Texas and he must intend to remain in Texas. A visit to another state does not terminate Texas residence if the individual intends to return when he completes the purpose of the visit. If an individual is placed by an agency of another state in an institution located in Texas, the individual remains a resident of the state that made the placement.

(b) Eligibility requirements for persons from another state. If a client is eligible for Title XIX benefits in another state and receives benefits in that state, he is not eligible for Title XIX benefits from the state of Texas.

(c) Eligibility requirements for Texas residents visiting outside Texas.

(1) Intent to return. If a Texas resident visits out of the state with subsequent returns or expressions of intent to return, his Texas residence is not interrupted. A client is responsible for requesting a temporary change of address because of his absence from the state. He is also responsible for informing the department about his purpose, plans, date of departure, and date he plans to return.

(2) No intent to return. A client leaving the state with no declared intention to return, and without any evidence that would indicate plans to return, is considered to have moved from the state and his assistance is denied immediately. If the client subsequently returns to the state and declares his intention to remain, assistance may be resumed if he meets other eligibility requirements.

### §15.305. Eligibility Requirements for the Aged, Blind, or Disabled.

(a) To meet eligibility requirements for SSI-related MAO programs, an individual must be aged, blind, or disabled.

(1) An individual must be 65 or older to be considered aged. There is no minimum age requirement for a blind or disabled individual. Individuals under 65 who live in Title XIX medical facilities and who would, except for income, be eligible for SSI if they lived outside the facility, must meet SSI's definition of disability or blindness. These individuals may or may not have applied for SSI cash benefits.

(2) A blind individual's ability to engage in substantial, gainful employment does not affect his eligibility.

(3) A child who is under 18 and who is not engaged in substantial, gainful activity is considered disabled if he suffers from any medically determinable physical or mental impairment of comparable sever-

ity to that which would preclude an adult from engaging in substantial, gainful activity.

(b) In all applications for medical assistance involving eligibility dependent upon either disability or blindness, a medical decision is required before the application can be approved.

(c) Individuals who are under 65 and who have applied for SSI cash benefits and subsequently apply for retroactive medical coverage on the basis of unpaid or reimbursable, covered Title XIX medical expenses must have the determination of their disability or blindness during the three months retroactive period based on medical information.

(d) When the individual has been notified by SSA about his approval or denial for SSI benefits, he may apply for retroactive medical coverage for any unpaid covered Title XIX services provided during the three months before his date of application for SSI.

(e) As a condition of eligibility, the client must furnish the department with a Social Security number (SSN). If the client is married, he must also provide his spouse's SSN. Failure of the client or his representative to follow through and secure an SSN is grounds for denial at the first periodic review.

(f) To be eligible, a client must file for all other benefits to which he may be entitled, including, but not limited to, Social Security, workers' compensation, private pensions, and veteran's benefits. Within 30 days of receipt of written notification of potential eligibility for other benefits, the client must file a claim for those benefits.

(g) According to Public Law 96-272, a client who draws VA pension benefits grandfathered from December 31, 1978, is not required to apply for aid and attendance or any additional benefits under the 1979 VA pension plan. Clients who have changed to the 1979 pension plan or who initially obtain entitlement to a VA pension after January 1, 1979, are required to apply for aid and attendance or other potentially available benefits as a condition of eligibility.

(h) A disabled individual under 65 must accept vocational rehabilitation services available to him. If he refuses to accept these services without good cause, he is ineligible for Medicaid benefits. This provision does not apply to clients whose eligibility is because of blindness.

(i) An SSI client eligible because of disability and who is medically determined to be a drug addict or alcoholic must:

(1) accept treatment in an approved facility, if available;

(2) cooperate with the required testing program; and

(3) demonstrate compliance with the terms, conditions, and requirements for the treatment.

(j) If the client does not comply with the requirements in subsection (i) of this section, he is ineligible for benefits. This provision does not apply to SSI clients whose eligibility is because of age or blindness.

#### *§15.310. Eligibility Requirements for Residents of Public Institutions.*

(a) Except for patients in Title XIX medical facilities and certain individuals described in subsection (b) of this section, individuals who are inmates and live in public institutions throughout the calendar month are not eligible for medical assistance.

(1) An individual is considered a resident of a public institution if he receives the substantial portion of his food and shelter while living in the institution. This is true whether he is receiving treatment and services available in the institution or whether he or someone else is paying for his food, shelter, and other services. An individual is not considered a resident of a public institution if he lives in a public educational institution and is enrolled in or registered for the institution's educational or vocational training.

(2) An individual is considered to be living in an institution throughout the calendar month if he lives there from the first day of a month through the last day of that month. SSA considers an individual to be living in an institution continuously if he transfers from one institution to another or is temporarily absent without being discharged. An individual is also considered a resident of an institution throughout a month if he:

(A) is born in the institution and remains throughout the rest of the month of his birth; or

(B) lives in an institution on the first day of a month and dies in the institution during that month.

(b) Certain individuals may be eligible for SSI although they are residents of a public institution throughout the month. These exceptions are as follows.

(1) The individual lives throughout the calendar month in a medical care facility, and Medicaid pays or is expected to pay more than 50% of the individual's cost of care.

(2) The individual lives for:

(A) part of the month in a public institution; and

(B) rest of the month in a public or private medical care facility in

which Medicaid pays or is expected to pay more than 50% of the individual's cost of care.

(3) The individual lives in a publicly operated community residence that serves no more than 16 residents. Community residences, for this purpose, do not include medical care facilities, educational or vocational training institutions, jails, or other facilities for restraint of prisoners or persons being held pending disposition of legal charges.

#### *§15.320. Eligibility Requirements for Redetermination.* A client's eligibility is redetermined:

(1) when necessary because of previously obtained information indicating an anticipated change;

(2) within 10 workdays after receipt of a report indicating changes that may affect eligibility or applied income;

(3) within 30 workdays after receipt of a report indicating changes that affect neither eligibility nor applied income;

(4) at periodic intervals not to exceed 12 months;

(5) at least every six months if income is averaged;

(6) at least every six months if the client has earned income; and

(7) at least every six months if the client's countable resources are within \$100 of the resource limit.

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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### Subchapter D. Resources

• 40 TAC §§15.400, 15.405, 15.410, 15.415, 15.420, 15.425, 15.430, 15.435, 15.440-15.443

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

*§15.400. General Resources.* If countable resources exceed the limit on the first moment of the month, an individual or a cou-

ple is not eligible for Medicaid for the entire month. Eligibility may be reestablished no sooner than the first day of the next month.

#### *§15.410. Deeming of Resources.*

(a) **Deeming of spouse's resources.** The department deems spouse's resources as follows:

(1) spouses living together. If a married client lives in the same household with an ineligible spouse, the department counts both the ineligible spouse's and the client's resources and applies the couple resource limit to the combined countable resources. The spouse's resources are counted even if they are not available to the client. Pension funds owned by an ineligible spouse or parent are excluded from resources for deeming purposes. If the ineligible spouse is an AFDC caretaker, his resources are not counted;

(2) spouses living in separate households or living together in a long-term care facility. If the client does not live in the same household as his ineligible spouse, the department does not apply deeming policies. For deeming purposes, living together in a long-term care facility does not constitute living in a household. If the client has an ineligible spouse living in the facility, only the client's resources are counted against the individual resource limit. The department includes in the client's resources the total amount of checking and savings accounts to which he has access;

(3) Rider 49 client living with spouse in the community. The department does not apply deeming policies to a Rider 49 client discharged from a long-term care facility to the community. The client's eligibility is determined under the SSI-related MAO program criteria that applied when he lived in the long-term care facility. His resources are considered separately from those of his ineligible spouse, just as they were when the client was institutionalized.

(b) **Deeming for children.** The department's requirements regarding deeming for children are as follows.

(1) If a disabled child under 18 lives with his parents in the same household, the department must deem to the child certain resources of the parents. If a parent is an AFDC caretaker or a client, his resources are not counted.

(2) To determine the amount of resources deemed to an eligible child, the department:

(A) applies any appropriate resource exclusions to the resources of the parents to determine countable resources. Pension funds owned by a parent are excluded from resources for deeming purposes;

(B) deems to the child any resources in excess of the individual resource limit for one parent or the couple resource limit for two parents. If more than one child is potentially eligible for an SSI-related Medicaid program, the amount to be deemed is equally divided among the otherwise eligible children. None of the parents' resources are deemed to ineligible children.

#### *§15.415. Ownership and Accessibility.*

(a) A resource is property that:

(1) is owned, solely or in part, by a client; and

(2) is accessible to the client.

(b) If a client has the right, authority, or power to liquidate the property or his share of it, the property is a resource. If a client would be required to seek court action to access or dispose of property, that property is not considered a resource.

(c) Co-owned resources may also be counted in certain situations, as follows.

(1) If a client's co-owned resource is available to him without obtaining the consent of the co-owner, the full value of the resource is counted.

(2) If a co-owner's consent is required for the resource to be available to the client, and if that co-owner gives the consent, the full value of the resource is counted. If a co-owner refuses to consent, the resource is neither considered available nor counted. If, however, the co-owner who is refusing to consent is an ineligible spouse living with the client, the resource is considered available to the client and is counted against the resource limit.

(3) If a client has partial ownership in undivided real property, the value of his interest in the property is counted, because each co-owner usually has the right to sell his share with or without the co-owner's consent.

(d) Resources in a trust are countable if the client is the trustee and has the legal right to revoke the trust and use the money for his own benefit. If he does not have access to the trust, and the trust is not a Medicaid qualifying one, then the trust is not counted as a resource. If a trust is not counted as a resource, payments from the trust made to or on behalf of the client are considered income (except payments used to purchase medical or social services for the client). If the client's access to a trust is restricted; that is, only the trustee (other than the client) or the court may withdraw the principal, then the value of the trust as a resource is not counted. This is true even if:

(1) the legal guardian is the trustee;

(2) the trust provides a regular, specified payment to the client; or

(3) the trust provides for discretionary withdrawals by the trustee.

(e) A client's resources are available to him if they are being managed by a legal guardian, representative payee, power of attorney, or fiduciary agent. If, however, a court denies a guardian or agent access to the client's resources, the department does not consider the resources available to the client.

(f) If a client's guardianship papers do not show that the legal guardian is prohibited access, and if the court has not subsequently ruled a prohibition, the resources are considered available. A guardian's routine need to petition the court for permission to dispose of a client's resources is not a prohibition. When the court rules on a petition to dispose of a client's resources, resources are considered available only to the extent to which the court has made them available for the client's benefit.

(g) If an individual is unaware that he owns an asset, the asset is not counted as a resource for the period during which he is unaware of his ownership. The asset is counted as income in the month that the client discovers his ownership. The department begins counting the asset as a resource effective the first of the month after the month of discovery.

#### *§15.425. Replacement Value of Excluded Resources.*

(a) If an excluded resource is lost, damaged, or stolen, the cash the client receives from an insurance company for replacing the resource is not considered a resource under the following conditions:

(1) the client uses the total amount of the cash to repair or replace the excluded resource; or

(2) the resource is repaired or replaced within six months if it is personal property, and within nine months if it is real property.

(b) Any cash not used for replacement or repair within the specified period is countable, beginning with the seventh or tenth month after the month of receipt, depending on the nature of the property.

#### *§15.430. Transfer of Resources.*

(a) **Uncompensated value.** A client who applies for SSI or SSI-related Medicaid on or after March 1, 1981, is liable for the uncompensated value of any resource that is transferred so that he may become or remain eligible for assistance. If the transfer occurs between March 1, 1981, and June 30, 1988, the client's liability is for a period of 24 months from the date of the transfer. Based on the amount of uncompensated value of the transfer and the other resources retained, the client (and his spouse, in a couple case) may not be eligible for assistance during all or part of the specified liability period. For transfer that occurred before July 1, 1988, the amount of the

uncompensated value cannot exceed the amount that would have been counted toward the resource limit if the resource had been retained. For jointly-owned resources, the uncompensated value is the difference between the amount counted toward the client's resource limitation before the transfer, and the amount of compensation actually received by the client.

(b) **Compensated value.** Compensation must be provided according to a legally binding agreement, either written or oral, in effect at the time of transfer. If the agreement is oral, the department must receive a written statement about the agreement from both the client and the receiver of the resource. Compensation may be received before the actual transfer as long as the compensation is provided according to a legally binding agreement. The client must have agreed, orally or in writing, that he would transfer the resource or otherwise pay for the care or services provided. Compensation also includes payment or assumption of a legal debt owed by the client in exchange for the resource.

(1) The client or his responsible party must provide documentation regarding the value of the resources at the time of the transfer. If the client is unable to provide documentation, the department establishes the value of the resources through contact with at least one knowledgeable source.

(2) The client or responsible party must inform the department about the amount and form of compensation received as a result of the transfer. The value of compensation is based on the agreement and expectation of the parties at the time of the transfer.

(3) Past or future provisions of support, maintenance, or services may be claimed as compensation for the transfer of a resource. The client or responsible party and the receiver of the resource must provide evidence that the support, maintenance, or services are or were provided in exchange for the resource under a written or oral agreement.

(4) Compensation may be in one form or in a combination of several forms, including, but not limited to:

(A) **cash.** The compensation is valued as the total amount paid or agreed to be paid in exchange for the resource;

(B) **real or personal property.** The compensation is valued according to the current market value of the property at the time of resource transfer;

(C) **support and maintenance.** The compensation is valued according to the fair market value of the support and maintenance (shelter, utilities, food) and the length of time it has been and is expected to be provided;

(D) **services.** The compensation is valued according to the fair market value of the services and their frequency and duration. When this type of compensation is claimed, the person who received the transferred resource must provide verification that includes a description of the services he agreed to perform and their frequency and duration. If the services are provided on an as needed basis, the receiver of the resource must include in his statement his expectations about the frequency of the services and the basis for the expectation.

(c) **Rebuttal of the presumption.** Transfer-of-resources statutory provisions are restrictive in regard to the presumption that all transfers for less than fair market value are considered to be for the purpose of establishing eligibility. The client or responsible party is responsible for providing convincing evidence that the transaction in question was exclusively for some other purpose.

(d) **Notification of opportunity for rebuttal.** To rebut the presumption, a client must meet following requirements.

(1) The client or responsible party must provide a written statement and any relevant documentation to substantiate his statement. The statement, oral or written, must include at least the following items:

(A) **purpose for transferring the resource;**

(B) **attempts to dispose of the resource at fair market value;**

(C) **reason for accepting less than fair market value for the resource;**

(D) **means of or plan for self-support after the transfer; and**

(E) **relationship to the person(s) to whom the resource was transferred.**

(2) If there is any amount of uncompensated value, the department advises the client or responsible party about this amount. This amount is then counted toward the resource limit for the appropriate amount of time (based on the uncompensated value and the date of transfer), unless the client provides convincing evidence that the disposal was solely for some purpose other than to establish eligibility for Medicaid. If, within the period specified in this paragraph, the client or responsible party makes no effort to rebut the presumption, the presumption is assumed valid. The rebuttal period is five workdays after oral notification (by the department to the client) and seven workdays after written notification.

(e) **Return of transferred resources.** If the receiver of a transferred resource returns it to the client, the transfer is nullified effective the date of return.

#### *§15.435. Liquid Resources.*

(a) **Cash.** Cash is a countable resource.

(b) **Bank accounts.**

(1) A client's bank balance, as of 12:01 a.m. on the first day of the month for which eligibility is being tested, is a countable resource. For reviews, the month being tested cannot be more than two months before the month in which the review is being worked.

(2) If a client has a joint bank account and can legally withdraw funds from it, all the funds in the account are considered a resource to the client. If two or more eligible clients have a joint account with unrestricted access, the department considers that each owns an equal share of the funds. Eligible clients include any Medicaid clients. This equal ownership also applies when income is being diverted from the eligible spouse to the ineligible spouse and when the ineligible spouse is making a full fair standard contribution. If a client is determined ineligible because of excess funds in a joint account, the client must be allowed an opportunity to disprove the presumed ownership of all or part of the funds. He must also be allowed to disprove ownership of joint accounts that do not currently affect his eligibility, but may in the future. Transfer-of-resources policy does not apply when a client changes a joint bank account to establish separate accounts in order to reflect correct ownership of and access to the funds.

(c) **Patient trust funds.** A client may authorize a long-term care facility to manage his funds. The facility then acts as a fiduciary agent, using the funds only for the client's personal needs. The money in a patient trust fund is a countable resource.

(d) **Time deposits.** The resource value of a time deposit is the net amount due after penalties are imposed for early withdrawal. If the funds cannot be withdrawn before maturity, the time deposit is not a resource until it matures. Time deposits include, but are not limited to, certificates of deposit, savings certificates, and individual retirement accounts (IRAs).

(e) **Stocks.** The resource value of a share of stock is the closing price on the last business day of the month before the month of application or recertification.

(f) **Bonds.** The cash value of a bond is a countable resource. If a client can convert his bond into cash within 20 workdays, the bond is considered a liquid resource.

(g) **Promissory notes, loans, and property agreements.** A negotiable promissory

sory note, loan, or property agreement is a resource. Negotiable means that the owner (lender) has the legal right to sell the instrument or that he possesses a transferable interest in the instrument that can be converted to cash. The terms of the loan may be in writing or they may be an informal oral agreement. A formal written loan agreement is a form of promissory note.

(h) Prepaid burial contracts. The amount that a client would receive upon revocation or liquidation of his prepaid burial contract is considered an available resource.

(i) SSI and RSDI retroactive lump sum payments. SSI and RSDI retroactive lump sum payments are excluded from countable resources for six months after the month of receipt. If these payments are received during the period from October 1, 1987-September 30, 1989, they are excludable for nine months after the month of receipt. The exclusion applies only to the payments. If the client spends the payments, the exclusion does not apply to items purchased with the payments unless those items are otherwise excludable. This is true even if the exclusion period has not expired. The client must keep money from retroactive SSI and RSDI payments separate from other resources. If payments are combined with other resources, the client or responsible party has 30 days to separate funds and to provide documentation of which portion of the combined funds is to be excluded. The client or responsible party must also provide documentation of the amount of the payments and any expenditures. If the payments cannot be distinguished from other resources, they are counted toward the appropriate resource limit.

#### **§15.441. Real Property.**

(a) Home. The value of a home that is a client's or his spouse's principal place of residence is not a resource of the client or spouse.

(1) Description of a home and adjacent land. A home is the structure in which the client or his spouse lives. All land adjacent to the home includes any land separated by roads, rivers, or streams. Land is adjacent as long as it is not separated by intervening property owned by another individual. This means all the land associated with the home, whether or not there is a business operated in connection with the home or property. Adjacent property is a part of the home even if there is more than one document of ownership, the home was obtained at a different time from the rest of the land, or the holdings are assessed and taxed separately. Home property may be jointly owned, or ownership may be in the form of a life estate or interest in an intestate estate.

(2) Home as the principal place of residence. Only one place may be established as the client's principal place of resi-

dence. If a client lives in more than one place or owns more than one residence, he must designate one as his principal place of residence. If the client is unable to make this decision, the department bases the determination on statements from the client's guardian or responsible party, or on the address the client uses on his voter registration, federal benefits, or federal income tax returns. A client who applies for and receives Medicaid benefits in Texas is not allowed to exclude a home in another state. If the client considers his home in another state to be his principal place of residence, he is not a Texas resident, and he must apply for assistance in his home state.

(3) Temporary absence. Absences from home for trips, visits, and medical treatment do not affect the home exclusion as long as the client continues to consider the home to be his principal place of residence and intends to return home. If a client owns a residence but lives elsewhere, the department determines whether the client continues to consider the home to be his principal place of residence and whether he intends to return.

(4) Spouse or dependent relative living in the home. If a client lives in a long-term care facility and his spouse or dependent relative lives in his principal place of residence, that home is not considered an available resource.

(5) Home as a countable resource. If a client who is not living in the home transfers ownership of his home for less than market value while it is excluded because of his intent to return, the transfer automatically nullifies the exclusion.

(b) Other real property. The equity value of a client's ownership or part ownership in real property other than the home is a resource.

(1) Life estates. A life estate transfers to an individual, for his lifetime, certain rights in property. The duration of the life estate is measured by the lifetime of the tenant, or by the occurrence of some event. The contract establishing the life estate, however, may restrict one or more rights of the individual. The individual does not have fee simple title to the property nor the right to sell the entire property. In most situations, the owner of a life estate has the right to:

- (A) possess the property;
- (B) use the property;
- (C) get profits from the property; and
- (D) sell his life estate interest.

(2) Remainder interest. A remainder interest, which is created at the

same time that a life estate is established, gives the remainderman the right to ownership of the property upon the death of the life estate holder. An individual holding a remainder interest in property has the right to sell his remainder interest unless he is prohibited from doing so by a legal restriction.

(3) Conditions for retaining life estates and remainder interests. A client may, without affecting his eligibility, maintain his life estate or remainder interest in property if:

(A) the property is his home and can be excluded under the exclusion rule for homesteads;

(B) a contract restriction exists that prevents the client from disposing of his interest; or

(C) the property is producing income and may be excluded under §15.443 of this title (relating to Resources Essential to Self-support (Real and Personal Properties)).

(4) Exception. If the client has a life estate or remainder interest that is not excludable, the department determines the value of the resource according to the life estate holder's age and the equity value of the property. The client has the right to rebut this determination. To do so, he must present a statement from a knowledgeable source.

(5) Mineral rights. The value of a client's ownership of or interest in mineral rights is a resource.

(A) A client's mineral rights do not affect his eligibility if his equity in them does not exceed \$6,000 and he receives a net annual rate of return of at least 6.0% of the equity value.

(B) Ownership of mineral rights may or may not be associated with ownership of land. Surface rights are ownership interests in the exterior or upper boundary of land. Ownership in one does not automatically indicate ownership in the other.

(6) Burial spaces. The cost of opening and closing a grave and a burial space owned by a client, or by a person whose resources are deemed to the client, are excluded as long as the burial space is intended for the client, the client's spouse, or any member of the client's immediate family. Immediate family includes the client's minor and adult children, stepchildren, adopted children, brothers, sisters, parents, adoptive parents, and the spouses of those individuals. It does not include grandchildren or the client's spouse's immediate family. If a client owns a burial

space that is not excludable, the department counts the equity value of the space as a resource.

#### **§15.442. Personal Property.**

(a) Automobile. A client's (or spouse's) automobile is not a resource if its current market value is \$4,500 or less, or if it is used for necessary transportation. If the market value exceeds \$4,500, the department counts toward the resource limit the market value in excess of \$4,500. Any additional automobiles are nonliquid resources and count toward the resource limit to the extent of their equity value. An automobile, regardless of the value, is excluded if it is used by:

(1) the client, spouse, or a person whose income and resources are deemed to the client, or by any other member of the household, as transportation to or from work or in a trade or business;

(2) a handicapped individual, and the automobile is specially equipped to permit the individual to drive it; or

(3) the client, spouse, or a person whose income and resources are deemed to the client, or by any other member of the household, in getting treatment for a specific or regular medical problem.

(b) Household goods and personal effects. If the client's equity in these items exceeds \$2,000, the excess amount is counted as an available resource.

(c) Life insurance. If the total face value of life insurance policies owned by a client (or spouse, if any) is \$1,500 or less per person, the department does not consider as a resource the value of the life insurance a resource. If the total face value of all life insurance policies owned by a client, eligible spouse, or ineligible spouse whose resources are deemed to the client are more than \$1,500 per insured person, the cash surrender values of the policies are resources. A life insurance policy is a resource available only to the owner of the policy, regardless of whom it insures.

(d) Term and burial insurance. Term insurance and burial insurance are not resources.

(1) Burial insurance is a form of term insurance. By its terms, burial insurance can only be used to pay the burial expenses of the insured.

(2) Term insurance is a contract of temporary protection. The insured pays relatively small premiums for a limited number of years, and the company agrees to pay the face amount of the policy only if the insured dies within the time specified in the policy. It has no cash surrender value.

(e) Burial funds.

(1) The department excludes \$1,500 per person for funds that have been set aside and designated for the burial ex-

penses of a client, his spouse, or a parent or parent's spouse whose resources are deemed to a minor child. To be excluded, the client's funds must be:

(A) separately identifiable and not combined with other funds; and

(B) specifically designated for burial expenses.

(2) If a client designates a whole life policy (or policies) for burial expenses, he must designate the total cash value of each policy.

(3) For life insurance policies, the beneficiary (unless the beneficiary is a funeral home) must submit a statement that the cash value of the policy be used for the client's burial expenses.

(f) Interest on burial funds. The department excludes from income and resource determinations interest that accumulates and becomes a part of excludable burial funds or appreciation in the value of an excludable prepaid burial contract. Also excluded is the increased cash value of life insurance policies excluded under this policy.

(g) Burial contracts. Funds set aside for burial expenses include burial contracts and trusts, and any separately identifiable assets that are clearly designated for burial expenses.

(1) For prepaid burial contracts, the department considers the refund value of the contract. The burial space exclusion described in subsection (a) of this section also applies to written agreements including, but not limited to, prepaid burial contracts or trusts, if the value of the burial space is separately identifiable from other items in the agreement that do not meet the definition of a burial space. The value of the other items is applied toward the \$1,500 exclusion of funds for burial expenses. If the value of the burial space cannot be separately identified from other items in the agreement, the entire value of the agreement is counted toward the \$1,500 exclusion.

(2) The department reduces the amount of burial funds that can be excluded by the amount of funds held in irrevocable trusts, contracts, or other arrangements designated to meet burial expenses. These include irrevocable arrangements, owned by someone other than the client, for the client's burial expenses. Revocable arrangements owned by someone else are not part of the client's designated burial funds and are therefore not countable. The department also reduces the amount that can be excluded by the face value of any whole life insurance policy excluded in determining the individual's countable resources. Burial insurance policies, generally ranging from \$100 to \$200, were issued by some funeral homes before 1965. These policies are con-

sidered irrevocable burial funds and must be considered as part of the \$1,500 that can be excluded. If no excludable burial funds are available, these policies are not countable. If the policies have been purchased by life insurance companies and converted to term life insurance, they are treated as any other term insurance.

(h) Livestock. Livestock maintained exclusively for home consumption is not counted. If the livestock is not kept for home consumption, its current market value is a countable resource.

#### **§15.443. Resources Essential to Self-support (Real and Personal Properties).**

(a) Property essential to self-support. The department may exclude as a resource property essential to self-support but count the income that the property produces.

(1) A client (and spouse, if any) can have either business or nonbusiness property that is producing income necessary to self-support, if

(A) the equity value does not exceed \$6,000; and

(B) the client receives a net annual rate of return of at least 6.0% of the equity value.

(2) If a client's equity in income-producing property exceeds \$6,000, and the property is producing a net annual rate of return of at least 6.0%, the excess equity value is a countable resource. (Total equity value minus \$6,000 equals the amount to be counted, together with any other resources.) If the net annual rate of return is less than 6.0% of the equity value, the total equity value is a countable resource.

(3) In some instances, a client may own more than one income-producing business or nonbusiness property. To be excludable, each property must separately produce a 6.0% net annual rate of return. A maximum of \$6,000 may be excluded from the combined equity value of all properties producing a 6.0% net annual rate of return. The combined equity value in excess of \$6,000 is a resource.

(b) Rate of return less than reasonable. A client's property that is valued at \$6,000 or less can be excluded even if it produces less than a 6.0% annual rate of return, if all the following conditions are met:

(1) unusual or adverse circumstances cause a temporary reduction in the rate of return;

(2) the property is used in income-producing activity;

(3) the property usually has net annual rate of return of at least 6.0% of the equity value of the property; and

(4) the client expects the property to resume producing a reasonable return within 18 months of the end of the calendar year in which the unusual incident caused the reduction in the rate of return. If, by the end of the time allowed, the property is not producing a net annual rate of return of at least 6.0% of the equity value, the resource cannot be excluded.

(c) Other resources essential to self-support.

(1) The department excludes certain resources that a client uses in connection with his employment, if the employment is essential to his self-support. Also excluded is any resource that a client uses exclusively to produce items for home consumption and is a significant factor in his support and maintenance.

(2) If a blind and disabled client has an approved plan for achieving self-support, the department must approve the plan. If the plan is approved, the department does not count the resources and income that are essential for accomplishing the objectives of the plan.

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

Issued in Austin, Texas, on February 23, 1989.

TRD-8901740 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

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For further information, please call: (512) 450-3765.

## Subchapter E. Income

• 40 TAC §§15.450, 15.455, 15.460, 15.465, 15.466, 15.470, 15.475

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

### *§15.450. Sources of Earned Income.*

Earned income may be in cash or in-kind. Payment of earned income may be

(1) gross wages for working as someone else's employee.

(2) net earnings from self-employment. If an individual is both employed and self-employed, his earned income consists of his wages plus net earnings from self-employment.

(3) payment for work or for activities performed as a participant in a program conducted by a sheltered workshop or

work activities center, even though the payment does not meet the definition of wages.

(4) payments or refunds of earned income tax credits, authorized under , of the Internal Revenue Code of 1954, §43 and §3507 as specified in Section of Public Law 96-222, §101(a)(2)(B);

(5) farm income. Farm income is earned income when either the client or spouse is doing the farming or operating the farm as a business.

### *§15.455. Unearned Income.*

(a) Sources of unearned income. Unearned income includes:

- (1) in-kind income;
- (2) fixed income; and
- (3) other income.

(b) Support and maintenance. The following requirements apply to support and maintenance.

(1) Support and maintenance are not counted if they are irregular or infrequent. When counted as income, their value depends on the client's living arrangement.

(2) If a client (and eligible spouse if any) lives in another person's household and receives both food and shelter from that person, one-third of the SSI-federal benefit rate is counted as income. After this one-third amount is applied, the department does not count the additional in-kind support or maintenance from a third party.

(3) One-third of the SSI federal benefit rate is counted as income, as described in paragraph (1) of this subsection, only for the months in which the client (and eligible spouse, if any) spends the entire month in the household of another person. If the client spends only part of a month in another's household, support and maintenance are prorated accordingly.

(4) The one-third support and maintenance amount is considered income even if the client pays only a portion of his prorated share for food and shelter. If the client pays his full prorated share, support and maintenance are not countable.

(5) The one-third amount does not apply in the following situations:

(A) the client (and eligible spouse, if any) lives in a commercial room-and-board establishment;

(B) the client is receiving either food or shelter, but not both;

(C) the client has an eligible spouse and only he or his eligible spouse lives in another's household;

(D) the client lives with a person from whom income is or would be deemed;

(E) the client (or eligible couple) living in another's household is a Rider 49 or Waiver V client whose eligibility is continued under an institutional medical assistance only type program; that is, one of the institutional income limits is being used to determine eligibility.

(c) Fixed income. Sources of unearned, fixed income are as follows:

(1) Social Security benefits (RSDI) paid by the SSA under provisions of the Social Security Act. Also included are special payments at 72 years old (Prouty benefits) and Black Lung benefits under the Coal Mine Health and Safety Act of 1969;

(2) railroad retirement benefits paid to an individual or to his dependents or survivors;

(3) VA compensation, pension, and DIC payments.

(A) Because VA pensions and the parents' dependency and indemnity compensation (DIC) payments are generally based on need, the \$20-general income exclusion in the eligibility determination is not applied. Pensions based on a special act of Congress or on service in the Spanish American War (April 21, 1898-July 4, 1902); the Indian Wars (January 1, 1817-December 31, 1898); or the Civil War (1861-1865) are not based on need. Thus, the \$20-exclusion applies to these exceptions.

(B) VA aid-and-attendance and housebound benefits are excluded in the income-eligibility test and included in determining the amount of applied income. These benefits are also excluded for deeming or determining the amount of the spouse's contribution. Because aid-and-attendance and household benefits are excluded from the eligibility pre-test, the department does not deny a VA client for excess income without verifying these benefits.

(d) Annuities, pensions, and retirement plans. The following paragraphs describe sources of unearned income.

(1) Workers' compensation benefits are unearned income. A portion of an individual's workers' compensation may be designated for medical, legal, or related expenses. The department determines and excludes the portion, if any, of the workers' compensation that is considered an expense required to obtain the benefit.

(2) Unemployment benefits are unearned income.

(3) Disability benefits are unearned income.

(4) The client may request that certain pensions and retirement payments be reduced. If the reduction is irrevocable, the department accepts the reduced amount in determining the client's eligibility. If the client is receiving a reduced benefit, the department must obtain a written statement from an official of the organization. If the pension or retirement payments are revocable, the client must apply for maximum entitlements. The amount of the original benefit, the amount of the reduced benefit, the date of the reduction, and information about the revocability or irrevocability of the reduction must be included in the statement.

(e) Other unearned income. Other sources of unearned income include:

(1) interest and dividends. Dividends from insurance policies are not included because those dividends are refunds of overcharges on premiums;

(2) interest payments on joint bank accounts. In this context, the term spouse includes a spouse whose income is considered in the applied income determination process, either to divert income for the spouse's needs or to obtain a fair standard contribution from the spouse. Interest payments on joint bank accounts are considered as follows:

(A) If the coholders of the account are not eligible for SSI, AFDC, nor MAO, nor do they have spouses or parents whose incomes are deemed to the client, all interest payments and deposits made by the ineligible coholders are considered as income of the client.

(B) If one or more coholders are eligible for AFDC, SSI, or MAO; or are spouses or parents whose incomes are deemed to the client, a deposit by the coholder, spouse, or parent is not considered to be income to the client.

(C) If a client has disproved ownership of all or part of the funds in a joint account, deposits by coholders are not considered as income before the change in the account designation. Interest payments are income to the eligible individual in proportion to the amount of the funds owned.

(3) royalties. When they become available, royalties that are not from self-employment are unearned income. Expenses required for the production or collection of the income are excluded. Deductions are allowed from gross income for any production and severance taxes except windfall profit taxes or property taxes. Royalties include payments to the holder of a patent or copyright or to the owner of a mine, oil well, or other property for the use of a product;

(4) rents. When they become available, rents that are not from self-employment

are unearned income. Expenses required for the production or collection of the income are excluded. The department does not consider depreciation of the property or repair expenses to prepare for rental expenses;

(5) gifts, inheritances, support, and alimony. Expenses involved in obtaining the income are excluded;

(A) A gift may or may not be in cash. A gift is anything given to a client that is:

(i) not compensation for services or other consideration; and

(ii) without legal obligation on the donor's part.

(B) Support is a cash or in-kind contribution to provide some or all of a client's usual needs including, but not limited to, food, shelter, and clothing. A person may provide support voluntarily or in response to a court order.

(6) proceeds of a life insurance policy. These proceeds are counted as unearned income to a client to the extent that they exceed the amount expended on the deceased's last illness and burial expenses. Last illness and burial expenses include hospital costs, physician's fees, funeral, burial plot, and interment expenses; and other related costs;

(7) notes and mortgages received by a client. The department considers income from a note or mortgage according to whether the note or mortgage is counted or excluded as a resource. If the note or mortgage is negotiable, only the monthly interest portion of the payments is counted as unearned income. If it is not negotiable, both the monthly principal and interest portions of the payments are counted as unearned income;

(8) prizes and awards. The department counts the amount of an award minus any expenses required to obtain it;

(9) income from Medicaid-qualifying trusts. Payments that could be made from Medicaid-qualifying trusts are considered as income available to the client, regardless of whether payment is actually made.

#### *\$15.460. Income Exemptions.*

(a) The income described in this section is not counted in eligibility or payment-plan determination. The disregarding of this income is called an exemption. An exemption is not an exclusion. Exempt income is never counted in eligibility or payment-plan determination.

(b) The department exempts income that a client receives from any of the following sources:

(1) cash received from the sale of a resource. This cash is a resource, not income;

(2) value of medical services provided to a client free of charge or paid for with direct payment to the provider by someone else;

(3) premium payment for supplementary medical insurance benefits (SMIB) under Title XVIII (Medicare), paid by a third party;

(4) cash or in-kind payments for social services provided by a federal, state, or local government program;

(5) reimbursement for medically-related payments that a client has previously made or for payments that he owes because of medically-related services already received. Cash contributions from family members to the client for medically-related payments (made or owed by the client) are not considered income exemptions;

(6) the amount of a lump-sum payment in the months following the month of receipt. The lump sum is counted as income in the month received and as a resource thereafter;

(7) the amount of income of a dependent who is receiving SSI or AFDC. This income has already been considered in determining the dependent's need for SSI or AFDC;

(8) grant, scholarship, and fellowship funds used to pay tuition and fees at an educational institution (including vocational and technical schools). Any portion of a grant, scholarship, or fellowship used to pay any other expense, such as room, board, or books, cannot be exempt;

(9) home produce for home consumption;

(10) infrequent or irregular income. Infrequent or irregular income is excluded from the eligibility determination if the total per month is \$20 or less in unearned income and \$10 or less in earned income; and if the income is received only once per calendar quarter from a single source or cannot be reasonably anticipated. If received in a larger amount or more frequently than specified, the entire amount is included in determining eligibility.

(A) Income need not be both infrequent and irregular to be excluded. The exclusion applies only to infrequent or irregular income in which the total income from all sources does not exceed the dollar limits. The frequency is evaluated for the quarter, but the dollar amount is evaluated for the month.

(B) Irregular payments that do not exceed the dollar limits when combined with other irregular and infrequent

incomes received in the same month are not counted as income.

(11) payments for foster care of a child if the child;

(A) is not eligible for SSI; and

(B) was placed in the client's home by a public or private, nonprofit child-placement or child-care agency.

(12) one-third of the total amount of child support payments for an eligible child;

(13) first \$400 of earnings per month, not to exceed \$1,620 a calendar year, of a child who is a student regularly attending school. This exemption applies until the child is 22;

(14) benefits received under Title XII of the Older Americans Act (Nutrition Program for the Elderly);

(15) value of meals and benefits provided under the Child Nutrition Act of 1966;

(16) value of meals provided under the National School Lunch Act as amended by Public Law 90-302 of 1968;

(17) payments made to natives from revenues originating under the Alaska Native Claims Settlement Act;

(18) per capita payments to members of an Indian tribe in settlement of claims against the United States under Public Law 93-134;

(19) per capita judgment payments made to the Blackfeet Tribe of Montana and the Gros Ventre Tribe of the Fort Belknap Reservation, Montana under Public Law 92-254;

(20) benefits received from Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(21) salaries, value of meals, and travel allowances to participate in the Retired Senior Volunteer Program and in the Foster Grandparent Program of Title II of the Domestic Volunteer Service Act of 1973 (formerly Title VI of the Older Americans Act). Also included are payments from Title III of the same Act, which include the Service Corps of Retired Executives (SCORE), the Active Corps of Executives (ACE), and the Action Cooperative Volunteer Program (ACV);

(22) payments by the Federal Disaster Assistance Administration authorized by the Disaster Relief Act, as amended;

(23) per capita judgment funds, paid under Public Law 94-540, to members of the Grand River Band of Ottawa Indians;

(24) value of any housing assistance payment paid on a house under the

United States Housing Act of 1937, the National Housing Act, of the Housing and Urban Development Act of 1965, §101, or Title V of the Housing Act of 1949, as authorized by Public Law 94-375;

(25) income received by members of 21 designated Indian tribes from lands held in trust by the United States under Public Law 94-114, §6. Although none of these tribes is located in Texas, tribal members may live in the state;

(26) home energy assistance, except food or clothing under Public Laws 97-377 and 97-424. Home energy assistance is assistance in cash or in-kind that is provided by a private, nonprofit organization or a utility company;

(27) proceeds of either a commercial loan or an informal loan, for which repayment is required with or without interest. The proceeds (amount borrowed) are not counted as income in the month in which they are received but are considered to be a resource in the following month(s). To claim exemption of the proceeds of a loan, a client must prove that he acknowledges an obligation to repay and that some plan for repayment exists. If these conditions can be verified, no written contract is required;

(28) interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement that are left to accumulate and become a part of separately identifiable burial fund. If the burial funds increase by more than \$1,500 because of contributions by client actions, the amount in excess of \$1,500 is a countable resource;

(29) value of any noncash item (other than food, clothing, or shelter) for the month of receipt, if that item would become a partially or totally excluded resource were it kept into the month after the month of receipt.

#### *§15.465. Income Exclusions.*

(a) General exclusion. For each month, the first \$20 of unearned or earned income is excluded. This exclusion is applied first to unearned income, then to earned income if the unearned income is less than \$20. If no unearned income exists, the entire \$20-exclusion is applied to the earned income. Exceptions are as follows.

(1) Although the exclusion does not apply to VA pensions and parents' DIC, it does apply to VA compensation and insurance. If, however, a client receives income from a VA pension and another source, he retains the general exclusion.

(2) In the case of an eligible couple, only one exclusion is applied to the couple's combined earned income.

(b) Earned income exclusion. After applying the \$20 general exclusion, the department excludes \$65 of the remaining

earned income plus one-half of the remaining earnings. In the case of an eligible couple, the department allows only one earned income exclusion for the couple's combined earned income.

(c) Income exclusion for Type Program 51 recipients. For clients meeting Type Program 51 criteria, the department excludes the amount of the cost-of-living increase that resulted in denial of Type Program 14 eligibility. After Type Program 51 eligibility is established, the department excludes all future cost-of-living increases in pension or retirement benefits.

(d) Income exclusion for Type Program 03 clients. For clients who qualify for Type Program 03 and who received a 20% Social Security cost-of-living increase in October 1972, the department excludes the amount of that increase in determining the client's eligibility. For clients who qualify for Type Program 03 because of an SSI denial after April 1977, the department excludes Social Security cost-of-living increases received since the client last received both SSI and Social Security benefits in the same month.

(e) VA aid-and-attendance exclusion. The following requirements apply:

(1) The department excludes aid-and-attendance allowances in the income eligibility determination process because they represent medical expenses paid by a third party. To determine a client's payment plan (applied income), however, the department counts the amount of the aid-and-attendance portion of the VA benefit. When using the deeming process or when determining the amount of the spouse's contribution to be requested, the department does not count an aid-and-attendance allowance received by an ineligible spouse.

(2) Clients who have changed to the 1979 pension plan or who initially obtain entitlement to a VA pension after January 1, 1979, must apply for aid-and-attendance or other potentially available benefits as a condition of eligibility.

(f) Exclusion for work expenses for the blind. In addition to the earned income exclusion, a blind client's earned income is reduced by the amount of expenses that he can reasonably attribute to the earnings of the income.

(g) Housebound allowances. The following requirements apply:

(1) The department excludes VA housebound allowances in the eligibility determination process because they represent medical expenses paid by a third party. Veterans and widow(ers) who do not qualify for regular aid and attendance may qualify for a housebound allowance. Housebound allowances are usually received only by an individual living in the community.

(2) In determining a client's payment plan (applied income), the department counts the amount of the housebound allowance portion of the VA benefit. When using the deeming process or when determining the amount of the spouse's contribution to be requested, the department does not count housebound allowances received by an ineligible spouse.

(h) Reduced income. Earned or unearned income not excluded from consideration by the previous exclusions may be reduced to the extent that it is needed to fulfill a blind or disabled client's approved plan for attaining self-support.

#### *§15.466. Special Income Exclusions.*

(a) Type Program 18. Individuals 18 and older who were denied SSI benefits on or after July 1, 1987, because of entitlement to or an increase in RSDI disabled adult children's benefits, may be eligible for Medicaid if they otherwise would meet all current SSI eligibility criteria in the absence of those disabled adult children's benefits. Eligible individuals are also entitled to the exclusion of any subsequent increase in those benefits.

(b) Type Program 22. Disabled individuals 60 and older who were denied SSI benefits because of entitlement to early aged widow's or widower's benefits may be eligible for Medicaid if they would meet all current SSI eligibility criteria in the absence of those early aged widow's and widower's benefits. Eligible individuals are entitled to the exclusion of subsequent increases in these benefits. They may continue to receive Medicaid until they are eligible for Medicare. Medicaid benefits under Type Program 22 cannot begin before July 1, 1988, regardless of when an individual became eligible for or was denied SSI.

#### *§15.475. Deeming of Income.*

(a) The following requirements apply.

(1) When a client lives in the same household with an ineligible spouse or parent (and parent's spouse, if any), the income of the ineligible person(s) may be counted with the income of the client. This countable income of the spouse or parent is said to be deemed to the client. Although an ineligible person's income may be earned income, it is counted as unearned income after being deemed to the client.

(2) The department uses deeming procedures when determining the eligibility of a client who lives with an ineligible spouse or parent (and the parent's spouse, if any). The department also applies these procedures in vendor situations during the month the client separates from his ineligible spouse or parent or for any portion of a month the client and ineligible spouse or parent lived together. The deeming process is discontinued in the month after separation.

(3) The department exempts certain types of income that may be received by a client's ineligible spouse, ineligible parent, a parent's ineligible spouse, or any ineligible children living in the household. The following types of income are not deemed to the client:

(A) assistance or income payments based on need and provided by a federal agency, a state, or a political subdivision of a state. If a test for income, or income and resources, is one of the eligibility criteria for the assistance or income payments, the payments are based on need;

(B) The value of in-kind support and maintenance provided to the ineligible person;

(C) income used by the ineligible person to make support payments under a court order or an agreement authorized by Title IV-D. The amount exempted is stated in the court order or agreement or the amount of the actual payment, whichever is less;

(D) payments made to the ineligible person through block grants or other government programs, which include family care services and attendant services.

(4) When a client has income that fluctuates from month to month, including earnings, royalty payments, dividends, or interest, the department averages the income and projects the client's future income based on income received in the past.

(b) The following exceptions apply to deeming of income.

(1) If the client's spouse, parent, or parent's spouse is a member of an AFDC group, that person's income is not deemed to the client.

(2) The department does not apply the deeming process to Rider 49 clients discharged to the community. Although a Rider 49 client may live in the same household with his ineligible spouse, the Rider 49 client's eligibility is determined under the applicable criteria used when he was living in a nursing facility.

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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Charles Stevenson  
Acting Commissioner  
Texas Department of  
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For further information, please call: (512) 450-3765.

## Subchapter F. Budgets and Payment Plans

• 40 TAC §§15.500, 15.501, 15.505, 15.510, 15.515

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

#### *§15.500. Nonvendor Living Arrangements.*

(a) The department determines eligibility for individuals and couples (in nonvendor living arrangements) who:

(1) apply for the three-months-prior program;

(2) apply for or have eligibility redetermined under Type Program 03, Waiver V, or Rider 49 criteria;

(3) apply for or have eligibility redetermined under Type Program 18; or

(4) apply for or have eligibility redetermined under Type Program 22.

(b) The department uses the full SSI-payment standard (in a nonvendor individual budget) for a client or the special income limit for Waiver V or Rider 49 client and considers only his income. The department prepares an individual budget if the client is single, widowed, or divorced; or a married person who is:

(1) an applicant separated from his ineligible spouse before the month of application;

(2) a client separated from his ineligible spouse during the previous month;

(3) a client separated from an eligible spouse for more than six months; or

(4) separated from a spouse who has entered and is eligible for vendor payment in a Title XIX nursing facility.

(c) The department prepares a companion budget, using the full SSI payment standard for an individual, if a client lives with his ineligible spouse during any part of a calendar month. The department prepares companion budgets for Waiver V clients using the department's special income limit. The income of the ineligible spouse may be deemed available to the client (except for Rider 49 clients).

(d) The following paragraphs apply to couple budgets.

(1) The department considers the income of both spouses against the full SSI payment standard for a couple (special income limits for Waiver V or Rider 49 clients). A couple budget is prepared if an

individual is living with his eligible spouse (aged or disabled), and they are:

(A) presenting themselves to the community as husband and wife;

(B) determined to be husband and wife for purposes of receiving Social Security benefits; or

(C) recognized as husband and wife under state law.

(2) The department also prepare a couple budget if a client is not living with his eligible spouse but they:

(A) were originally determined eligible as a couple; and

(B) have lived apart for fewer than six months.

(3) The department considers the income of both spouses against the full SSI payment standard for a couple (or the appropriate income limit for a couple if both spouses are Rider 49 or Waiver V clients). A couple budget is not prepared when only one member of an eligible couple enters a Title XIX long-term care facility and is entitled to vendor payment.

#### *§15.501. Vendor Living Arrangements.*

(a) The department considers an individual or couple to be living in a vendor living arrangement beginning with the first day that:

(1) the individual (or couple) lives in a Medicaid SNF or Title XIX-approved ICF, SNF, or ICF-MR facility; and

(2) the individual (or couple) has been confined to one or more Title XIX-approved long-term care facilities (Medicare-SNF, ICF, SNF, or ICF-MR) for at least 30 consecutive days.

(b) If a client dies before he has lived for 30 consecutive days in a Title XIX long-term care facility, he is considered to have met the 30-consecutive-day requirement. Three-day therapeutic home visits or admissions to hospitals are not considered discharges from the institutional setting.

(c) If an individual (or couple) dies before 30 consecutive days of institutionalization have passed but is not discharged to a noninstitutional setting before his death, the department considers the individual (or couple) to be in a vendor living arrangement. The department uses the special income limit to establish the eligibility of individuals and couples living in vendor living arrangements who have countable income that exceeds the reduced SSI payment standard. Using the special income limits,

the department determines the individual's or couple's eligibility for medical assistance only until the individual or couple is discharged to home or a non-Title XIX facility. Three-day therapeutic home visits or admissions to hospitals are not considered discharges for this purpose.

(d) The department uses the special income limit for the client and considers only the client's income in determining eligibility. An individual budget is prepared if:

(1) the client has no spouse (that is, he is widowed, divorced, or never married);

(2) his spouse is receiving assistance under another type program;

(3) his ineligible spouse becomes eligible for assistance in a month after the month of separation; or

(4) an eligible couple has been separated for six months or more.

(e) If the client has an ineligible spouse who is not separated from him, the department prepares a companion budget. Using the special income limit for an individual, the department considers only the client's income in determining eligibility. The ineligible spouse's income is considered in determining the amount of applied income.

(f) In a couple budget, the department considers the needs and income of both spouses and uses the special income limit for a couple. A couple budget is prepared only if an individual and eligible spouse:

(1) are both MAO clients with the same type program; and

(2) live in the same Title XIX long-term care facility.

(g) In determining couple status, the following requirements apply.

(1) If one member of an eligible couple is discharged from a Title XIX facility (other than for hospitalization or a therapeutic home visit), and the spouse stays in the facility, eligibility is redetermined on an individual basis. The department adjusts applied income for the individual remaining in the facility effective the first day of the month after the spouse's discharge from the facility.

(2) If a couple becomes ineligible because of income received by one member of the couple, the spouse with lower income may reapply for assistance as an individual with an ineligible spouse (companion case). This is true even if the couple shares the same room in the facility. Deeming from the ineligible spouse does not apply because the couple is not living in the same household while in a long-term care facility.

(h) If a client is living in a vendor living arrangement, federal laws and regula-

tions prohibit the department from assuming that the income of the ineligible spouse is available to the client. Texas law, however, establishes the duty of one spouse to support the other spouse. The department, therefore, requests ineligible spouses to make contributions toward the cost of their eligible spouses' care in long-term care facilities. To determine an appropriate amount of contributions, the department has established a fair standard income level. The department considers that this fair standard income level meets the subsistence needs of the ineligible spouse.

(i) If the client's spouse receives a VA benefit based on need, the client need not contribute to the cost of the eligible spouse's long-term care.

(j) If the ineligible spouse's income changes, the ineligible spouse must sign appropriate department forms indicating the new contribution amount.

(k) Certification of a client cannot be delayed because of the refusal of a spouse to agree to make voluntary fair standard contribution. If, within 30 to 45 days, the department is unable to get a signed form showing an intent to contribute, the department informs the spouse in writing that the department may try to recover contributions through court action. If the spouse refuses to contribute or offers to contribute less than the fair standard, the department immediately certifies the client. The department establishes applied income based only on the client's own income (plus any contribution amount the spouse does offer). The department documents the reasons given for refusal to contribute or for an offer to contribute less than the fair standard contribution and refers the case for appropriate legal action.

#### *§15.505. Budget Eligibility Requirements.*

(a) The department uses a special income limit established by the legislature to determine an individual's or couple's eligibility for medical assistance, if the individual or couple:

(1) lives in a vendor living arrangement; and

(2) has countable income that exceeds the reduced SSI payment standard.

(b) Federal regulations establish a standard equal to 300% of the SSI standard payment amount for an individual as the maximum gross income permitted for individuals in a Title XIX facility. The standard is doubled for measuring the income of a couple.

(c) If the individual's or couple's income is at least one cent less than the department's limit, and all other eligibility criteria are met, the individual or couple is eligible for medical assistance only.

#### *§15.510. Applied Income for SSI Clients.*

Eligibility requirements are as follows.

(1) Clients are eligible for Title XIX benefits as SSI-cash clients if they live in approved Title XIX long-term care facilities and if their countable income does not fully meet the appropriate SSI-standard payment amount.

(2) Under SSI policy, an individual is eligible for the full standard payment amount in the month of entry to a Title XIX long-term care facility. The individual must have been living in a noninstitutional setting or in a private institution in which Medicaid made no substantial payments for any part of that month. For any subsequent month in which the individual lives in the facility throughout the month, department uses the reduced SSI payment standard.

(3) The reduced SSI-payment standard applies to all subsequent months if the client continues to live in the Title XIX long-term care facility throughout the month. An individual is entitled to the reduced SSI-payment standard for the month of entry into a Title XIX long-term care facility only if

(A) he was living in a public institution or in a Title XIX medical treatment facility for every day of the month of entry before the date of admission to the long-term care facility; and

(B) Medicaid was paying more than half his cost of care.

(4) The reduced SSI-payment standard also applies to all subsequent months if the client continues to live in the Title XIX long-term care facility throughout the month.

(5) Effective July 1, 1988, Public Law 100-203 allows SSI clients who meet certain requirements to continue receiving their SSI benefits while they are temporarily confined to a medical facility. These continued benefits may be made for up to three months after the month of entry if:

(A) the individual notifies SSA that he expects to be in a medical facility for at least a full calendar month but less than 90 days;

(B) SSA receives a physician's certification not later than 10 days after the close of the month of admission that the individual is likely to leave the facility no later than the 91st consecutive day after admission; and

(C) SSA receives evidence not later than 10 days after the close of the month of admission that the individual needs to maintain and provide for the ex-

penses of the home or living arrangement to which he may return.

(6) A couple may be eligible under the full SSI-payment standard for a couple during the month one or both spouses enter a Title XIX medical treatment facility in which Medicaid is expected to make substantial payments.

#### *§15.515. Medicare Skilled Nursing Facilities.*

(a) An applicant or client of Medicaid who is certified for Medicare payments while in a Title XVIII skilled nursing facility (SNF) is eligible for coinsurance vendor payments beginning on the 1st through the eighth day, if his stay continues to be covered by Title XVIII. Beginning on the ninth day through the 150th day, Medicare pays the entire bill and no coinsurance exists.

(b) If his countable income is less than \$30 per month, a client may continue to receive SSI benefits. He may also be eligible for Medicaid benefits.

(c) A client whose countable income equals or exceeds \$30 a month may continue to be eligible as an SSI-related MAO recipient beginning with the 21st day in the SNF.

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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### ◆ ◆ ◆ Subchapter G. Application for Medicaid

#### • 40 TAC §§15.600, 15.605, 15.610, 15.615, 15.620

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

*§15.600. Date of Application.* The date of application for Title XIX (Medicaid) benefits is the date on which

(1) application is filed at the local office of the Social Security Administration (for applicants of SSI cash benefits);

(2) local department office receives a completed, signed, and dated application form (for medical assistance only); or

(3) local department office is notified that an SSI client living in a Title XIX nursing facility is denied SSI because his income exceeds the SSI payment standard.

*§15.605. Medical Effective Date.* The effective date for medical assistance is:

(1) the first day of any month during the three months before application in which the applicant had unpaid or reimbursable, Title XIX-covered medical expenses and was determined eligible;

(2) the earliest date in the month of application on which the applicant met all eligibility criteria;

(3) the date on which the applicant subsequently met all eligibility criteria, if not eligible on the date of application; or

(4) the day after the effective date of denial (under Type Program 13), for individuals transferred from SSI assistance to MAO (excluding qualified Medicare beneficiaries).

#### *§15.610. Medicaid Coverage.*

(a) For payment purposes, there are four types of Medicaid coverage:

(1) Regular coverage. The department pays a premium to cover the cost of services provided by physicians and hospitals. Other services, such as drugs and nursing facility care, are paid for directly by the department.

(2) Institutional coverage. The department pays the Department of Mental Health and Mental Retardation to provide all Medicaid services to eligible individuals in state schools. No premium is paid.

(3) Waiver V coverage. The department pays for primary home care but no other Medicaid services are provided to the Waiver V client.

(4) Qualified Medicare beneficiary coverage. The department pays Medicare premiums, deductibles, and coinsurance for individuals who are enrolled in Medicare A, have income below the specified percentages of the federal poverty level, and have resources no more than twice the limits for the SSI program.

(b) An individual may qualify for prior eligibility only, for current eligibility only, for future eligibility, or for a combination of the three. Coverage may be regular, institutional, or a combination of the two. For processing and accounting purposes, eligibility is further divided into three types.

(1) Prior eligibility. This indicates Medicaid coverage for a period before the date of application. Prior coverage is determined in whole-month increments, except in cases involving death or birth, or Type Program 30 Clients.

(2) Current eligibility. This Medicaid coverage begins on or after the first day of the month of application.

(3) Future eligibility. This Medicaid coverage is limited to qualified Medicare beneficiary coverage. Coverage begins the first of the month after eligibility is determined.

(c) Three-months prior coverage. The three months considered in determining eligibility are those months immediately before the month in which the individual filed a formal application for SSI or MAO or the three months before the month an application is received from a decedent's agent. The department considers as potentially eligible for retroactive Medicaid coverage the following individuals:

(1) those who have applied for SSI cash benefits;

(2) those who apply for medical assistance only; and

(3) deceased persons whose application is being filed by a bona fide agent. In this situation, the time period for which three-months-prior coverage applies is the three months before the receipt of the application.

(d) SSI-MAO eligibility requirements.

(1) General requirements. Although the applicant need not be currently eligible, he must prove that SSI-MAO requirements were met in the month of requested coverage. If eligible, the client receives a medical care identification card for the retroactive period. He presents this information to providers so that claims can be filed within 90 days of the Medicaid decision. To meet requirements, the individual must have been:

(A) aged, blind, or disabled;

(B) within the applicable resource limit at 12:01 a.m. on the first day of the month;

(C) within the applicable income standard for the month;

(D) receiving Medicaid-covered services that have not been paid or will be reimbursed by the provider; and

(E) eligible according to any special criteria.

(2) Prior coverage for SSI applicants. The SSI client may apply for retroactive Medicaid coverage. To apply for retroactive medical coverage, the client must complete both the application form, which is based on current circumstances, and the application form attachment, which is based on circumstances during the three

months before application for SSI. An SSI client who claims unpaid or reimbursable medical expenses incurred within three months before the date of application receives a computer-generated notice of potential eligibility. He must contact the local department office for his eligibility to be determined. The department determines his eligibility according to SSI program criteria. An individual may be eligible for more than one three-month prior period if he applies for SSI more than once. Determination of eligibility on a month-to-month basis may result in nonsequential periods of eligibility. The department notifies the client about the eligibility determination decision and sends him a medical identification card for his period of retroactive eligibility.

(3) Prior coverage for MAO applicants. To apply for medical assistance only, a client must complete the application. Individuals who have unpaid or reimbursable, Title XIX-covered medical expenses for services provided during the three months before applying also must complete the application attachment to report income and resources for the prior period. Applicants may be eligible for Medicaid coverage during any or all of the three months before the month of application for MAO. An applicant must have unpaid or reimbursable charges or bills for Title XIX-covered services during each month for which prior coverage is requested. He must meet all requirements applicable to the SSI or SSI-related MAO programs during each of the months he is eligible.

(4) Prior coverage for deceased individuals. A bona fide agent of a deceased individual may apply for retroactive medical coverage, whether or not the decedent filed a previous application for MAO or SSI. If an application was not filed during the individual's lifetime, the period considered is the three months before the month the application is received from the agent. The department considers all eligibility criteria, including a retroactive determination of disability, if applicable.

#### *§15.615. Medical Care Identification Card.*

(a) Certification and recertification.

(1) When a client is certified or recertified for regular Medicaid benefits, the department immediately issues a medical care identification card to provide proof of eligibility for these benefits. The first card indicates Medicaid coverage from the most recent medical effective date through the end of the month of issuance (or the date of denial in the case of simultaneous open and close certifications for retroactive periods only).

(2) After certification, the department issues a new card each month to serve as proof of current eligibility for as long as the client remains eligible for Medicaid. The department times the mailing of the cards so that clients receive the cards by

the first day of the month for which they are effective.

(3) If a retroactive coverage for a client is certified, the department issues a separate medical identification card reflecting eligibility for the retroactive coverage period. The department does not issue cards for clients with institutional coverage because Title XIX state institutions are responsible for all medical care for Medicaid-eligible residents. The department sends to each state institution a monthly listing of all Medicaid clients currently shown on computer files as living in that facility.

(b) Medicaid verification letter. The department may issue a Medicaid verification letter to an eligible Medicaid client who lacks a card if:

(1) the client is newly certified and has not received the initial card;

(2) the monthly card has not been received after the first of the month;

(3) the current card has been lost or destroyed; or

(4) the client is temporarily separated from the other eligible family members whose names appear on the card.

#### *§15.620. Cases Placed on Hold.*

(a) When a case is certified for Medicaid, situations may arise in which, by policy, the case cannot be denied, but continued receipt of assistance is in question. In these situations, the department may place the case on hold. When the department does so, the client is not mailed a medical care identification card and no benefits are paid for the hold period until the hold is released. All department-imposed holds place Medicaid benefits on hold effective on the first of the next process month. Department field staff initiate a hold under either of the following circumstances.

(1) The client cannot be found and his address is unknown. If he is not found in a reasonable length of time, the case is denied. The department conducts an investigation within 90 days from the first of the month in which the address became unknown.

(2) A case is denied and the notification period ends after cut-off but before the first of the next month.

(b) The department may initiate a hold when a medical care identification card for an MAO or SSI case is returned as nondeliverable. In this situation, the hold is effective on the first of the next process month.

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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## Subchapter H. Client Rights and Responsibilities

• 40 TAC §§15.700, 15.701, 15.705, 15.710, 15.715, 15.720, 15.725

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

### §15.700. Confidentiality of Case Records.

(a) Information that is collected in determining initial or continuing eligibility is confidential. The restriction on disclosing information is limited to information about individual clients. The department may disclose general information, including financial or statistical reports; information about policies, procedures, or methods of determining eligibility; and any other information that is not about or does not specifically identify a client.

(b) A client may review all information, in the case record and in department handbooks, that contributed to the decision about his eligibility.

§15.701. Disclosure and Release of Client Information. Certain information about clients may be disclosed provided that no indication exists that the information may be used against the client.

(1) Identifying information may be released to funeral homes, police departments, or other agencies attempting to locate friends or relatives of deceased clients.

(2) Replies to inquiries and complaints, written or oral, from public officials or interested citizens about a department decision affecting a specific client may include general information about that client. In this event, the reply may give the status of the case; that is, whether an application has been filed, the action taken by the department, and the reason for the action. This information may be released on the basis of a reasonable assumption that the interested person is acting as an agent for, and with the knowledge and consent of, the client.

(3) Department staff may not respond to inquiries made by relatives or friends for addresses of clients unless the client gives his permission. The department informs the client about the inquiry and leaves the decision to him.

(4) Information may be given to Medicaid providers to assist them in filing claims for payment.

§15.715. Willful Withholding of Information. Willful withholding of information includes:

(1) willful misstatements, oral or written, made by a client or responsible party in response to oral or written questions from the department concerning the client's income, resources, or other circumstances that may affect the amounts of benefits. These misstatements may include understatements or omission of information about income and resources; and

(2) willful failure by the client or responsible party to report changes in income, resources, or other circumstances that may affect the amounts of benefits, if the department has clearly notified the client or responsible party of his obligation to report these changes.

§15.725. Restitution. Restitution applies only to clients in intermediate and skilled nursing facilities and in community-based ICF-MR facilities. The department does not seek restitution from clients or the client's responsible party for vendor payments made to state schools or centers.

(1) Overpayments for restitution. The department pursues restitution for MAO and SSI cases if the overpayment is not the result of department error or income averaging and any of the following situations occur:

(A) actual income received in any month varies by \$5.00 or more from budgeted income, or fraud is suspected and cumulative vendor payment does not exceed \$100;

(B) changes in income were not reported within 10 days from receipt. Restitution is requested beginning with the month the increased income was received;

(C) a lump-sum payment (including income excluded for eligibility as irregular or infrequent income) raises income more than \$5.00 for any month;

(D) initial payment plan (applied income) for an SSI client is understated by \$5.00 or more;

(E) a client is advised about the correct amount of applied income on the appropriate notification form, but a lower amount appears on the patient status and payment plan notice because of a processing or coding error;

(F) a client is determined to be ineligible for the month because of unre-

ported or under-reported resources that exceed program limits;

(G) ICF, SNF, or ICF-MR vendor payments have been continued for a denied client pending an appeal, and the hearing officer upholds the denial. The department seeks restitution for the total amount of the vendor payment made between the initial denial effective date and the date payment stops after the hearing decision. If payments are discontinued because the client is denied a level of care, the department requests restitution for vendor payments made after the original level-of-care denial date; or

(H) applied income has been continued at a lower level pending an appeal of an increase, and the hearing officer sustains the increase. The department seeks restitution for the difference between the old and new applied income amounts for the period from the effective date of the original increase until the date of the appeal decision.

(2) Overpayments not for restitution. The department does not seek restitution for MAO and SSI cases in any of the following situations:

(A) cumulative overpayment is \$5.00 or less (for any month);

(B) overpayment of over \$100 is referred for fraud;

(C) overpayment is the result of the department's computation error or failure to act on available information;

(D) a change in regular monthly income (not lump-sum payment) is reported within 10 days of receipt. The department does not seek restitution for the month of receipt or for the subsequent month if the 10-day advance notice period extends beyond the department's computer cutoff date for that month;

(E) income is incorrect as a result of an automated across-the-board adjustment;

(F) the resource limitation was met on the first day of the month. If a client's resources exceed the limit during the month, the department does not collect restitution for partial months; or

(G) applied income is based on income averaging.

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

Issued in Austin, Texas, on February 23, 1989.

TRD-8901744

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.



### Subchapter J. General Information

#### • 40 TAC §§15.901-15.903

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901745

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.



### Subchapter U. Eligible Recipients for Title XIX (Medicaid)

#### • 40 TAC §15.2001

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901746

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.



### Subchapter V. Eligibility During Three Months Prior to Application

#### • 40 TAC §15.2101

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901747

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.



### Subchapter W. Medicare Benefits and Buy-in

#### • 40 TAC §§15.2201-15.2203

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901748

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.



### Subchapter X. Fraud in Receipt of Title XIX Benefits

#### • 40 TAC §15.2301

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901749

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.



### Subchapter EE. Individuals for Whom SSI Eligibility Criteria Are Used

#### • 40 TAC §15.3001

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901750

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.



### Subchapter FF. SSI Basic Program Requirements

#### • 40 TAC §§15.3101-15.3107, 15.3109-15.3112

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901751

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.



**Subchapter GG. Resources for  
Individuals Related to the  
SSI Program**

- 40 TAC §§15.3201-15.3206,  
15.3209-15.3211, 15.3214-15.  
3217, 15.3219-15.3226

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901752 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.

**Subchapter HH. Income for  
Individuals Related to the  
SSI Program**

- 40 TAC §§15.3301-15.3323

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901753 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.

**Subchapter II. Budgeting for  
Individuals Related to the  
SSI Program**

- 40 TAC §§15.3401-15.3404,  
15.3408-15.3418

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901754 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.

**Subchapter YY. System for  
Determining Medicaid  
Eligibility**

- 40 TAC §15.5002

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901755 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.

**Subchapter ZZ. Applications  
for Medicaid**

- 40 TAC §§15.5101-15.5106

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901756 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.

**Subchapter AAA. Procedures  
for Application for Medical  
Assistance**

- 40 TAC §§15.5201-15.5216

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901757 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.

**Subchapter BBB.  
Determination of Blindness  
or Disability**

- 40 TAC §§15.5301-15.5305

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901758 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.

**Subchapter CCC. Vendor  
Payments in Title XIX  
Long-term Care Facilities**

- 40 TAC §§15.5401, 15.5403-  
15.5417

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901759 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.

◆ ◆ ◆  
**Subchapter DDD. Interstate  
Requests for Assistance**

◆ ◆ ◆  
**• 40 TAC §§15.5501-15.5513**

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901760 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.

◆ ◆ ◆  
**Subchapter GGG. Special  
Procedures**

◆ ◆ ◆  
**• 40 TAC §§15.5802-15.5806**

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901761 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.

◆ ◆ ◆  
**Subchapter LLLL. Determining  
Eligibility for Individuals in  
ICF-MR Facilities**

◆ ◆ ◆  
**• 40 TAC §§15.8901-15.8904**

The repeals are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides 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 February 23, 1989.

TRD-8901762 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 17, 1989

Proposal publication date: September 13, 1988

For further information, please call: (512) 450-3765.

**Chapter 54. Family Violence  
Program**

**Shelter Center Operational  
Requirements**

◆ ◆ ◆  
**• 40 TAC §54.201**

The Texas Department of Human Services (DHS) adopts an amendment to §54.201, without changes to the proposed text as published in the December 23, 1988, issue of the *Texas Register* (13 TexReg 6322).

The amendment is justified to ensure that family violence victims' health and hygiene needs are appropriately considered when shelters provide services to them.

The amendment will function by adding the requirement that shelters have a written health and hygiene policy.

The department received one written comment concerning the amendment. The director, social services, for the Salvation Army of Dallas, endorsed the policy but requested more detail. The level of concerns expressed were beyond the scope of the amendment. A Family Violence Handbook provision will be developed giving examples to assist providers in complying with the rule.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 51, which authorizes the department to contract for shelter center services and to adopt rules necessary to implement these services.

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

Issued in Austin, Texas, on February 27, 1989.

TRD-8901853 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: April 1, 1989.

Proposal publication date: December 23, 1988.

For further information, please call: (512) 450-3765



Name: Kathleen McCormack  
Grade: 11  
School: Plano East High, Plano

# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

**Emergency meetings and agendas.** Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

## Texas Department of Agriculture

**Tuesday, March 7, 1989, 10 a.m.** The Texas Department of Agriculture will meet in the Ninth Floor Conference Room, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the department will consider petition filed with the commissioner of agriculture by the Southern Rolling Plains Cotton Growers Association, Inc., under the Texas Commodity Referendum Law, Chapter 41, Texas Agriculture Code, requesting certification to conduct a referendum for the purpose of establishing a cotton commodity producers board in the counties of Tom Green, Concho, Runnels, Taylor, McCulloch, and Irion.

**Contact:** Bill J. Helwig, P.O. Drawer 529, Robert Lee, Texas 76945, (915) 453-2712.

**Filed:** February 24, 1989, 2:25 p.m.

TRD-8901819

## Texas Air Control Board

**Friday, March 10, 1989.** The Texas Air Control Board will meet at 6330 Highway 290 East, Austin. Times, rooms, and agendas follow.

**8:30 a.m.** The Regulation Development Committee will meet in Room 332 to hear staff presentation on airshed modeling with urban airshed modeling and empirical kinetic modeling approach models, comments from participants, and open discussion.

**Contact:** Bill Ehret, 6330 Highway 290 East, Austin, Texas (512) 451-5711, ext. 354.

**Filed:** February 27, 1989, 11:09 a.m.

TRD-8901867

**10 a.m.** The Hearings Oversight Committee will meet in Room 332 to discuss and consider report to the board and legislative continuances.

**Contact:** Bill Ehret, 6330 Highway 290 East, Austin, Texas (512) 451-5711, ext. 354.

**Filed:** February 27, 1989, 11:09 a.m.

TRD-8901866

**10:30 a.m.** The board will meet in the auditorium to approve minutes of the February 10, 1989 meeting; hear public testimony, reports, and enforcement report; consider agreed enforcement orders; hear hearing examiner's report and report of the Hearings Oversight Committee; and consider new business.

**Contact:** Bill Ehret, 6330 Highway 290 East, Austin, Texas (512) 451-5711, ext. 354.

**Filed:** February 27, 1989, 11:09 a.m.

TRD-8901865

## Texas Animal Health Commission

**Tuesday, March 7, 1989, 1 p.m.** The Animal Health Commission will meet at Lamar University, The John Gray Institute, 855 Florida Avenue, Beaumont. According to the agenda, the commission will consider overview of the National Brucellosis Program; status of the Brucellosis Program in Texas and in Jefferson County; consider proposal for accelerated testing in Jefferson County; and receive comments and testimony from the public. (This is a public hearing).

**Contact:** Jo Anne Conner, 210 Barton Springs Road, Austin, Texas, (512) 479-6697.

**Filed:** February 24, 1989, 10:17 a.m.

TRD-8901791

## Texas Commission on the Arts

**Thursday, March 16, 1989, 10 a.m.** The Legislative Committee for the Texas Commission on the Arts will meet in the North Austin Room, Radisson Plaza Hotel, 700 San Jacinto, Austin. According to the agenda summary, the committee will introduce guests; hold public hearing; approve

minutes for the September 15, 1989, legislative committee meeting; current appropriation status; and discuss other business.

**Contact:** Betty J. Brown, Box 13406, Austin, Texas 78711, (512) 463-5535.

**Filed:** February 23, 1989, 3:10 p.m.

TRD-8901779

**Thursday, March 16, 1989, 1 p.m.** The Full Commission Meeting for the Texas Commission on the Arts will meet in the North Austin Room, Radisson Plaza Hotel, 700 San Jacinto, Austin. According to the agenda summary, the commission will introduce guests; hold public hearing; discuss items for commission consent, individual consideration, and information only; and meet in executive session.

**Contact:** Betty J. Brown, Box 13406, Austin, Texas 78711, (512) 463-5535.

**Filed:** February 23, 1989, 3:10 p.m.

TRD-8901778

## Banking Section of the Finance Commission

**Friday, March 3, 1989, 10 a.m.** The Banking Section of the Finance Commission will meet in the Texas Department of Banking, 2601 North Lamar Boulevard, Austin. According to the agenda summary, the section will review and approve minutes of the previous meeting; review departmental operations; discuss policies relating to bank examination and other regulatory matters, including but not limited to enforcement action, dividends, ORE and loans; discuss proposed amendment to regulation relating to records retention (7 TAC §11.64); hear report of legislative matters for current legislative section; discuss multibank holding company/bank subsidiary issues; discuss state and national response to the financial industry crisis; discuss legislative inquiry regarding NCNB; and meet in executive session to discuss contemplated and/or pending litigation and personnel matters.

**Contact:** Ann Graham, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Filed: February 23, 1989, 2:36 p.m.

TRD-8901774

## Texas State Board of Dental Examiners

Friday and Saturday, March 10 and 11, 1989, 8 a.m. daily. The Texas State Board of Dental Examiners will meet at the Hyatt Regency Hotel, 1200 Louisiana Street, Houston. According to the agenda summary, the board will consider request of Dr. Del Sears for removal of down time; TDA Peer Assistance Program; appearance by JoAnn Storm for a review of grades; and discussion of examination material fee.

Contact: Crockett Camp, 8317 Cross Park Drive, Suite 400, Austin, Texas (512) 834-6021.

Filed: February 27, 1989, 3:43 p.m.

TRD-8901892

## Advisory Commission on State Emergency Communications

Wednesday, March 1, 1989. The Advisory Commission on State Emergency Communications met in emergency session in the Training Building, 5805 North Lamar Boulevard, Austin. The emergency status was necessary to allow for continuity of rural addressing program and in conformance with legislative mandates. Times and agendas follow.

10 a.m. The Administration Committee discussed and considered action on rural addressing program.

Contact: Joe Kirk, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78746, (512) 327-1911.

Filed: February 24, 1989, 1 p.m.

TRD-8901810

1 p.m. The ACSEC Commission discussed and considered action on rural addressing program.

Contact: Joe Kirk, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78746, (512) 327-1911.

Filed: February 24, 1989, 1 p.m.

TRD-8901811

## Texas Employment Commission

Tuesday, March 7, 1989, 2 p.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will approve prior meeting notes; consider internal pro-

cedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on docket 10; and set date of next meeting. The commission will also meet in executive session to discuss Sara Corliss v. Texas Employment Commission and P&L Office Machines, Inc.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: February 27, 1989, 3:20 p.m.

TRD-8901884

## Texas Funeral Services Commission

Tuesday-Thursday, March 7-9, 1989, 9 a.m. daily. The Texas Funeral Services Commission will meet in the Driskill Hotel, Sixth and Brazos, Austin. According to the agenda summary, the commission will request for permission to take exams, request for reciprocation of license, formal hearing on action of licensees. Requests for exemption of rule 203.20. Request for reinstatement of apprenticeship. Review request for adoption of new rule concerning advertising. Executive Director's report. Complaints to be reviewed. Funeral director written examinations and embalmer written examinations. Formal hearings.

Contact: Larry A. Farrow, 8100 Cameron Road, Building B, Suite 550, Austin, Texas 78753, (512) 834-9992.

Filed: February 27, 1989, 10:40 a.m.

TRD-8901868

## Texas Department of Health

Monday, February 27, 1989, 3 p.m. The Executive Committee of the Texas Board of Health met in emergency session in Room M-741, 1100 West 49th Street, Austin. According to the agenda, the committee considered draft legislation. The emergency status was necessary because reasonable unforeseeable circumstance occurred which prevented regular posting of meeting notice.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: February 24, 1989, 4:06 p.m.

TRD-8901841

Tuesday, February 28, 1989, 1 p.m. The Primary Health Care Services Program Advisory Committee of the Texas Department of Health met in emergency session in Room T-607, 1100 West 49th Street, Austin. According to the agenda summary, the committee approved minutes and considered subcommittee assignments, report of legislative review sub-committee, report of planning and evaluation sub-committee, appropriations, outlook, program activities,

program site report (Williamson County Health Department), and set next meeting. The emergency status was necessary because reasonable unforeseeable circumstance occurred which prevented regular posting of meeting notice.

Contact: John Dombroski, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7771.

Filed: February 24, 1989, 4:06 p.m.

TRD-8901839

Saturday, March 4, 1989 The Texas Board of Health will meet at Holiday Inn-Emerald Beach, 1102 South Shoreline Corpus Christi. Times, rooms, and agendas follow.

1:30 p.m. The Environmental health Committee will meet in the Catamaran Room, to consider report from Jency Hills on solid waste permitting; final rule on special waste in health care related facilities; final rule on Alamo Area Council of Governments regional solid waste management plan; proposed rules on mulluscan shellfish; proposed rule on asbestos exposure abatement in public buildings, proposed rules on on-site sewerage facilities; and construction standards for on-site sewerage facilities.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: February 24, 1989, 4:06 p.m.

TRD-8901844

3 p.m. The Chronically Ill and Disabled Children's Services and Maternal and Child Health Committee will meet in the Longboat Room to consider final rule on community interagency staffing of services for multiproblem children and youth.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: February 24, 1989, 4:06 p.m.

TRD-8901848

3:30 p.m. The Personnel Committee will meet in the Outrigger Room to consider appointments to dental technical advisory committee, kidney health program advisory committee, primary health care program advisory committee, advisory committee on mental retardation facilities; preliminary review of nominations for appointments to hospital data advisory committee; and changes to dental technical advisory committee.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: February 24, 1989, 4:06 p.m.

TRD-8901842

4:30 p.m. The Nursing Homes Committee will meet in the Longboat Room to consider proposed rules on nurse aide training and registry program; final rules on administra-

tive penalties for nursing homes; final rules on abuse, neglect, and exploitation in nursing homes; and appointment of chairperson to advisory committee on mental retardation facilities.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: February 24, 1989, 4:06 p.m.

TRD-8901843

**Sunday, March 5, 1989** The Texas Board of Health will meet in the Holiday Inn-Emerald Beach, 1102 South Shoreline, Corpus Christi. Times, rooms, and agendas follow.

**8 a.m.** The Executive Committee will meet in the Commissioner's Room to consider items of procedure for the upcoming board of health meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: February 24, 1989, 4:06 p.m.

TRD-8901845

**8:30 a.m.** The Alternate Care Committee will meet in the Longboat Room to consider proposed rule on increase in fees for licensed professional counselors; final rule on reporting obligation by department of agency regulatory survey information; and final rule on speech-language pathologists and audiologists.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: February 24, 1989, 4:06 p.m.

TRD-8901847

**9 a.m.** The Legislative Committee will meet in the Outrigger Room to consider concept and draft legislation.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: February 24, 1989, 4:06 p.m.

TRD-8901846

**10 a.m.** The board will meet in the Driftwood Room to approve minutes from previous meeting; approve Chet Brooks resolution; and consider: commissioner's report; AIDS update; proposed rules (professional counselors and nurse aides); final rules (regulatory survey information, speech-language pathologists and audiologists, multiproblem children and youth, special waste, solid waste, and nursing homes); transfer of funds from chronically ill and disabled children services (CIDCS) to long term care and automated data services; transfer of funds from CIDCS to laboratory; concept and draft legislation; committee appointments and changes; committee reports (alternate care, budget, CIDCS, disease control environmental health, legislative, per-

sonnel, public health promotion); and election of board secretary. The board will also meet in executive session to consider employee performance and draft legislation.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: February 24, 1989, 4:06 p.m.

TRD-8901840

### Texas Health and Human Services Coordinating Council

**Friday, March 17, 1989, 1 p.m.** The Confidentiality Work Group Public Hearing for the Texas Health and Human Services Coordinating Council will meet in the Public Hearing Room 125-E, Texas Department of Human Services, 701 West 51st Street, Austin. According to the agenda, the group will approve minutes; hear public comment on the confidentiality work group draft report; hold discussion; and consider old and new business.

Contact: Patty Bryant, 311-A East 14th Street, Austin, Texas 78701, (512) 463-2195.

Filed: February 23, 1989, 2:39 p.m.

TRD-8901776

### Texas Housing Agency

**Tuesday, February 28, 1989.** The Texas Housing Agency submitted emergency revised agendas for meetings held in the Conference Room, Suite 300, 811 Barton Springs Road, Austin. The emergency status was needed to develop adequate and timely plans to provide decent, safe, and sanitary housing for Texans of low and moderate income. Times and agendas follow.

**9 a.m.** The Programs Committee considered and possibly acted on report concerning conversion of residential mortgage revenue bonds 1987 B, C, and D, and residential mortgage revenue bond 1988 A from short term to long term issues; resolution authorizing certain amendments to the first, second, third, fourth, and fifth supplemental residential revenue bonds trust indentures. The committee will also meet in executive session to discuss items pursuant to Texas Civil Statutes, Article 6252-17, pertaining to matters including involuntary termination of servicing.

Contact: T.R. Kenny, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: February 27, 1989, 4:49 p.m.

TRD-8901903

**9:45 a.m.** The Ad Hoc Tax Credit Committee reviewed and possibly acted on issuance

of commitment letter for low income tax credits.

Contact: T.R. Kenny, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: February 27, 1989, 4:49 p.m.

TRD-8901883

**10 a.m.** The Personnel and Planning Committee considered and possibly acted on report concerning conversion of residential mortgage revenue bonds 1987 B, C, and D, and residential mortgage revenue bond 1988 A from short term to long term issues; resolution authorizing certain amendments to the first, second, third, fourth, and fifth supplemental residential revenue bonds trust indentures and the mortgage pool self insurance fund agreement.

Contact: T.R. Kenny, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: February 27, 1989, 4:49 p.m.

TRD-8901904

**11 a.m.** The Finance and Audit Committee considered and possibly acted on report concerning conversion of residential mortgage revenue bonds 1987 B, C, and D, and residential mortgage revenue bond 1988 A from short term to long term issues; resolution authorizing certain amendments to the first, second, third, fourth, and fifth supplemental residential revenue bonds trust indentures and the mortgage pool self insurance fund agreement.

Contact: T.R. Kenny, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: February 27, 1989, 4:49 p.m.

TRD-8901913

**1 p.m.** The Board of Directors considered and possibly acted on report concerning conversion of residential mortgage revenue bonds 1987 B, C, and D, and residential mortgage revenue bond 1988 A from short term to long term issues; resolution authorizing certain amendments to the first, second, third, fourth, and fifth supplemental residential revenue bonds trust indentures and the mortgage pool self insurance fund agreement. The board also met in executive session to discuss items pursuant to Texas Civil Statutes, Article 6252-17, §2(e), pertaining to matters including involuntary termination of servicing; board's officer election and committee assignments.

Contact: T.R. Kenny, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: February 27, 1989, 4:49 p.m.

TRD-8901912

### Texas Department of Human Services

**Tuesday, March 7, 1989, 9:30 a.m.** The Church Relations Advisory Group for the Texas Department of Human Services will

meet in Conference Room 6W, Sixth Floor, West Tower, 701 West 51st Street, Austin. According to the agenda summary, the group will consider committee business; budget request and legislative budget board recommendations; concerns of CRAG members; children's protective services; video "The Hunger Next Door"; surplus food commodities; welfare reform; and discuss legislative subcommittee.

Contact: Lucy Todd, P.O. Box 2960, Austin, Texas 78769, (512) 450-3129.

Filed: February 23, 1989, 3:56 p.m.

TRD-8901786

**Tuesday, March 7, 1989, 9:30 a.m.** The Family Support Services Advisory Council of the Texas Department of Human Services will meet in Conference Room 5W, Fifth Floor, West Tower, 701 West 51st Street, Austin. According to the agenda, the council will consider election of officers; organizational changes; interagency family planning advisory council; school-age pregnancy in Texas legislative report; refocus special coordination projects; day care updates; planning for welfare reform; legislative issues; day care cost study; day care market rate survey; board items; and program updates.

Contact: Dolores Ablowich, P.O. Box 2960, Austin, Texas 78769, (512) 450-4140.

Filed: February 27, 1989, 4:02 p.m.

TRD-8901893

**Wednesday, March 8, 1989, 9:30 a.m.** The Texas Board of Human Services of the Texas Department of Human Services will meet in the Public Hearing Room, First Floor, East Tower, 701 West 51st Street, Austin. According to the agenda summary, the board will consider fiscal year 1989 budget adjustments; legislative budget process; legislative issues; federal legislation; optional services bid for purchased health services contract; in-home services for total parenteral hyperalimentation; Catastrophic Act provisions for inpatient hospital payments; case mix rates for ICF and SNF; review of ICF and SNF rates; continuation of rates for community-based ICF-MR; implementation of a swing-bed program; change in client eligibility criteria for the 1915(c) Medicaid home and community-based services program for mentally retarded individuals; summer food service program; registered family homes standards revision; child protective services AIDS policy; title IV-E adoption assistance program; advisory committee appointments; and amendments.

Contact: Bill Woods, P.O. Box 2960, Austin, Texas 78769, (512) 450-3047.

Filed: February 27, 1989, 4:02 p.m.

TRD-8901894



## State Board of Insurance

The State Board of Insurance will meet in the State Insurance Building, 1110 San Jacinto, Austin. Dates, times, rooms, and agendas follow.

**Tuesday, March 7, 1989, 9 a.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10203-Whether disciplinary action should be taken against Geoffrey Bailey, Houston, who holds a group I, legal reserve life insurance agent's license, a group II, life, health, and accident insurance agent's license and a local recording agent's license issued by the board.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 27, 1989, 4:09 p.m.

TRD-8901897

**Tuesday, March 7, 1989, 10 a.m.** The board will meet in Room 414, to consider board orders on several different matters; personnel matters; pending and contemplated litigation; and solvency matters.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 27, 1989, 3:17 p.m.

TRD-8901885

**Wednesday, March 8, 1989, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10248-Whether disciplinary action should be taken against Robert J. Martin, Dallas/Houston, who holds a group I, legal reserve life insurance agent's license and a group II, health and accident insurance agent's license issued by the board.

Contact: Wendy Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 27, 1989, 4:06 p.m.

TRD-8901898

**Wednesday, March 8, 1989, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10247-Application of Parliament Dental Finns, Inc., Mesquite, for a certificate of authority to operate a health maintenance organization offering a single health care service plan.

Contact: O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 27, 1989, 4:05 p.m.

TRD-8901899

**Thursday, March 9, 1989, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10271-Application of Halcyon Holding Company, an Oregon corporation, to acquire control of

Km Insurance Company, Dallas, pursuant to Texas Insurance Code, Article 21.49-1§5.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 27, 1989, 4:05 p.m.

TRD-8901900

**Thursday, March 9, 1989, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10272-Application of Halcyon Holding Company, an Oregon Corporation, to acquire control of Victoria Lloyds Insurance Company, Dallas, pursuant to Texas Insurance Code, Article 21.49-1§5.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 27, 1989, 4:05 p.m.

TRD-8901901

**Monday, March 13, 1989, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342 to consider Docket 10184-Whether disciplinary action should be taken against John Henry Pelt, Dallas, who through Aztec Insurance Agency holds a local recording agent's license, through Aztec General Agency holds a managing general agent's license and through Aztec Surplus Lines Agency holds a surplus lines license; and John Kyle Pelt, Dallas/Duncanville, who through Aztec Insurance Agency holds a local recording agent's license, through Aztec General Agency holds a surplus lines license and who individually holds a group I, legal reserve life insurance agent's license all issued by the board.

Contact: O.A. Cassity, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: February 27, 1989, 4:09 p.m.

TRD-8901896



## Board of Nurse Examiners

The Board of Nurse Examiners will meet in the Ramada Hotel, 5701 South Broadway, Tyler. Dates, times, and agendas follow.

**Tuesday, March 14, 1989, 8 a.m.** The Finance Committee will review the minutes of the January meeting; receive the financial statement from December 1988 and January 1989; and review the 1990-1991 budget request. Dr. Waddill will give a report on the status of the emergency funding request.

Contact: Louise Waddill, P.O. Box 140466, Austin, Texas 78714, (512) 835-4880.

Filed: February 27, 1989, 3:44 p.m.

TRD-8901889

The Planning and Performance Committee will review the minutes of the January meeting; review the revised PPC time line; advisory committee evaluation tool; develop criteria for the evaluation of the board's standing committees and review the tool for the evaluation of the executive secretary.

Contact: Louise Waddill, P.O. Box 140466, Austin, Texas 78714, (512) 835-4880.

Filed: February 27, 1989, 3:44 p.m.

TRD-8901890

Tuesday, March 14, 1989, 10:30 a.m. The Practice Committee will receive the minutes of the January meeting, consider a request from the perivascular nurse consultant group; receive reports from the Advisory Committee on Standards of Nursing Practice and the Advisory Committee on Evaluation of Mandatory Reporting of unsafe nursing care, peer review and the board delegation rules. The commission will also consider a request from the Texas Department of MH/MR.

Contact: Louise Waddill, P.O. Box 140466, Austin, Texas 78714, (512) 835-4880.

Filed: February 27, 1989, 3:44 p.m.

TRD-8901887

Tuesday-Thursday, March 14-16, 1989, 1 p.m. The board will consider minutes of the November 1988 and January 1989 meetings; consider possible action on disciplinary hearings and other action as recommended by the executive secretary in relation to hearings; consider five reinstatement requests; and consider adoption of temporary permit rule §217.6. The board will also receive reports from the committees; and hold an open forum from 8-9 a. m. on March 16, 1989, to receive input from interested parties.

Contact: Louise Waddill, P.O. Box 140466, Austin, Texas 78714, (512) 835-4880.

Filed: February 27, 1989, 3:44 p.m.

TRD-8901891

Wednesday, March 15, 1989, 8 a.m. The Legislative/Public Relations Committee will review the minutes of the January meeting; review legislation pertinent to the agency; and review committee activities and consider the time line for the quarterly newsletter.

Contact: Louise Waddill, P.O. Box 140466, Austin, Texas 78714, (512) 835-4880.

Filed: February 27, 1989, 3:44 p.m.

TRD-8901886

Wednesday, March 15, 1989, 9:30 a.m. The Education Committee will consider the minutes of the January 1989 meeting; review survey visit reports; annual report

summaries; review education committee policies; change of director for Prairie View A&M University and conduct two public hearings for consideration of new programs. The public hearings are scheduled for March 15, 1989 at 10 a.m. and the board will consider the requests of Lamar University at Orange and an extended campus at Port Arthur, ADN; and a request from Northeast Texas Community College at Mount Pleasant.

Contact: Louise Waddill, P.O. Box 140466, Austin, Texas 78714, (512) 835-4880.

Filed: February 27, 1989, 3:44 p.m.

TRD-8901888

## Board of Pardons and Paroles

Monday-Friday, March 6-10, 1989, 1:30 p.m. daily, except 11 a.m. on Friday. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees 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: February 24, 1989, 10:21 a.m.

TRD-8901793

Tuesday, March 7, 1989, 1:30 p.m. The Board of Pardons and Paroles will consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentences; and other reprieves, remissions, and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: February 24, 1989, 10:21 a.m.

TRD-8901792

## State Pension Review Board

Tuesday, March 7, 1989, 8:30 a.m. The Legislative Advisory Committee for the State Pension Review Board will meet in Room 214, Senate Reception Room, Capitol Building, Austin. According to the agenda, the committee will prepare impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Betty Allen, P.O. Box 13498,

Austin, Texas 78711, (512) 463-1736.

Filed: February 24, 1989, 10:28 a.m.

TRD-8901795

Tuesday, March 14, 1989, 8:30 a.m. The Legislative Advisory Committee for the State Pension Review Board will meet in Room 214, Senate Reception Room, Capitol Building, Austin. According to the agenda, the committee will prepare impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

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

Filed: February 24, 1989, 10:28 a.m.

TRD-8901796

Tuesday, March 28, 1989, 8:30 a.m. The Legislative Advisory Committee for the State Pension Review Board will meet in Room 214, Senate Reception Room, Capitol Building, Austin. According to the agenda, the committee will prepare impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

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

Filed: February 24, 1989, 10:28 a.m.

TRD-8901797

## Texas State Board of Pharmacy

Tuesday and Wednesday, March 7 and 8, 1989, 8:30 a.m. daily. The Texas State Board of Pharmacy will meet in the Embassy Suites Hotel, North, 5901 IH-35, Austin. According to the agenda summary, the board will hear testimony and review evidence of alleged violations of those laws which persons are subject to administrative sanctions and what form the sanctions are to take. The board will consider: approval of minutes of November 29-December 1, 1988; hear reports of legislative hearings, proposed legislation, compare facts and comparisons with other drug information references, hear report on Advisory Committee on Automated Technology meetings, administrative summary of personnel changes, status of fiscal year 1989 objectives, TPA's request for clarification of consultation statement, discuss intent of §24(j), hear report on final contract for summer policy meeting, discuss AG's interagency cooperation contract, hear presentation on testing and measurement criteria for jurisprudence exam, consider proposed rules 281, clarifying the work Act, and 281.24, amending definition of "unprofessional conduct", consider rule for adoption 291.23, procedures for show cause hearings, consider proposed agreed board orders. The

board will also meet in executive session to discuss litigation and personnel matters.

Contact: Fred S. Brinkley, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754, (512) 832-0661.

Filed: February 27, 1989, 10:29 a..

TRD-8901864

## Texas State Board of Public Accountancy

Friday, March 10, 1989, 9:30 a.m. The TSR Committee of the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the committee will review status report: January and February; recommendations regarding specific complaints-licensees: complaints 88-11-11L; 88-09-05L; -8-09-08N; 88-03-02L; 88-12-09L; 88-01-08L; Discussion items: Grudzinski; complaint 88-09-13L; complaint 86-11-12L; Novier; complaint 88-09-15L; standard agenda: review of backlog of complaints and discussion of a new system to monitor status of peer review cases.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: February 27, 1989, 2:35 p.m.

TRD-8901874

## Public Utility Commission of Texas

The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

Monday, March 6, 1989, 2 p.m. The Administrative Division will discuss the following items: approval of minutes; reports, discussion, and action of fiscal matters; report on agency matters relating to 71st legislative session, consideration of protest letters received regarding the commission management audit, consideration of proposed membership of an advisory task force for the commission's management audit, approval of TECA expenses relating to administration of the universal service fund, commission consideration of proposed revisions to electric rate filing package, and staff presentation of management audits of Coleman County Electric Coop. and Fayette Electric Coop.; and set time and place for next meeting. The division will also meet in executive session to consider personnel and litigation matters.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 24, 1989, 3:31 p.m.

TRD-8901838

Tuesday, March 7, 1989, 10 a.m. The Hearings Division will consider Dockets 7631, 7530, and 8392. The commission will consider whether to conduct regional public comment meetings in Dockets 6668, 8425, 8431, and 8646, which concern the rates charged by HL&P and CP&L. The commission will consider for final adoption proposed amendments to extended area service rulemaking-§23. 3 and §23.49 (telephone extended area service); request for EAS for Ingleside/Aransas Pass.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 27, 1989, 2:41 p.m.

TRD-8901878

Wednesday, March 8, 1989, 1:30 p.m. The Hearings Division will consider Docket 8649-Application of Southwestern Bell Telephone Company to revise tariff regarding price advisement during 976 or SPIDS messages and in advertising 976 and SPIDS messages.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 27, 1989, 2:41 p.m.

TRD-8901880

Friday, March 17, 1989, 10 a.m. The Hearings Division will consider Docket 8640-Complaint of Compaq Computer Corporation against Southwestern Bell Telephone Company.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 27, 1989, 2:41 p.m.

TRD-8901879

Monday, March 20, 1989, 1:30 p.m. The Hearings Division will consider Docket 7297-Inquiry of the General Counsel into intrastate wats overcharges and petition for refunds.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 27, 1989, 2:42 p.m.

TRD-8901875

Thursday, March 23, 1989, 10 a.m. The Hearings Division will consider Docket 7630-Complaint of Canyon Lake Area Citizens Association against Guadalupe-Blanco River Authority regarding the Canyon Dam Hydroelectric Project in Comal County.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 27, 1989, 2:42 p.m.

TRD-8901877

Tuesday, April 4, 1989, 10 a.m. The Hearings Division will consider Docket 8555-

Proceedings concerning Houston Lighting and Power Company on remand from Cause C-5705 and Cause 352,044.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 23, 1989, 2:50 p.m.

TRD-8901777

Friday, April 28, 1989, 10 a.m. The Hearings Division will consider Docket 8625-Application of Houston County Electric Cooperative for authority to change rates.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 27, 1989, 2:42 p.m.

TRD-8901876

## Railroad Commission of Texas

Monday, March 6, 1988, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The commission will consider and act on the Administrative Services Division director's report on division administration, budget, procedure, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7257.

Filed: February 24, 1989, 11:54 a.m.

TRD-08901801

The commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7251.

Filed: February 24, 1989, 11:54 a.m.

TRD-08901809

The commission will consider and act on the executive director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. Consider reorganization of various commission divisions; consolidation of positions; and appointment, reassignment and/or termination of various positions, including division directors. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Cril Payne, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: February 24, 1989, 11:32 a.m.

TRD-8901813

The commission will consider and act on the Flight Division director's report on division administration, budget, procedures and personnel matters.

**Contact:** Ken Fossler, P.O. Drawer 12970, Austin, Texas 78711. (512) 463-6787.

**Filed:** February 24, 1989, 11:54 a.m.

TRD-08901807

The commission will consider various matters within the Gas Utilities Division regulatory jurisdiction of the Railroad Commission of Texas. 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 its entirety or for particular action at a future time or date.

**Contact:** Meredith Kawaguchi, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7015.

**Filed:** February 24, 1989, 11:54 a.m.

TRD-08901806

The commission will consider and act on the Office of Information Services/Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Brian W. Schaible, P.O. Drawer 12970, Austin, Texas 78753, (512) 463-6710.

**Filed:** February 24, 1989, 11:54 a.m.

TRD-08901808

The commission will consider and act on the Investigation Division director's report on division administration, investigations, budget, and personnel matters.

**Contact:** Mary Anne Wiley, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6828.

**Filed:** February 24, 1989, 11:54 a.m.

TRD-08901803

The commission will consider and act on the Legal Division's report on division administration, budget, procedures, and personnel matters; proposed and pending litigation.

**Contact:** Cue Boykin, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6921.

**Filed:** February 24, 1989, 11:54 a.m.

TRD-08901804

The commission will consider various matters falling within the LP-Gas Division's regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meetings and 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 its entirety or for particular

action at a future time or date.

**Contact:** Meredith Kawaguchi, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7009.

**Filed:** February 24, 1989, 11:54 a.m.

TRD-08901802

The commission will consider category determinations under §102(c)(1)(B), 102(c)(1)(C), 103, 107 and 108 of the Natural Gas Policy Act of 1978.

**Contact:** Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

**Filed:** February 24, 1989, 11:32 a.m.

TRD-8901812

The commission will consider various matters within the Oil and Gas Division's 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 its entirety or for particular action at a future time of date.

**Contact:** Andy Taylor, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6924.

**Filed:** February 24, 1989, 11:54 a.m.

TRD-08901800

The commission will consider and act on the Personnel Division director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

**Contact:** Mark Bogan, P.O. Drawer 12967, Austin, Texas 78701, (512) 463-6981.

**Filed:** February 24, 1989, 11:31 a.m.

TRD-8901815

The commission will consider various matters within the Surface Mining and Reclamation Division's 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 its entirety or for particular action at a future time of date.

**Contact:** Jerry Hill, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6900.

**Filed:** February 24, 1989, 11:54 a.m.

TRD-08901805

The commission will consider various matters within the Transportation Division's 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 its entirety or for particular action at a future time or date.

**Contact:** Karen Kornell, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7094.

**Filed:** February 24, 1989, 11:54 a.m.

TRD-08901799

**Monday, March 6, 1989, 1:30 p.m.** The Oil and Gas Division will consider oral argument; Docket 4-91,710; Permzoil Exploration and Production Company; for temporary field rules in the El Huerfano (10,800) field; Zapata County.

**Contact:** Doug Johnson, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6920.

**Filed:** February 24, 1989, 11:31 a.m.

TRD-891816

**Friday, March 17, 1989, 9 a.m.** The Oil and Gas Division will meet at Austin Crest Hotel, 111 East First Street, Austin. According to the agenda summary, the division will hold statewide oil and gas hearings.

**Contact:** Paula Middleton, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6729.

**Filed:** February 24, 1989, 11:31 a.m.

TRD-8901817

## School Land Board

**Tuesday, March 7, 1989, 10 a.m.** The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve minutes of the previous board meeting; opening and consideration of bids received for the March 7, 1989 sealed bid land sale; pooling applications; status report on suspended state leases; coastal public lands-easement and lease applications; commercial lease amendments; and final approval of settlement, Bakersport, Inc. v. National Steel. The board will also meet in executive session to consider land acquisitions/trades and presentation of prospective litigation by lease compliance section.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5016.

**Filed:** February 27, 1989, 4:06 p.m.

TRD-8901895

## Scurry County Cotton Producers Board

Friday, March 3, 1989, 7 a.m. The Texas Department of Agriculture for the Scurry County Cotton Producers Board will meet in the Spanish Inn Restaurant, 2212 College Avenue, Snyder. According to the agenda summary, the department will discuss minutes; consider financial status; approve refund requests; discuss requests for funding; and consider other business.

Contact: Jon Derouen, P.O. Drawer CC, Snyder, Texas 79549, (915) 573-3558.

Filed: February 23, 1989, 11:31 a.m.

TRD-8901735

## State Securities Board

Wednesday, March 29, 1989, 10 a.m. The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto, Austin. According to the agenda summary, the commissioner will determine whether an order should be issued revoking the registration of Southern Star Energy, Inc. as a securities dealer and the registration of Bernard Emil Albright as the registered principal of Southern Star Energy, Inc. and whether a cease and desist order should be issued prohibiting the sale of securities issued by Southern Star Energy, Inc. and Bernard Emil Albright.

Contact: John Morgan, 1800 San Jacinto, Austin, Texas 78701.

Filed: February 24, 1989, 4:49 p.m.

TRD-8901851

## Stephen F. Austin State University

Monday, February 27, 1989, 9 a.m. The Board of Regents for the Stephen F. Austin State University met in emergency session in Room 307, The Austin Building, Stephen F. Austin State University, Nacogdoches. According to the agenda summary, the board considered proposed settlement in Carpenter case. The emergency status was necessary to consider a proposed settlement in Carpenter, et al. vs. SFASU.

Contact: William R. Johnson.

Filed: February 23, 1989, 2:25 p.m.

TRD-8901771

## Teacher Retirement System of Texas

Tuesday, March 14, 1989, noon. The Medical Board of the Teacher Retirement System of Texas will meet in the Investment Library, 1001 Trinity, Austin. According to the agenda, the board will discuss the

files of members who are currently applying for disability retirement and the files of disability retirees who are due a re-examination report.

Contact: Don Cadenhead, 1001 Trinity, Austin, Texas 78701, (512) 397-6400.

Filed: February 27, 1989, 4:39 p.m.

TRD-8901909

## Texas Tech University Health Sciences Center

Thursday, February 23, 1989, 4:30 p.m. The Board of Regents for Texas Tech University Sciences Center, via conference call, 202 Administration Building, Campus, Lubbock. According to the agenda, the board met in executive session, pursuant to Article 6252-17, §2, to consider private consultation with attorney regarding contemplated action, and discussed appointment or employment of a public officer or employee. The emergency status was necessary as action was required immediately.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: February 23, 1989, 2:09 p.m.

TRD-8901770

## University Interscholastic League

Tuesday, February 28, 1989, 10 a.m. The Committee to Review UIL Policies and Procedures for the University Interscholastic League met in the Phoenix Ballroom South, Doubletree Hotel, 6505 North IH 35, Austin. According to the agenda summary, the committee will receive public input on UIL policies and procedures and formulate recommendations to the UIL legislative council.

Contact: Bonnie Northcutt, (512) 471-5883.

Filed: February 23, 1989, 1:31 p.m.

TRD-8901736

## University of Texas System

Thursday, March 2, 1989, 10 a.m. The Board of Regents of the University of Texas System met in the Regents' Meeting Room, Ashbel Smith Hall, Ninth Floor, 201 West Seventh Street, Austin. According to the agenda, the board will consider personnel matters related to the election of officers of the board. If appropriate the board will meet in executive session pursuant to Texas Civil Statutes, Article 6252-17, §2(g) related to this personnel matter.

Contact: Arthur H. Dilly, P.O. Box N, Austin, Texas 78713-7328, (512) 499-4402.

Filed: February 24, 1989, 1:17 p.m.

TRD-8901814

## Board of Vocational Nurse Examiners

Tuesday, March 7, 1989, 10:30 a.m. The Board of Vocational Nurse Examiners will meet in Suite 105, 9101 Burnet Road, Austin. According to the agenda, the board will meet via conference call to make a decision on the hiring of a new executive director.

Contact: Joy Fleming, P.O. Box 141007, Austin, Texas 78714, (512) 835-2071.

Filed: February 27, 1989, 11:10 a.m.

TRD-8901869

## Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, unless otherwise noted. Dates, times, and agendas follow.

Monday, March 6, 1989, 10 a.m. 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: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: February 23, 1989, 11:05 a.m.

TRD-8901733

Thursday, March 9, 1989, 2 p.m. 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: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: February 23, 1989, 11:05 a.m.

TRD-8901734

Friday, March 10, 1989, 9 a.m. The Office of Hearings Examiner will meet in Room 618, to consider Docket 7869-G-Application of Billy Corbello doing business as B & C Utility for a rate increase.

Contact: Carl Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875

Filed: February 24, 1989, 1:59 p.m.

TRD-8901827

**Friday, March 10, 1989, 10 a.m.** The Office of Hearings Examiner will meet in Room 119, to consider Docket 7773-D-Request by North Alamo Water Supply Corporation for a cease and desist or other order against the City of Donna.

Contact: Sally Colbert, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 24, 1989, 2 p.m.

TRD-8901826

**Friday, March 10, 1989, 10 a.m.** The Office of Hearings Examiner will meet in Room 1149B, to consider Docket 7739-R-Application of Donald Dickens doing business as Horseshoe Bend Waterworks for a rate increase.

Contact: Clay Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 24, 1989, 2:02 p.m.

TRD-8901821

**Monday, March 13, 1989, 10 a.m.** The Office of Hearings Examiner will meet in Room 1149A to consider application by Northwood Hills Utilities, Inc. to cease operations in Bexar County and cancel certificate of convenience and necessity 11567.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 24, 1989, 2:02 p.m.

TRD-8901822

**Friday, March 17, 1989, 10 a.m.** The Office of Hearings Examiner will meet in Room 618, to consider Docket 7863-Q-Application by Tom Davis doing business as East Cedar Creek Water System to cease operation in Leon County.

Contact: Sally Colbert, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 24, 1989, 2 p.m.

TRD-8901824

**Monday, March 20, 1989, 10 a.m.** The Office of Hearings Examiner will meet in Room 618 to consider Docket 7873-Q-Application by Ernie's Acres Water Company, Inc. to cease operation in Brazoria County.

Contact: Clay Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 24, 1989, 2 p.m.

TRD-8901825

**Monday, March 20, 1989, 10 a.m.** The Office of Hearings Examiner will meet in Room 1-100, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the office will consider Docket 7638-S-Application by

Areaco Investment Company, Inc. for transfer of a water certificate of convenience and necessity.

Contact: Carl Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 24, 1989, 2:01 p.m.

TRD-8901823

**Friday, April 7, 1989, 10 a.m.** The Office of Hearings Examiner will meet in Room 512, to consider Docket 7689-R-Application for rate increase by Kings Country Water Supply Corporation.

Contact: Carl Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 27, 1989, 4:16 p.m.

TRD-8901902

## Regional Meetings

### Meetings Filed February 23, 1989

**The Edwards Underground Water District, Special Board of Directors, met at 1615 North St. Mary's Street, San Antonio, on February 28, 1989, at 10 a. m. The board also met at the same location on March 2, 1989, at 10 a.m. Information may be obtained from Russell L. Masters, 1615 North St. Mary's Street, San Antonio, Texas 78215, (512) 222-2204.**

**The Golden Crescent Service Delivery Area/Private Industry Council, Chief Elected Officials, met in the Commission's Court, 115 North Bridge, Victoria County Courthouse, Victoria, on February 28, 1989, at 10 a.m. Information may be obtained from Cleve Shoener, P.O. Box 2149, Victoria, Texas 77902.**

**The Leon County Central Appraisal District, Board of Trustees, met at the Leon County Central Appraisal District Office, Centerville, on February 27, 1989, at 7 p.m. Information may be obtained from Robert M. Winn, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.**

**The San Antonio-Bexar County Metropolitan Planning Organization, Steering Committee, met in "B" Room, San Antonio City Hall, San Antonio, on February 27, 1989, at 1:30 p.m. Information may be obtained from David F. Pearson, Room 101, Bexar County Courthouse, San Antonio, Texas 78205-3002, (512) 227-8651.**

**The Wheeler County Appraisal District, Board of Directors, will meet in the District Office, County Courthouse Square, Wheeler, on March 6, 1989, at 2 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.**

TRD-8901727

## Meetings Filed February 24, 1989

**The Bexar Appraisal District, Appraisal Review Board, met at 535 South Main, San Antonio, on March 2, 1989, at 9 a.m. Information may be obtained from Walter Stoneham, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.**

**The Dallas Area Rapid Transit, Board of Directors Workshop, met at Snow Hill Farm, Collin County, on February 28, 1989, at 9 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.**

**The Deep East Texas Regional MHMR Services, Board of Trustees, met at Polk County MHMR Center, 1114 Dogwood, Livingston, on February 28, 1989, at 3: 30 p.m. Information may be obtained from Jim McDermott, 4101 South Medford Drive, Lufkin, Texas 75901.**

**The Heart of Texas Region Mental Health and Mental Retardation, Board of Trustees, met at 2111 Austin Avenue, Waco, on March 2, 1989, at 11:45 a. m. Information may be obtained from Helen Jasso, 110 South 12th Street, Waco, Texas 76701, (817) 752-3451.**

**The Parmer County Appraisal District, Board of Directors, will meet at 305 Third Street, Bovina, on March 9, 1989, at 7 p.m. Information may be obtained from Ron Proctor, Box 56, Bovina, Texas 79009, (806) 238-1405.**

**The San Jacinto River Authority, Board of Directors, met in the Rusk Room, Houston Clube Building, 811 Rusk, Houston, on March 1, 1989, at 10 a. m. Information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas 77305.**

**The West Central Texas Council of Governments, Private Industry Council, will meet at 1025 East North 10th Street, Abilene, on March 6, 1989, at 10 a.m. Information may be obtained from Tom K. Smith, 1025 East North 10th Street, Abilene, Texas 79601, (915) 672-8544.**

TRD-8901789

## Meetings Filed February 27, 1989

**The Bastrop County Appraisal District, Board of Directors, met at 1200 Cedar Street, Bastrop, on March 1, 1989, at 6 p.m. Information may be obtained from Lorraine Perry, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925.**

**The Brown County Appraisal District, Board of Directors, will meet at 403 Fisk Avenue, Brownwood, on March 2 and 6, 1989, at 7 p.m. Information may be obtained from Bob Young, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.**

The East Texas Council of Governments, Executive Committee, met at ETCOG Offices, Kilgore, on March 2, 1989, at 2 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas, (214) 984-8641.

The Edwards Underground Water District, Administration Committee met in Suite 812, 8200 IH-10, San Antonio, on February 27, 1989, at 4 p.m. Information may be obtained from Russell L. Masters, 1615 North St. Mary's, San Antonio, Texas 78215, (512) 222-2204.

The Texas Municipal League Self-Insurance Funds, Board of Directors, will meet at the Marriott RiverCenter Hotel, San Antonio, on March 5 and 6, 1989, at 2 p.m. and 9 a.m., respectively. Information may be obtained from Jack Floyd, 211 East Sev-

enth Street, Austin, Texas 78701.

TRD-8901852

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**Meetings Filed February 28,  
1989**

The Texas Political Subdivisions WC Joint Insurance Fund, Board of Trustees, will meet in the Austin Club, 110 East Ninth Street, Austin, on March 6, 1989, at 10 a.m. Information may be obtained from Tom P. Vick, P.O. Box 2759, Dallas, Texas 75221, (214) 760-3738.

The Texas Regional Planning Commissions' Employee, Board of Trustees, will meet in the Radisson Plaza Hotel, Austin, on March 8, 1989, at 10 a.m. Information

may be obtained from Gloria C. Arriaga, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The Tyler County Appraisal District, Board of Directors, will meet at 806 West Bluff, Woodville, on March 7, 1989, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Wise County Appraisal District, Appraisal Review Board, will meet at 206 South State Street, Decatur, on March 28, 1989, at 9 a.m. Information may be obtained from Freddie Dempsey, 206 South State Street, Decatur, Texas 76234, (817) 627-3081.

TRD-8901908

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# In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Department on Aging

### Correction of Error

The table of contents to the February 7, 1989 issue of the *Texas Register* contained an error in the "In Addition" section.

The document titled "State Plan Public Hearings" on page 711 should appear as being submitted by the Texas Department on Aging.



## Texas Air Control Board

### Notice of Applications for Construction Permits

Notice is hereby given by the Texas Air Control Board (TACB) of applications for construction permits received during the period of February 1, 1989-February 15, 1989. Information relative to the applications listed following, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the TACB at the address stated previously and at the regional office for the air quality control region within which the proposed facility will be located.

Stauffer Chemical Company, Houston; Number 8 Unit; Houston Harris County; 19282; new;

Liquid Energy Corp., North Zulch; Gas Producing Plant; North Zulch, Madison County; 19284; new;

Ramcor Corp., Nederland; aircraft maintenance facility; Nederland, Jefferson County; 19288; new;

Hill Petroleum Company, Houston; vacuum unit modification; Houston, Harris County; 19294; new;

Javelina Company/a Texas Partner; Corpus Christi; gas producing plant; Corpus Christi, Nueces County; 19296; new;

Amoco Oil Company, Texas City; hydrogen unit #2; Texas City, Galveston County; 19297; new;

Exxon Company U.S.A., Baytown; furnace replacement project; Baytown, Harris County; 19301; new;

T.G. Railway Enterprises, Inc., Fort Worth; railcar repair; Fort Worth, Tarrant County; 19302; new;

Javelina Company/a Texas Partnership, Corpus Christi; gas processing plant; Corpus Christi, Nueces County; 19306; new;

Starrfoam Manufacturing, Fort Worth; insulation manufacturing; Fort Worth, Tarrant County; 19309; new;

Texas Cadillac Cup, Inc., Fort Worth; foam beverage insulator manufacturing; Fort Worth, Tarrant County; 19310; new;

Phillips 66, Gruver; NG compressor engine; Gruver, Hansford County; 19317; new;

Meridian Oil Production, Inc., Sonora; compressor station; Sonora, Sutton County; 19318; new.

Issued in Austin, Texas on February 21, 1989.

TRD-8901729 Bill Ehret  
Director of Hearings  
Texas Air Control Board

Filed: February 23, 1989

For further information, please call (512) 451-5711, ext. 354



## Texas Department of Banking

### Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On January 26, 1989, the banking commissioner received an application to acquire control of Alvin State Bank, Alvin, by James F. Eubank, II, Houston.

On February 23, 1989, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on February 23, 1989.

TRD-8901833 William F. Aldridge  
Director of Corporate Activities  
Texas Department of Banking

Filed: February 24, 1989

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



Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On January 27, 1989, the banking commissioner received an application to acquire control of Parker County Bancshares, Inc., Weatherford, by Herbert S. Kendrick, Jr., and Richard M. Kendrick III, as co-trustees for the Sam K. Kendrick Testamentary Trust.

On February 23, 1989, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on February 23, 1989.

TRD-8901832 William F. Aldridge  
Director of Corporate Activities  
Texas Department of Banking

Filed: February 24, 1989

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

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**Texas Department of Banking**  
Notice of Hearing

The hearing officer of the State Banking Department will conduct a hearing on an application to withdraw excess earnings from trust deposits filed by Bailey and Foster Funeral Home, Palestine. The hearing will be held on March 30, 1989, at 9 a.m. at the Texas Department of Banking, 2601 North Lamar Boulevard, Austin.

Any interested person wishing to appear must file a written notice of intent to appear including a brief statement of position with the Texas Department of Banking at least 10 days prior to the hearing. A copy of this notice, and all other pleading must be sent to each party to the hearing. All parties appearing at the hearing are requested to provide the department with two copies of all exhibits received as evidence, excepting poster size exhibits and photographs.

Additional information may be obtained from: Ann Graham, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on February 23, 1989.

TRD-8901773 Ann Graham  
General Counsel  
Texas Department of Banking

Filed: February 23, 1989

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

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**Notice of Postponement**

The meeting for the Banking Section of the Finance Commission set for Friday, February 24, 1989, at 10 a.m. has been postponed due to scheduling difficulties by board members.

The Texas Department of Banking designates Friday, March 3, 1989, at 10 a.m. as an alternate day and time for the meeting. Required notice and agenda for the rescheduled meeting will be posted simultaneously with this notice.

Additional information may be obtained from Ann Graham, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on February 23, 1989.

TRD-8901772 Ann Graham  
General Counsel  
Texas Department of Banking

Filed: February 23, 1989

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

**State Banking Board**  
Notice of Hearing

As no opposition has been noted in the application for change of domicile by Texas Capital Bank-Fort Bend, Richmond, the hearing previously scheduled for March 3, 1989, has been cancelled.

Issued in Austin, Texas on February 22, 1989.

TRD-8901788 William F. Aldridge  
Director of Corporate Activities  
State Banking Board

Filed: February 23, 1989

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

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**Central Texas Council of Governments**  
Consultant Proposal Request

This request for consultant services is filed pursuant to Texas Civil Statutes, Article 6252-11.

The Central Texas Council of Governments is requesting written proposals for consultant services related to conducting a transportation study. Specifically, the proposal will cover studies in two problem areas; Copperas Cove and one in Killeen. The maximum amount allocated for this contract is \$15,000.

The proposals will be evaluated upon: qualifications, experience, and competence to perform required services; record of performance in similar activities; proposed methodology and usefulness of proposed products.

A detailed scope of work and guidelines for the proposal's content can be obtained from Jerry Bunker, Central Texas Council of Governments, (817) 939-1801, or P.O. Box 729, Belton, Texas 76513.

Proposals must be received by March 20, 1989

Issued in Austin, Texas on February 17, 1989.

TRD-8901702 A. C. Johnson  
Executive Director  
Central Texas Council of Governments

Filed: February 22, 1989

For further information, please call (817) 939-1801

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**Texas Department of Community Affairs**

**Public Notices**

The Fort Worth Regional Office of the United States Department of Housing and Urban Development will offer a training workshop on Friday, March 10, 1989, to discuss the application process for the Permanent Housing for Handicapped Homeless Persons Program authorized by the McKinney Homeless Assistance Act, Title IV, Subtitle C of the Stewart B. The workshop will be held from 10 a.m. to 3:30 p.m. in the sixth floor training room of the Renaissance Plaza (formerly the T and P Building) located at 1600 Throckmorton, Fort Worth. To express an interest in attending the workshop or to obtain additional information, call Eddie Fariss, Texas Department of Community Affairs, (512) 834-6022, or Nancy Mattox Ulmer, United States Department of Housing and Urban Development, Fort Worth, (817) 885-5483.

Issued in Austin, Texas on February 23, 1989.

TRD-8901835

Roger A. Coffield  
General Counsel  
Texas Department of Community Affairs

Filed: February 24, 1989

For further information, please call (512) 834-6010

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The Texas Department of Community Affairs (TDCA) announces the availability of funds from the United States Department of Housing and Urban Development (HUD) for operating the Supportive Housing Demonstration Program Permanent Housing for Handicapped Homeless Persons. The program makes assistance available for projects providing housing and supportive services in the form of permanent housing to assist handicapped homeless persons to live more independent lives. TDCA solicits indications of interest from private, nonprofit organizations and public housing agencies in submitting an application to operate such a program in the State of Texas.

Project sponsors must operate projects in accordance with HUD regulations and with the McKinney Homeless Assistance Act, Title IV, Subtitle C of the Stewart B. , Publication L. 100-77 as amended by Publication L 100-628. The project sponsor(s) must match the assistance provided by HUD with an equal amount of funds from nonfederal sources.

The Permanent Housing for Handicapped Homeless Persons Program is funded at \$15 million nationally. Applications from the states will be judged competitively. Notification of funding of approved applications is tentatively scheduled for July 31, 1989. No information regard-

ing the status of an application will be released by HUD until final selections are made.

To obtain more information interested parties should review the final rule published by HUD at 53 FedReg 23, 898 (June 24, 1988), and the notice of changes to final rule, Notice of Funds Availability, and proposed rule published at 54 FedReg 736 (January 9, 1989). Additional information and an application package may be obtained from Eddie Fariss, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711, (512) 834-6022. The deadline for return of the completed application to TDCA is April 7, 1989.

Issued in Austin, Texas on February 23, 1989.

TRD-8901836

Roger A. Coffield  
General Counsel  
Texas Department of Community Affairs

Filed: February 24, 1989

For further information, please call (512) 834-6010

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**Office of Consumer Credit  
Commissioner**

**Notice of Rate Ceilings**

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the 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).

<u>Type of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer<sup>(3)</sup>/Agricultural/Commercial<sup>(4)</sup> thru \$250,000</u>	<u>Commercial<sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	02/27/89-03/05/89	18.00%	18.00%
Monthly Rate Art. 1.04(c) <sup>(1)</sup>	02/01/89-02/28/89	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	01/01/89-03/31/89	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	01/01/89-03/31/89	18.00%	N.A.

Lender Credit Card Quarterly Rate - Art. 15.02(d) <sup>(3)</sup>	01/01/89-03/31/89	15.21%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	01/01/89-03/31/89	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	01/01/89-03/31/89	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	01/01/89-03/31/89	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	03/01/89-03/31/89	10.00%	10.00%

- (1) For variable rate commercial transactions only.
- (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S.
- (3) Credit for personal, family or household use.
- (4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on February 21, 1989.

TRD-8901732 Al Endsley  
Consumer Credit Commissioner

Filed: February 25, 1989

For further information, please call: (512) 479-1280

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**Texas Department of Health**  
**Intent to Revoke a Certificate of**  
**Registration**

The Bureau of Radiation Control, Texas Department of Health, filed a complaint against the following registrant, pursuant to *Texas Regulations for Control of Radiation* (TRCR) 13.8. The agency intends to revoke the certificate of registration, order the registrant to cease and desist use of radiation machine(s), and order the registrant to divest himself of such equipment, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with the order and the provisions of Texas Civil Statutes, Article 4590f. If the items in the complaint are

corrected within 30 days of the date of the complaint, no order will issue. The complaint is as shown following this notice.

This notice affords the opportunity for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed, the certificate of registration will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, 8 a. m. to 5 p.m. (except holidays).

Comes now the Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its division director, and makes the following complaint against William E. Stone, D.D.S., 1101 Evergreen, Longview, Texas 75604, (the registrant),

holder of Certificate of Registration Number 7-05837.

*Texas Regulations for Control of Radiation* (TRCE) 12.11(b) requires payment of an annual fee for each certificate of registration for radiation machines, in the amount indicated for the appropriate category in Schedule 12.31 of TRCR. The fee shall be received each year on or before the last day of the expiration month of the certificate of registration. On June 16, 1988, the registrant was billed \$102 for the fee due on Certificate of Registration Number 7-05837 covering the period from July 199 to June 1989. On July 21, 1988, the agency informed the registrant of the delinquency of payment, giving the registrant opportunity to show compliance with all requirements of the law for retention of the certificate of registration. Payment of the fee has not been received.

TRCR 42.8 requires that the registrant shall notify the agency in writing within 30 days of any change which would render the information contained in the certificate of registration no longer accurate. On April 7, 1988, an agency representative attempted to contact the registrant to schedule an inspection of the Registrant's Program. Investigation revealed that the Registrant had changed address without making the required notification. On May 11, 1988, the agency issued a notice of violation of TRCR 42.8, requiring the registrant take corrective action within 30 days. On September 2, 1988, the agency issued a second notice to the registrant, but was informed that the registrant had again changed address. Notification of change of address has not been received by the agency.

Therefore, the agency, as provided in *Texas Regulations for Control of Radiation*, 13.8(b), requests that an order be issued revoking the certificate of registration of the registrant and ordering the registrant to cease and desist use of such machine(s), and further that the registrant, in order to be in compliance with the Texas Radiation Control Act, Texas Civil Statutes, §13, Article 4590f, either disable the machine(s) or divest himself of it, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

If the items above are corrected within 30 days of the date of this complaint, no order will issue.

Issued in Austin, Texas on February 24, 1989.

TRD8901850 Robert A. MacLean, M.D.  
Deputy Commissioner, Professional  
Services  
Texas Department of Health

Filed: February 24, 1989

For further information, please call (512) 835-7000

### Intent to Revoke Radioactive Material Licenses

The Bureau of Radiation Control, Texas Department of Health, filed complaints against the following licensees for failure to pay fees pursuant to *Texas Regulations for Control of Radiation* (TRCR) 13.8: Doctor's Hospital, 500 East Main Road, Laredo, Texas 78041, Radioactive Material License Number G8-990; Neltronic Instrument Corporation, 4319 Stanford Street, Houston, Texas 77006, Radioactive Material License Number 11-778; Jerry Quinn, 10784 FM 1960 West, Houston, Texas 77070, Radioactive Material License Number 11-3635; Cytotoxic Laboratory Incorporated, 7291 Glenview Drive, North Richland Hills, Texas 76118-4709, Radioactive Material License Number G5-1313; Johns Clinic, P. O. Box 1010, Taylor, Texas 76574, Radioactive Material License Number G6-427

The agency intends to revoke the radioactive material licenses, order the licensees to cease and desist use of such radioactive materials, and order the licensees to divest themselves of such radioactive material, presenting evidence satisfactory to the Bureau of Radiation Control that they have complied with the order and the provisions of Texas Civil Statutes, Article 4590f. If the fee is paid within 30 days of the date of each complaint, no order will be issued.

This notice affords the opportunity for a hearing to show cause why the radioactive material licenses should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material licenses will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas from 8 a.m. to 5 p.m., Monday-Friday (except holidays).

Issued in Austin, Texas on February 27, 1989.

TRD-8901862 Robert A. MacLean, M.D.  
Deputy Commissioner for Professional  
Services  
Texas Department of Health

Filed: February 27, 1989.

For further information, please call: (512) 835-7000

The Texas Department of Health, having duly filed complaints pursuant to *Texas Regulations for Control of Radiation*, Part 13.8, has revoked the following radioactive material licenses. Apache Services, Inc., L01754, Odessa, January 26, 1989; Larry Thompson's Logging and Perforating, Inc., L03197, San Angelo, January 30, 1989; Rebel Pipe Services, Inc. 11-3840, Houston, January 30, 1989; and Lee Memorial Hospital, L03495, Giddings, January 30, 1989.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday 8 a. m. to 5 p.m. (except holidays).

Issued in Austin, Texas on February 24, 1989.

TRD-8901849 Robert A. MacLean, M.D.  
Deputy Commissioner, Professional  
Services  
Texas Department of Health

Filed: February 24, 1989

For further information, please call (512) 835-7000

### Texas Health and Human Services Coordinating Council

#### Request for Public Comments

The Texas Health and Human Services Coordinating Council (Council) is requesting public input on its draft report on confidentiality and the exchange of client information in the proposed computer node and client registry, for the health and human services state agencies. The Council was charged by the governor, lieutenant governor, and speaker of the house to study the health and human

services delivery system. The Restructuring Committee of the Council developed recommendations that have been approved by the Council. One of the recommendations is that the Council establish a central computer node and client registry for the health and human services state agencies. The draft report of the Confidentiality Work Group presents findings, recommendations, and discussion of state and federal confidentiality rules and regulations to reduce barriers for state agencies using the computer node and client registry to exchange client identified information. A public hearing is scheduled for March 17, 1989, 1-5 p.m. at the Texas Department of Human Services, Public Hearing Room 125-E, 701 West 51st Street, Austin. All written testimony should be forwarded to the Confidentiality Work Group of the Council, P.O. Box 13065, Austin, Texas, by March 16, 1989.

Issued in Austin, Texas on February 22, 1989.

TRD-8901775 Patricia O. Thomas  
Executive Director  
Texas Health and Human Services  
Coordinating Council

Filed: February 23, 1989

For further information, please call (512) 463-2195

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## Texas Housing Agency Low Income Tax Credit Program

The Texas Housing Agency (the Agency) was created and organized pursuant to and in accordance with provisions of the Texas Housing Agency Act, Article 12691-6, Texas Civil Statutes (the Act), for the purpose of providing a means of financing the costs of residential ownership, development, and rehabilitation that will provide decent, safe, and sanitary housing for eligible individuals and families at prices they can afford.

The Internal Revenue Code of 1986, §42, as amended, provides for credits against federal income taxes for owners of qualified low-income rental housing projects. Section 42 also establishes a ceiling on the aggregate amount of such tax credits that owners of projects located within a state may receive during a calendar year, and provides for the allocation of the available tax credit amount by state housing credit agencies. Pursuant to Executive Order WPC-87-15 (August 4, 1987), the Texas Housing Agency has been authorized to make housing credit allocations for the State of Texas.

The Agency shall determine the state housing credit ceiling for each calendar year, beginning with calendar year 1987, by multiplying \$1.25 by the population of the State of Texas as determined by the most recent census estimate (whether final or provisional) released by the United States Bureau of the Census before the beginning of such calendar year, or by such other method as may be permitted by the Code.

The state ceiling amount for Texas imposed by the Code for calendar year 1989 is \$20,975,000.

Issued in Austin, Texas on February 22, 1989.

TRD-8901717 Timothy R. Kenny  
Executive Administrator  
Texas Housing Agency

Filed: February 22, 1989

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

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## Houston Galveston Area Council Request for Proposals

The purpose of this project is to define the reliever airport functions and develop criteria to measure the extent the region's airports fill this role. This project also will develop a Capital Improvement Program for the reliever airport system. A copy of the detailed scope of work will be furnished upon request. Anyone wishing to submit a proposal must do so by 5 p.m. on April 3, 1989, at the address listed as follows.

The proposed professional services contract would involve the review of master plans and other aviation planning documents and applying the developed criteria on reliever airport system. The professional services would involve identifying deficiencies and developing a Capital Improvement Program to remedy them. Funding for this project will be provided through a grant from the Federal Aviation Administration.

The proposals will be evaluated on the following criteria: comprehension of project requirement and methodologies; qualifications of personnel assigned; demonstrated knowledge of study area; and previous related work experience.

Further inquiries as to the scope of work should be directed to: Alan Clark, Transportation Manager, Houston-Galveston Area Council, P.O. Box 22777, Houston, Texas 77227.

Issued in Austin, Texas on February 23, 1989.

TRD-8901790 Jack Steele  
Executive Director  
Houston Galveston Area Council

Filed: February 24, 1989

For further information, please call (713) 627-3200

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## Texas Department of Human Services Public Notice Open Solicitation

Pursuant to the Human Resources Code, 40 TAC §16.1513 Title 2, Chapters 22 and 32, and the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days, effective the date of this public notice, for counties where Medicaid-contracted nursing facility occupancy rates exceed the threshold (90% occupancy) in each of five months in the continuous July to December 1988 six-month period. For counties with no nursing facilities and a population of over 5,000, TDHS is also announcing an open solicitation for the same 30-day period. Potential contractors seeking to contract for existing and/or new nursing facility beds in any of the counties identified in this public notice must submit a written application (as described in 40 TAC §16.1513) to TDHS, Services to Aged and Disabled, Provider Services Division, Mail Code 350-E, Post Office Box 2960, Austin, Texas 78769. This written application must be received by TDHS by 5 p.m. on April 3, 1989, the last day of the open solicitation period.

A random selection drawing will be held on April 13, 1989. If the number of existing beds offered by contractors during the first random selection drawing is insufficient to reduce occupancy rates to less than 80% in the threshold counties, then TDHS will have a second random selection drawing consisting of qualified contractors desiring to construct new facilities in 90 or 120 bed blocks, whichever is appropriate to the threshold county. The second drawing

will continue until the occupancy rate is calculated at less than 80%, or the list of the qualified contractors has been exhausted. Occupancy rates for identified threshold counties are listed below:

**Occupancy rates for identified threshold counties are listed below:**

County Number	County Name	Month Over	Month						
			JUL	AUG	SEP	OCT	NOV	DEC	
002	ANDREWS	5	91.1	90.2	91.7	92.1	90.7	89.6	
004	ARANSAS	6	91.4	94.6	95.4	94.6	93.8	90.8	
005	ARCHER	6	95.7	97.5	95.7	93.5	90.1	90.5	
006	ARMSTRONG	6	96.0	97.9	99.0	97.9	95.7	97.4	
010	BANDERA	5	80.6	92.6	92.7	94.0	95.3	94.8	
018	BOSQUE	6	96.9	98.3	98.5	98.6	97.8	97.5	
033	CARSON	6	98.0	98.4	96.2	96.2	96.2	98.1	
052	CRANE	6	95.2	98.1	98.3	95.9	96.8	99.4	
062	DEWITT	6	92.1	93.4	93.7	94.5	93.6	93.9	
065	DONLEY	6	98.7	99.6	99.2	99.3	99.6	99.5	
083	GAINES	5	96.0	93.1	97.6	95.0	83.3	92.9	
086	GILLESPIE	6	95.0	95.0	94.3	93.8	92.9	95.0	
088	GOLIAD	6	94.6	96.5	96.6	94.9	92.6	96.7	
094	GUADALUPE	5	91.7	93.1	94.3	94.6	93.5	92.8	
100	HARDIN	6	90.4	91.3	92.0	90.7	93.1	93.0	
110	HOCKLEY	6	91.8	93.1	93.7	91.2	92.8	95.3	
111	HOOD	6	97.2	94.6	95.3	97.4	97.6	97.0	
114	HOWARD	5	92.2	89.2	92.2	92.2	92.1	91.9	
120	JACKSON	6	98.8	98.6	98.3	99.3	99.1	99.1	
141	LAMPASAS	6	95.0	94.8	92.6	92.5	94.0	94.8	
143	LAVACA	6	95.5	94.5	95.9	96.8	96.1	97.0	
146	LIBERTY	6	92.6	92.0	91.9	90.7	90.6	91.8	
149	LIVE OAK	6	96.5	96.6	97.1	97.0	96.6	96.7	
155	MARION	6	98.3	97.6	97.3	98.2	98.2	97.5	
190	RAINS	6	96.2	97.1	98.4	97.3	99.4	93.9	
194	RED RIVER	6	91.6	92.2	93.0	91.1	91.8	92.9	
196	REFUGIO	6	94.4	95.1	93.9	95.6	95.6	96.1	
213	SOMERVELL	6	99.9	97.2	99.6	100.0	99.8	100.0	
219	SWISHER	6	92.7	96.0	95.6	97.3	98.7	94.0	
233	VAL VERDE	5	91.0	93.9	89.4	91.9	95.9	94.0	
247	WILSON	6	96.8	97.1	97.0	96.5	96.4	95.5	

Counties with no nursing facilities and a population of over 5,000 are listed below:

County Number	County Name
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056	Dallam
066	Duval
124	Jim Hogg
142	La Salle
189	Presidio
204	San Jacinto
253	Zapata
254	Zavala

Occupancy rates for all Texas counties are provided below as an initial, one-time reference:

CO. NO.	PRECINCT NO.	COUNTY NAME	NO. OF MONTHS OVER	NO. OF MONTHS					
				JUL	AUG	SEP	OCT	NOV	DEC
001		ANDERSON	0	86.9	86.3	79.5	83.3	84.2	84.1
002		ANDREWS	5	91.1	90.2	91.7	92.1	90.7	89.6
003		ANGELINA	0	72.0	67.2	66.2	66.6	67.5	68.9
004		ARANSAS	6	91.4	94.6	95.4	94.6	93.8	90.8
005		ARCHER	6	95.7	97.5	95.7	93.5	90.1	90.5
006		ARMSTRONG	6	96.0	97.9	99.0	97.9	95.7	97.4
007		ATASCOSA	2	93.1	90.8	86.9	88.9	88.3	86.4
008		AUSTIN	0	81.1	80.3	82.9	82.4	81.0	79.8
009		BAILEY	0	71.3	75.0	75.4	75.0	76.6	77.0
010		BANDERA	5	80.6	92.6	92.7	94.0	95.3	94.8
011		BASTROP	0	69.9	72.6	73.2	75.9	75.0	72.3
012		BAYLOR	0	61.9	64.5	62.8	60.4	61.7	58.6
013		BEE	0	79.6	81.1	79.6	78.6	76.8	77.4
014		BELL	0	77.7	78.3	78.5	78.3	77.8	79.1
015	1	BEXAR	0	81.3	83.3	84.5	85.3	84.3	84.0
015	2	BEXAR	0	79.0	80.9	82.2	81.2	80.3	82.7
015	3	BEXAR	0	80.3	82.0	85.7	81.1	79.5	77.1
015	4	BEXAR	4	89.0	91.4	91.0	90.3	90.4	89.7
016		BLANCO	1	87.7	88.7	87.7	92.5	80.9	79.9
017		BORDEN	0						
018		BOSQUE	6	96.9	98.3	98.5	98.6	97.8	97.5
019		BOWIE	0	77.8	77.2	77.7	70.3	75.7	76.5
020		BRAZORIA	0	85.8	86.4	85.2	86.9	88.3	86.9
021		BRAZOS	0	79.9	80.1	81.9	79.0	79.2	80.5
022		BREWSTER	0	73.2	74.1	72.5	73.2	73.3	75.2
023		BRISCOE	0						
024		BROOKS	0	53.7	54.2	56.7	55.3	54.7	53.6
025		BROWN	0	70.8	71.6	71.6	72.6	73.5	73.8
026		BURLESON	0	84.7	88.3	87.7	86.7	86.8	87.6
027		BURNET	0	76.6	79.1	80.0	81.2	81.3	81.6
028		CALDWELL	0	83.0	84.5	84.7	85.1	85.5	85.4
029		CALHOUN	0	84.3	83.4	83.1	81.6	81.8	82.9
030		CALLAHAN	0	83.3	83.2	83.3	83.3	84.1	81.0

CO. NO.	PRECINCT NO.	COUNTY NAME	NO. OF MONTHS						
			OVER	JUL	AUG	SEP	OCT	NOV	DEC
031		CAMERON	0	87.6	86.4	78.6	79.2	79.2	74.3
032		CAMP	0	80.2	80.2	77.5	74.2	75.5	51.1
033		CARSON	6	98.0	98.4	96.2	96.2	96.2	98.1
034		CASS	0	86.0	84.4	84.3	85.7	85.2	84.5
035		CASTRO	0	50.5	51.8	51.5	51.4	50.5	51.1
036		CHAMBERS	0	58.0	59.3	57.7	56.3	59.3	57.6
037		CHEROKEE	0	73.8	72.8	72.1	71.6	70.8	70.4
038		CHILDRESS	0	65.8	67.8	69.5	71.6	70.1	67.3
039		CLAY	0	75.0	75.6	74.6	73.3	71.8	71.8
040		COCHRAN	0	72.3	70.6	71.7	76.8	77.4	78.8
041		COKE	0	77.6	77.3	79.3	77.4	75.1	75.8
042		COLEMAN	0	78.5	80.4	82.1	81.4	82.7	80.4
043		COLLIN	0	83.5	84.4	84.1	83.8	82.7	84.1
044		COLLINGSWORTH	0	88.2	89.2	89.4	86.9	86.3	87.4
045		COLORADO	0	80.4	71.2	80.3	76.7	77.5	73.9
046		COMAL	0	61.6	61.6	62.9	63.9	64.7	64.7
047		COMANCHE	0	81.8	83.3	83.1	83.1	83.4	84.0
048		CONCHO	0	59.2	60.7	63.6	62.0	62.9	63.1
049		COOKE	4	89.8	90.7	92.1	90.8	92.5	88.0
050		CORYELL	0	72.8	72.3	72.0	73.2	72.7	71.6
051		COTTLE	4	89.3	91.4	88.8	92.3	94.9	95.1
052		CRANE	6	95.2	98.1	98.3	95.9	96.8	99.4
053		CROCKETT	0	84.6	85.7	74.0	75.4	74.5	77.6
054		CROSBY	2	91.8	87.8	86.4	88.5	90.8	88.0
055		CULBERSON	0						
056		DALLAM	0						
057	1	DALLAS	0	77.2	79.5	79.5	78.6	78.9	89.4
057	2	DALLAS	0	84.1	81.3	84.5	82.6	82.4	86.7
057	3	DALLAS	0	85.5	81.1	80.5	80.4	80.9	80.4
057	4	DALLAS	0	86.1	81.1	78.0	76.5	77.6	77.5
058		DAWSON	0	57.4	62.3	62.4	64.2	67.4	67.2
059		DEAF SMITH	0	78.7	79.8	77.8	77.3	74.0	72.6
060		DELTA	0	78.5	78.4	79.6	79.0	79.3	83.5
061		DENTON	0	71.3	70.7	70.8	70.2	71.0	69.4
062		DEWITT	6	92.1	93.4	93.7	94.5	93.6	93.9
063		DICKENS	0	80.9	80.6	77.4	75.3	73.2	85.2
064		DIMITT	0	54.1	53.9	54.5	55.0	55.9	56.5
065		DONLEY	6	98.7	99.6	99.2	99.3	99.6	99.5
066		DUVAL	0						
067		EASTLAND	0	68.6	67.4	67.8	67.2	66.5	66.1
068		ECTOR	1	87.2	89.4	90.2	87.9	87.1	86.8
069		EDWARDS	0						
070		ELLIS	0	81.4	82.0	80.9	81.0	82.6	81.6
071		EL PASO	0	68.7	69.5	69.9	69.2	69.0	71.8
072		ERATH	0	74.0	76.4	74.6	73.7	72.7	73.2
073		FALLS	0	87.1	86.3	85.4	83.3	83.6	83.5
074		FANNIN	0	70.6	77.0	72.0	71.2	72.5	75.1
075		FAYETTE	4	89.9	91.6	91.2	91.2	91.0	89.8
076		FISHER	0	80.7	82.8	83.6	80.8	77.8	77.0
077		FLOYD	0	74.4	73.8	67.4	67.9	72.7	71.4
078		FOARD	0	52.1	51.1	51.5	50.8	50.1	49.0
079		FORT BEND	0	76.6	77.8	78.5	77.8	74.7	86.6
080		FRANKLIN	0	79.5	77.7	82.1	87.3	79.5	80.3
081		FREESTONE	0	80.6	82.3	81.6	80.7	80.1	79.6
082		FRIO	0	76.2	75.3	74.6	74.3	74.7	75.6
083		GAINES	5	96.0	93.1	97.6	95.0	83.3	92.9

CO. NO.	PRECINCT NO.	COUNTY NAME	NO. OF MONTHS						
			OVER	JUL	AUG	SEP	OCT	NOV	DEC
084		GALVESTON	0	87.8	87.9	87.3	87.9	87.4	88.2
085		GARZA	0	64.5	65.7	63.0	64.5	61.8	63.9
086		GILLESPIE	6	95.0	95.0	94.3	93.8	92.9	95.0
087		GLASSCOCK	0						
088		GOLIAD	6	94.6	96.5	96.6	94.9	92.6	96.7
089		GONZALES	2	85.5	86.5	88.1	90.0	91.0	89.0
090		GRAY	0	73.8	72.9	72.0	72.2	74.7	71.3
091		GRAYSON	0	84.1	83.5	83.6	81.9	81.5	81.6
092		GREGG	0	80.2	80.2	80.3	80.7	79.9	80.8
093		GRIMES	0	70.8	75.0	75.1	75.3	75.3	74.7
094		GUADALUPE	6	91.7	93.1	94.3	94.6	93.5	92.8
095		HALE	0	80.8	78.9	79.4	81.5	78.7	78.4
096		HALL	0	73.4	71.0	66.5	65.7	65.8	64.4
097		HAMILTON	0	75.3	76.3	75.7	75.8	76.0	74.0
098		HANSFORD	1	82.1	83.5	82.3	78.8	84.1	90.4
099		HARDEMAN	0	87.0	85.0	83.9	82.8	83.6	84.3
100		HARDIN	6	90.4	91.3	92.0	90.7	93.1	93.0
101	1	HARRIS	0	84.2	86.9	87.2	87.6	86.5	86.0
101	2	HARRIS	0	83.2	84.1	83.9	83.0	82.2	82.8
101	3	HARRIS	0	80.3	80.0	71.2	72.9	81.7	79.2
101	4	HARRIS	0	82.2	82.1	82.4	82.7	83.0	75.2
102		HARRISON	0	85.0	85.1	85.1	84.6	83.5	83.1
103		HARTLEY	0	88.7	87.7	86.5	84.9	84.1	84.1
104		HASKELL	2	84.8	88.9	88.9	90.0	89.7	90.1
105		HAYS	0	68.8	68.9	57.7	67.2	52.1	54.6
106		HEMPHILL	0	84.7	86.1	86.4	89.8	85.6	82.8
107		HENDERSON	0	64.4	65.5	68.3	67.1	65.7	66.1
108		HIDALGO	0	83.0	84.1	79.1	79.9	79.6	81.4
109		HILL	0	82.2	84.1	84.0	84.8	84.0	86.9
110		HOCKLEY	6	91.8	93.1	93.7	91.2	92.8	93.5
111		HOOD	6	97.2	94.6	95.3	97.4	97.6	97.0
112		HOPKINS	0	83.4	85.0	85.7	85.7	84.5	82.9
113		HOUSTON	1	90.4	86.0	87.4	89.3	89.0	89.3
114		HOWARD	5	92.2	89.2	92.2	92.2	92.1	91.9
115		HUDSPETH	0						
116		HUNT	0	85.0	86.0	87.2	81.1	80.1	76.8
117		HUTCHINSON	0	63.1	62.6	61.4	63.1	62.2	67.1
118		IRION	0						
119		JACK	0	58.1	56.8	57.3	58.0	57.9	56.8
120		JACKSON	6	98.8	98.6	98.3	99.3	99.1	99.1
121		JASPER	0	86.5	87.2	86.9	88.6	87.1	87.0
122		JEFF DAVIS	0						
123		JEFFERSON	0	83.9	84.0	77.1	79.9	80.0	79.2
124		JIM HOGG	0						
125		JIM WELLS	3	85.2	84.7	91.4	92.4	87.2	90.8
126		JOHNSON	0	87.0	84.0	87.0	85.6	85.9	86.0
127		JONES	0	80.3	82.2	82.2	82.7	83.4	82.4
128		KARNES	0	83.7	85.6	85.9	87.3	88.2	88.1
129		KAUFMAN	0	87.2	83.4	82.8	82.3	82.8	82.6
130		KENDALL	0	87.1	86.7	87.6	87.0	86.1	84.8
131		KENEDY	0						
132		KENT	0	74.7	74.3	73.0	70.7	66.5	69.3
133		KERR	0	62.6	63.2	61.8	59.1	61.5	60.9
134		KIMBLE	0	68.2	70.9	71.4	72.9	71.8	71.1
135		KING	0						
136		KINNEY	0						

CO. NO.	PRECINCT NO.	COUNTY NAME	NO. OF MONTHS OVER	NO. OF MONTHS					
				JUL	AUG	SEP	OCT	NOV	DEC
137		KLEBERG	0	49.6	56.7	51.3	48.8	52.4	48.5
138		KNOX	0	81.0	84.9	81.9	81.4	83.8	80.5
139		LAMAR	0	81.2	81.1	83.4	81.8	82.3	82.6
140		LAMB	0	54.9	56.1	56.6	57.0	59.7	58.6
141		LAMPASAS	6	95.0	94.8	92.6	92.5	94.0	94.8
142		LASALLE	0						
143		LAVACA	6	95.5	94.5	95.9	96.8	96.1	97.0
144		LEE	4	88.1	87.8	93.5	95.8	95.8	95.5
145		LEON	0	64.3	65.9	66.3	67.4	65.7	64.3
146		LIBERTY	6	92.6	92.0	91.9	90.7	90.6	91.8
147		LIMESTONE	3	91.2	91.2	91.0	74.9	77.6	79.8
148		LIPSCOMB	0	29.8	25.7	30.8	37.7	44.3	44.3
149		LIVE OAK	6	96.5	96.6	97.1	97.0	96.6	96.7
150		LLANO	3	91.1	88.7	91.1	89.9	93.9	83.6
151		LOVING	0						
152		LUBBOCK	0	81.6	82.2	81.7	81.3	83.2	76.6
153		LYNN	0	82.0	84.0	81.4	80.6	80.2	83.1
154		MADISON	2	84.8	86.3	87.1	89.1	91.5	91.0
155		MARION	6	98.3	97.6	97.3	98.2	98.2	97.5
156		MARTIN	0	50.8	56.7	54.5	53.6	56.9	55.5
157		MASON	2	90.9	89.5	88.0	86.9	89.7	91.1
158		MATAGORDA	0	84.0	84.4	84.6	84.7	83.2	83.1
159		MAVERICK	0	48.9	49.4	47.9	46.9	48.4	48.8
160		MCCULLOCH	0	68.9	67.9	67.6	66.7	69.0	75.4
161		MCLENNAN	0	88.8	87.6	88.6	89.1	89.4	88.9
162		MCMULLEN	0						
163		MEDINA	1	90.4	86.2	85.6	87.8	87.8	85.6
164		MENARD	0	80.9	75.6	74.3	69.1	70.0	71.7
165		MIDLAND	0	69.4	71.2	71.9	69.2	71.3	74.3
166		MILAM	3	75.0	94.0	88.0	89.1	93.5	94.1
167		MILLS	0	67.8	71.8	71.8	71.4	69.9	68.2
168		MITCHELL	0	65.1	64.1	64.6	66.2	66.3	66.1
169		MONTAGUE	0	78.4	79.8	80.8	81.0	79.9	78.5
170		MONTGOMERY	0	78.9	80.0	81.6	89.2	75.1	82.3
171		MOORE	0	79.4	86.5	76.4	57.3	59.0	58.2
172		MORRIS	0	80.1	79.3	78.1	77.7	78.0	78.9
173		MOTLEY	0						
174		NACOGDOCHES	0	82.6	84.5	83.0	84.4	84.0	83.9
175		NAVARRO	0	86.9	87.0	88.0	87.8	88.4	88.1
176		NEWTON	0	72.8	72.5	74.4	69.6	67.0	69.6
177		NOLAN	0	77.8	78.0	77.0	77.9	79.4	80.5
178		NUECES	0	70.8	71.4	71.6	71.9	71.0	79.5
179		OCHILTREE	0	69.3	68.9	68.6	68.6	67.3	71.1
180		OLDHAM	0						
181		ORANGE	0	61.3	61.4	60.0	61.2	61.7	62.6
182		PALO PINTO	0	76.3	75.1	76.6	77.1	76.0	76.2
183		PANOLA	3	90.5	92.3	90.4	89.0	88.5	87.6
184		PARKER	0	74.5	82.3	81.6	80.9	83.0	81.9
185		PARMER	0	82.9	84.1	83.5	83.0	85.1	84.7
186		PECOS	0	83.0	79.4	77.4	73.5	77.5	80.7
187		POLK	0	66.1	70.0	69.3	70.6	71.8	70.5
188		POTTER	0	71.9	74.8	73.8	73.6	73.1	82.6
189		PRESIDIO	0						
190		RAINS	6	96.2	97.1	98.4	97.3	99.4	93.9
191		RANDALL	0	80.6	81.5	79.6	79.2	79.1	79.1
192		REAGAN	0	85.0	86.0	87.4	88.4	87.2	87.2

CO. NO.	PRECINCT NO.	COUNTY NAME	NO. OF MONTHS							
			OVER	JUL	AUG	SEP	OCT	NOV	DEC	
193		REAL	0							
194		RED RIVER	6	91.6	92.2	93.0	91.1	91.8	92.9	
195		REEVES	1	86.8	88.3	91.2	88.4	82.2	88.8	
196		REFUGIO	6	94.4	95.1	93.9	95.6	95.6	96.1	
197		ROBERTS	0							
198		ROBERTSON	0	61.3	59.4	61.6	58.5	60.1	59.4	
199		ROCKWALL	4	94.8	93.8	92.7	87.2	88.4	92.7	
200		RUNNELS	0	62.4	60.8	60.7	58.8	59.7	57.5	
201		RUSK	0	84.1	84.9	83.8	82.6	81.6	81.1	
202		SABINE	0	57.1	55.9	53.4	54.1	54.6	54.3	
203		SAN AUGUSTINE	0	82.4	80.8	81.8	81.3	82.8	82.9	
204		SAN JACINTO	0							
205		SAN PATRICIO	0	72.0	71.0	70.0	70.2	71.4	57.3	
206		SAN SABA	0	83.5	82.3	82.0	83.6	86.8	85.3	
207		SCHLEICHER	0	83.0	82.7	83.1	82.3	77.5	76.6	
208		SCURRY	0	67.0	70.8	68.8	70.7	70.4	70.9	
209		SHACKLEFORD	0	56.3	58.2	58.0	61.1	59.9	60.4	
210		SHELBY	0	66.7	66.3	66.6	68.1	69.2	69.0	
211		SHERMAN	3	98.0	95.3	86.6	85.0	84.5	92.2	
212		SMITH	0	69.9	68.6	70.1	72.8	72.7	72.6	
213		SOMERVELL	6	99.9	97.2	99.6	100.0	99.8	100.0	
214		STARR	2	87.3	87.6	87.3	89.1	92.8	92.8	
215		STEPHENS	0	58.8	57.2	54.6	54.9	56.7	69.5	
216		STERLING	0	67.3	68.5	71.1	68.0	60.9	62.8	
217		STONEWALL	0	54.1	52.7	53.0	52.5	53.0	54.3	
218		SUTTON	1	93.0	87.9	83.5	86.4	86.3	88.3	
219		SWISHER	6	92.7	96.0	95.6	97.3	98.7	94.0	
220	1	TARRANT	0	74.0	74.3	74.0	74.3	75.3	80.6	
220	2	TARRANT	0	81.0	78.3	79.2	78.4	82.0	78.7	
220	3	TARRANT	0	72.3	74.5	74.5	69.9	73.6	73.1	
220	4	TARRANT	0	81.1	78.2	79.7	79.8	78.9	80.6	
221		TAYLOR	0	77.7	80.0	71.1	64.5	64.0	77.9	
222		TERRELL	0							
223		TERRY	0	74.3	72.5	68.9	69.3	69.9	72.9	
224		THROCKMORTON	0	56.0	55.4	55.2	53.2	51.5	50.7	
225		TITUS	0	83.4	83.8	84.1	81.1	79.1	80.3	
226		TOM GREEN	0	83.6	84.5	84.9	84.3	84.2	83.2	
227		TRAVIS	0	73.7	73.4	73.2	71.4	69.9	68.1	
228		TRINITY	0	72.7	76.8	77.6	76.9	79.4	79.8	
229		TYLER	2	91.8	91.2	88.6	87.2	86.7	87.3	
230		UPSHUR	0	75.7	75.4	75.4	74.9	73.5	76.8	
231		UPTON	0	91.0	86.1	89.0	92.4	91.3	84.8	
232		UVALDE	0	85.8	86.1	87.5	89.7	88.7	89.0	
233		VERDE	5	91.0	93.9	89.4	91.9	95.9	94.0	
234		VAN ZANDT	0	88.0	88.7	89.1	88.9	89.4	88.2	
235		VICTORIA	0	82.5	86.6	87.2	87.4	87.6	85.4	
236		WALKER	0	80.4	79.9	79.8	79.2	78.2	78.6	
237		WALLER	2	88.5	90.0	90.2	88.1	88.7	86.8	
238		WARD	0	57.2	57.4	56.3	55.4	53.4	55.4	
239		WASHINGTON	3	90.2	91.0	90.0	89.7	88.4	88.4	
240		WEBB	2	88.5	89.2	89.0	91.1	75.8	91.3	
241		WHARTON	0	82.7	82.5	83.6	80.5	86.2	86.0	
242		WHEELER	0	77.5	80.2	81.9	82.5	86.0	85.7	
243		WICHITA	0	82.7	81.9	81.3	81.6	82.2	82.4	
244		WILBARGER	0	76.4	75.6	75.5	75.5	76.0	77.0	
245		WILLACY	0	34.2	34.2	34.3	33.7	34.2	34.1	

CO. NO.	PRECINCT NO.	COUNTY NAME	NO. OF						
			MONTHS OVER	JUL	AUG	SEP	OCT	NOV	DEC
246		WILLIAMSON	0	71.1	77.2	78.4	77.7	75.8	76.8
247		WILSON	6	96.8	97.1	97.0	96.5	96.4	95.5
248		WINKLER	0	80.2	81.3	85.2	86.9	85.6	85.8
249		WISE	0	89.2	88.2	88.9	81.3	79.4	70.4
250		WOOD	0	82.7	84.2	85.0	84.3	82.7	82.4
251		YOAKUM	0	58.0	58.8	57.7	59.5	61.6	58.2
252		YOUNG	0	66.3	65.3	63.2	66.3	74.2	69.3
253		ZAPATA	0						
254		ZAVALA	0						

Issued in Austin, Texas on February 24, 1989.

TRD-8901830 Charles Stevenson  
Acting Commissioner  
Texas Department of Human Services

Filed: February 24, 1989.

For further information, please call: (512) 450-3765

◆ ◆ ◆  
**State Property Tax Board  
Consultant Proposal Request**

**Description of Services Requested.** Pursuant to Texas Civil Statutes, Article 6252-11c, the State Property Tax Board invites individuals to offer their services on a consulting basis to serve in the capacity of statistical consultant to the board in planning statistical analysis of future property value studies. This contract is an extension of an existing contract. The existing contract was for an amount under \$10,000, but new duties will cause the contract to exceed \$10,000. The State Property Tax Board intends to award the extension to Analytical Services, Inc. because of its previous work on this contract, but the board will consider new bids. Duties of the consultant(s) chosen to perform in this capacity shall be as follows: 1. To be available to the board's designee to counsel and assist board staff in planning statistical analysis for future studies to be conducted by the board pursuant to the Property Tax Code, §5.10, and the Property Tax Code, §11.86, and in reviewing past studies; 2. To participate in educational seminars and staff training related to statistical methods used in preparing and analyzing ratio studies; 3. To prepare in writing a statement of approval of the techniques and methods used by the board in the conduct of the required ratio studies when those techniques and methods meet or exceed the standards required by consultant as an expert within the field of statistics; 4. To assist in the development of a multiple regression model for the conduct of ratio studies on residential properties. The board anticipates this contract will extend through August 31, 1989.

**Contact Person.** Persons wishing to offer their services in such a capacity should contact Tim Wooten, 9501 North IH 35, P.O. Box 15900, Austin, Texas 78761, (800) 252-9121 or (512) 834-4800.

**Closing Date for Offers.** The closing date for such offers is March 27, 1989, at 5 p.m., in the office of Tim Wooten, 9501 North IH 35, P.O. Box 15900, Austin, Texas 78761, (800) 252-9121 or (512) 834-4800.

**Selection Criteria.** The State Property Tax Board will award contract(s) on the basis of expertise and experience

exhibited by the applicants. Applicants must have a working knowledge of the statistical basis of property value ratio studies, knowledge of the statistical basis of property value ratio studies performed in other states, knowledge of the Texas property tax system, and not less than 10 years of experience in designing and analyzing statistical studies. The State Property Tax Board will not accept bids that exceed \$7,500.

Issued in Austin, Texas on February 23, 1989.

TRD-8901728 Ron Patterson  
executive Director  
State Property Tax Board

Filed: February 23, 1989

For further information, please call (512) 834-4802

◆ ◆ ◆  
**Texas State Board of Registration for  
Professional Engineers  
Correction of Error**

The Texas State Board of Registration for Professional Engineers submitted proposed amendments which contained errors as submitted by the board in the February 17, 1989, issue of the *Texas Register* (14 TexReg 895).

**In §131.55:** The title of the section should read: "*§131.55. Application for Registration from Nonresidents.*"

**In §131.138:** In the preamble, the last sentence of the first paragraph should read: "The amendment to §131.138(5) and (6), will authorize the use of the computer-aided draft (CAD) process to affix the responsible engineer's seal to electronically produced engineering documents, CAD being recognized as a contemporary and acceptable documentation procedure used by many design professionals."

The second sentence of paragraph (5) should read: "**In addition, a seal replica produced by computer-aided drafting (CADSEAL) may be used based on the provisions prescribed in subparagraphs (A)-(D) of this paragraph.**"

◆ ◆ ◆  
**Rio Grande Compact Commission  
Agenda for March 30, 1989 Rio Grande  
Compact Commission**

The interstate (Texas, New Mexico, and Colorado) Rio Grande Compact Commission will hold its annual meeting at the Holiday Inn in Alamosa, Colorado, on March 30, 1989, starting at 9 a.m.

The 1989 annual meeting will be called to order; the meeting agenda will be approved; the minutes of the 1988 annual meeting will be approved; the reports of the chairman, the secretary, the Bureau of Reclamation, the corps of engineers, and the United States Geological Survey will be presented; the reports of the Engineering, Legal, and Budget Committees will be presented; the reports to the governors will be considered; new business will be introduced including the place and date for the 1990 annual meeting; comments of the public will be invited; and the meeting will be adjourned.

Issued in Austin, Texas on February 22, 1989.

TRD-8901834      Jesse B. Gilmer  
Rio Grande Compact Commissioner for  
Texas Certifying Official

Filed: February 24, 1989

For further information, please call (915) 581-1161

## Texas Water Commission Public Hearing

The Texas Water Commission is making an amendment to the hearing notice printed in the February 28, 1989, issue of the *Texas Register* beginning at 10 a.m., April 13, 1989, instead of April 14, 1989, room 1-111, William B. Travis Building, 1701 North Congress Avenue, Austin.

The hearing will consider proposed lists of waters which are potentially affected by toxic substances. The lists were developed in accordance with the 1987 amendments to the Clean Water Act, §304(L), which requires that all states develop a short list of waters which are potentially affected by discharges of toxic substances; recommended control strategies for toxic substances of concern in these waters; and a comprehensive list of waters which are potentially affected by any sources of toxic or conventional pollutants. The implementation of control strategies is the responsibility of the permitting authority under the National Pollutant Discharge Elimination System, which in Texas is Region VI of the Environmental Protection Agency. The lists of affected waters and control strategies are proposed as an addition to the State of Texas Water Quality Management Plan under the requirements of the Continuing Planning Process in Title 40, code of Federal Regulations, Part 35, Subpart G, the plans are developed and revised pursuant to the Texas Water Code, Chapter 26, and the Federal Clean Water Act, §208 and §205(j).

Interested persons are encouraged to attend the hearing and to present relevant and material comments concerning the proposed lists of affected waters. Written testimony which is submitted prior to or during the scheduled public hearing will be included in the record. The commission would appreciate receiving copy of all written testimony at least five days before the scheduled hearing. Copies of written testimony or questions concerning the public hearing should be addressed to Randy Palachek, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, or call (512) 463-8475.

Copies of the draft lists, proposed control strategies, and accompanying documentation are available for public inspection in the Texas Water Commission Library, Room 511 of the Stephen F. Austin Building at 1700 North Congress Avenue, Austin. Requests for copies of the draft should be addressed to Randy Palachek, Texas Water Commission, P.O. box 13087, Austin, Texas 78711-3087, or call (512) 463-8475. When requesting a copy or sending a query by mail, please include your complete return address and telephone number.

The date selected for this hearing is intended to comply with deadlines set by statute and regulations. Any publication of this notice less than 30 calendar days prior to the hearing date is due to the necessity of scheduling the hearing on the date selected. The hearing is being conducted pursuant to the Texas Water Code, §§5.102, 5.112, and 26.012, as amended.

Issued in Austin, Texas on February 27, 1989.

TRD-8901863      James F. Haley  
Director, Legal Division  
Texas Water Commission

Filed: February 27, 1989

For further information, please call (512) 463-8475

## Texas Water Development Board Request for Proposals

The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC) §355.34(a), the submission of proposals from political subdivisions leading to the possible award of a contract for fiscal year 1989 to develop a flood protection and drainage plan for the Cloud Bayou Watershed in Southwest Galveston County.

In order for a political subdivision to be eligible to receive a grant, the applicant must have the legal authority to plan for and abate flooding and must participate in the National Flood Insurance Program.

**Description of planning objective.** The purpose of the project is to develop a flood protection and drainage improvement plan that provides protection from flooding through structural and nonstructural measures as described in 31 TAC §355.33(e). Planning for flood protection and drainage improvement will include studies and analyses to determine and describe problems resulting from or relating to flooding and poor drainage and the views and needs of the affected public relating to flooding and drainage problems. Potential solutions to flooding and drainage problems will be recommended.

**Description of funding consideration.** The board will provide funding from the research and planning fund not to exceed 50% for a state amount of up to \$15,000.

In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 TAC §355.34(a)(3). The selected applicant will have 90 days from the date of board approval of a formal application to execute a contract and demonstrate to the executive administrator of the board that it has the local matching share committed and available.

**review criteria and procedure.** The board's procedures for evaluating and selecting proposals for assistance awards are set forth in 31 TAC §355.38.

**Guidelines for proposal contents.** All proposals must conform to all of the requirements in 31 TAC §§355.31-355.40.

**Deadlines and contact person for additional information** Ten copies of the flood protection planning proposal must be filed with the board prior to 5 p.m., March 20, 1989. A contract must be completed and work must be underway no later than July 19, 1989. An initial phase of the work must be completed by August 10, 1989, at which time the applicant must submit to the board a draft report covering this phase of the work. A final report covering the initial phase of the work and incorporating board

review comments must be submitted to the board by August 31, 1989, unless this requirement is extended at a later date by the board. Flood protection planning proposals must be directed to M. Reginald Arnold II, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, flood protection planning objectives, and applicable planning rules in accordance with 31 TAC §§355.31-355.40, may be directed to Bob Wear at the preceding address or (512) 463-7987.

Statement of contract terms and required completion date procedures for awarding contracts shall comply with Texas Civil Statutes, Article 6252-11c, and Article 664-4, where applicable, and with 31 TAC §§355.31-355.40.

Issued in Austin, Texas on February 24, 1989.

TRD-8901861      Suzanne Schwartz  
                         General Counsel  
                         Texas Water Development Board

Filed: February 27, 1989

For further information, please call (512) 463-7850



The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC) §355.34(a), the submission of proposals from political subdivisions leading to the possible award of a contract for fiscal year 1989 to develop a flood protection plan for watersheds in proximity to and including the City of Lumberton. Specifically, the planning shall be geographically limited to the watersheds of Village Slough, Walton Creek, and Boggy Creek, and Boggy Creek within the boundaries of the Lumberton Municipal Utility District, an additional 5,000 feet of Boggy Creek upstream from the district boundary, and the drainage areas for two minor local streams.

In order for a political subdivision to be eligible to receive a grant, the applicant must have the legal authority to plan for and abate flooding and must participate in the National Flood Insurance Program.

**Description of planning objectives.** The purpose of the project is to develop a flood protection plan that provides protection from flooding through structural and nonstructural measures as described in 31 TAC §255.33(e). Planning for flood protection will include studies and analyses to determine and describe problems resulting from or relating to flooding and the views and needs of the affected public relating to flooding problems. Potential solutions to flooding problems will be identified, and the benefits and costs of these solutions will be estimated. From the planning analysis, feasible solutions to flooding problems will be recommended.

**Description of funding consideration.** The board will provide funding from the research and planning fund not to exceed 50% for a state amount of up to \$37,500.

In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 TAC §355.34(a)(3). The selected applicant will have 90 days from the date of board approval of a formal application to execute a contract and demonstrate to the executive administrator of the board that it has the local matching share committed and available.

**Review criteria and procedure.** The board's procedures for evaluating and selecting proposals for assistance awards are set forth in 31 TAC §355.38.

**Guidelines for proposal contents.** All proposals must conform to all of the requirements in 31 TAC §§355.31-355.40.

**Deadlines and contact person for additional information** Ten copies of the flood protection planning proposal must be filed with the board prior to 5 p.m., March 20, 1989. A contract must be completed and work must be underway no later than July 19, 1989. An initial phase of the work must be completed by August 10, 1989, at which time the applicant must submit to the board a draft report covering this phase of the work. A final report covering the initial phase of the work and incorporating board review comments must be submitted to the board by August 31, 1989, unless this requirement is extended at a later date by the board. Flood protection planning proposals must be directed to M. Reginald Arnold II, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, flood protection planning objectives, and applicable planning rules in accordance with 31 TAC §§355.31-355.40, may be directed to Bob Wear at the preceding address or (512) 463-7987.

Statement of contract terms and required completion date procedures for awarding contracts shall comply with Texas Civil Statutes, Article 6252-11c, and Article 664-4, where applicable, and with 31 TAC §§355.31-355.40.

Issued in Austin, Texas on February 24, 1989.

TRD-8901860      Suzanne Schwartz  
                         General Counsel  
                         Texas Water Development Board

Filed: February 27, 1989

For further information, please call (512) 463-7850



The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC) §355.13(a), the submission of regional planning proposals from political subdivisions leading to the possible award of a contract to evaluate and determine the most feasible alternatives, including system interconnections, to meet water supply needs; to estimate the costs and schedule associated with implementing feasible water supply alternatives; and to develop a comprehensive water conservation and drought management plan for the Barton Springs/Edwards Aquifer Conservation District. In order for a political subdivision to be eligible to receive a grant, the applicant must have the authority to plan, develop, and operate water supply facilities.

**Description of planning objectives.** The purpose of this project is to prepare a regional water supply planning study based on facility plans that provides for interconnections of public water systems in times of emergency, identifies feasible alternatives to meet water supply needs, presents estimates of costs and schedules associated with providing water supply source, interconnection, conveyance, and distribution system(s). A water conservation plan and a drought management plan will be developed to ensure that existing and future sources are used efficiently and as a basis for confirming demand projections of future need. A recharge groundwater enhancement plan will be developed to identify recharge facilities; to determine capital, operation, and maintenance costs of selected alternatives; and to assess environmental factors existing in the district.

Discrete phases to implement water supply facilities and programs to meet projected needs will be identified. Separate cost estimates for capital, operation, and maintenance

requirements shall be made for each supply system component, including the water conservation program, by implementation phase during the 30-year planning period. Cost estimates for facilities shall be divided into: water supply source(s); interconnections; conveyance to treatment facilities; and storage and distribution facilities. The planning period for the proposed work shall extend from 1990 through the year 2020 and shall include project implementation schedules by service area and by type of service facility and activity for the respective phases.

The planning work will need to be closely coordinated with regional water planning studies conducted by the City of Dripping Springs, the Hays County Water Development Board, and the Village of Bee Cave. Coordination will also be required with the City of Austin's Barton Creek Watershed study.

**Description of funding consideration.** The board has determined that there is an urgent need for regional water supply planning in the Barton Springs/Edwards Aquifer Conservation District. Fifty percent state funding for a state amount of up to \$50,000 has been authorized from the board's research and planning fund. In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 TAC §355.13(a)(3).

The selected proposer will have 90 days from board approval to enter into the contract and to demonstrate to the executive administrator that it has its matching share committed and available.

**Deadlines and Contact Person for Additional Information.** Ten copies of the full regional planning proposal must be filed with the board prior to 5 p.m., March 20, 1989. A contract must be completed and work must be underway no later than July 19, 1989. Regional planning proposals must be directed to M. Reginald Arnold II, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, regional planning objectives, and applicable planning rules in accordance with 31 TAC §§355.10-355.19, may be directed to John Miloy at the preceding address or (512) 463-8422.

**Statement of contract terms and required completion date.** Procedures for awarding contracts shall comply with Texas Civil Statutes, Article 6251-11c, and Article 664-4, where applicable, and with 31 TAC §§355.10-355.19. Contractual agreements and associated funding will terminate on August 31, 1989. Completion date: August 31, 1989.

Issued in Austin, Texas on February 24, 1989.

TRD-8901856 Suzanne Schwartz  
General Counsel  
Texas Water Development Board

Filed: February 27, 1989

For further information, please call (512) 463-7850



The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC) §355.13(a), the submission of regional planning proposals from political subdivisions leading to the award of a contract to evaluate and determine the most feasible alternatives to meet water supply needs, estimate the costs associated with implementing feasible water supply alternatives, and identify institutional arrangements to provide water services for the Cities of Clifton and Meridian and surrounding areas of Bosque County. In order for a politi-

cal subdivision to receive a grant, the applicant must have the authority to plan, develop, and operate water supply facilities.

**Description of planning objectives.** The purpose of this project is to prepare a plan that documents service needs, identifies feasible alternatives to meet water supply needs, presents estimates of costs and schedules associated with providing water supply source, conveyance, treatment, and distribution system(s). A water conservation plan and a drought management plan will be developed to ensure that existing and future sources are used efficiently and as a basis for confirming demand projections of future need.

Discrete phases to implement water supply facilities to meet projected needs will be identified. Cost estimates shall be made for each respective implementation phase to determine the capital, operation, and maintenance requirements during the 30-year planning period. Separate cost estimates shall be made for each supply system component, including the water conservation program. Cost estimates for facilities shall be divided into: water supply source(s); conveyance to treatment facilities; water treatment facilities; and storage and distribution facilities. The planning period for the proposed work shall extend from 1990 through the year 2020 and shall include project implementation schedules by service area and by type of service facility and activity for the respective phases.

**Description of funding consideration.** The board has determined that there is an urgent need for regional water supply planning in the Bosque County area. Fifty percent state funding for a state amount of up to \$20,000 has been authorized from the board's research and planning fund. In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 TAC §355.1(a)(3).

The selected proposer will have 90 days from board approval to enter into the contract and to demonstrate to the executive administration that it has its matching share committed and available.

**Deadlines and contact person for additional information.** Ten copies of the full regional planning proposal must be filed with the board prior to 5 p.m., March 20, 1989. A contract must be completed and work must be underway no later than July 19, 1989. Regional planning proposals must be directed to M. Reginald Arnold II, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, regional planning objectives, and applicable planning rules in accordance with 31 TAC §§355.10-355.19, may be directed to John Miloy at the preceding address or (512) 463-8422.

**Statement of contract terms and required completion date.** Procedures for awarding contracts shall comply with Texas Civil Statutes, Article 6251-11c, and Article 664-4, where applicable, and with 31 TAC §§355.10-355.19. Contractual agreements and associated funding will terminate on August 31, 1989. Completion date: August 31, 1989.

Issued in Austin, Texas on February 24, 1989.

TRD-8901857 Suzanne Schwartz  
General Counsel  
Texas Water Development Board

Filed: February 27, 1989

For further information, please call (512) 463-7850



The Texas Water Development Board (board) requests,

pursuant to 31 Texas Administrative Code (TAC) §355.13(a), the submission of regional planning proposals from political subdivisions leading to the award of a contract to evaluate and determine the most feasible alternatives to meet water supply needs, estimate the costs associated with implementing feasible water supply alternatives, and identify institutional arrangements to provide water services for the area in Comal, Hayes, Guadalupe, and Bexar Counties that includes the Cities of Schertz, Marion, and Cibola, and the service regions of the Crystal Clear, East Central, Green Valley, and Springs Hill Water Supply Corporations. In order for a political subdivision to receive a grant, the applicant must have the authority to plan, develop, and operate water supply facilities.

**Description of planning objectives.** The purpose of this project is to prepare a plan that documents service needs, identifies feasible alternatives to meet water supply needs, presents estimates of costs and schedules associated with providing water supply source, conveyance, treatment, and distribution system(s). A water conservation plan and a drought management plan will be developed to ensure that existing and future sources are used efficiently and as a basis for confirming demand projections of future need.

Discrete phases to implement water supply facilities to meet projected needs will be identified. Cost estimates shall be made for each respective implementation phase to determine the capital, operation, and maintenance requirements during the 30-year planning period. Separate cost estimates shall be made for each supply system component, including the water conservation program. Cost estimates for facilities shall be divided into: water supply source(s); conveyance to treatment facilities; water treatment facilities; and storage and distribution facilities. The planning period for the proposed work shall extend from 1990 through the year 2020 and shall include project implementation schedules by service area and by type of service facility and activity for the respective phases.

Plan preparation will need to be closely coordinated with similar planning efforts being conducted by the Hayes County Water Development Board and the City of San Antonio. Coordination will involve avoiding duplication and ensuring regional compatibility of alternatives.

**Description of funding consideration.** The board has determined that there is an urgent need for regional water supply planning in the Bosque County area. Fifty percent state funding for a state amount of up to \$35,000 has been authorized from the board's research and planning fund. In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 TAC §355.13(a)(3).

The selected proposer will have 90 days from board approval to enter into the contract and to demonstrate to the executive administration that it has its matching share committed and available.

**Deadlines and contact person for additional information.** Ten copies of the full regional planning proposal must be filed with the board prior to 5 p.m., March 20, 1989. A contract must be completed and work must be underway no later than July 19, 1989. Regional planning proposals must be directed to M. Reginald Arnold II, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, regional planning objectives, and applicable planning rules in accordance with 31 TAC §§355.10-355.19, may be directed to John Tucker at the address in the preceding paragraph or by calling (512) 463-8422.

**Statement of contract terms and required completion**

date. Procedures for awarding contracts shall comply with the Texas Water Code, §15.406, and with 31 TAC §§355.10-355.19. Contractual agreements and associated funding will terminate on August 31, 1989. Completion date: August 31, 1989.

Issued in Austin, Texas on February 24, 1989.

TRD-8901858 Suzanne Schwartz s  
General Counsel  
Texas Water Development Board

Filed: February 27, 1989

For further information, please call (512) 463-7850

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The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC) §355.13(a), the submission of regional planning proposals from political subdivisions leading to the award of a contract to evaluate and determine the most feasible alternatives to meet water supply needs, estimate the costs associated with implementing feasible water supply alternatives, and identify institutional arrangements to provide water services for an approximately 21,000 acre area in southeastern Harris County. The problem area includes Taylor Lake Village, El Lago, Seabrook, Shore Acres, and surrounding undeveloped areas. In order for a political subdivision to receive a grant, the applicant must have the authority to plan, develop, and operate waterwaste facilities.

**Description of planning objectives.** The purpose of this project is to prepare a plan that documents service needs, identifies feasible alternatives to meet water supply needs, presents estimates of costs and schedules associated with providing water supply source, conveyance, treatment, and distribution system(s). A water conservation plan and a drought management plan will be developed to ensure that existing and future sources are used efficiently and as a basis for confirming demand projections of future need.

Discrete phases to implement water supply facilities to meet projected needs will be identified. Cost estimates shall be made for each respective implementation phase to determine the capital, operation, and maintenance requirements during the 30-year planning period. Separate cost estimates shall be made for each supply system component, including the water conservation program. Cost estimates for facilities shall be divided into: water supply source(s); conveyance to treatment facilities; water treatment facilities; and storage and distribution facilities. The planning period for the proposed work shall extend from 1990 through the year 2020 and shall include project implementation schedules by service area and by type of service facility and activity for the respective phases.

Planning for the southeastern Harris County area will need to be closely coordinated with ongoing regional wastewater facility planning in the City of Houston's extra territorial jurisdiction. Appropriate management of residual sludge is to be addressed in the planning study.

**Description of funding consideration.** The board has determined that there is an urgent need for regional water supply planning in the Bosque County area. Fifty percent state funding for a state amount of up to \$30,000 has been authorized from the board's research and planning fund. In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of 31 TAC §355.13(a)(3).

The selected proposer will have 90 days from board approval to enter into the contract and to demonstrate to the executive administration that it has its matching share

committed and available.

**Deadlines and contact person for additional information.** Ten copies of the full regional planning proposal must be filed with the board prior to 5 p.m., March 20, 1989. A contract must be completed and work must be underway no later than July 19, 1989. Regional planning proposals must be directed to M. Reginald Arnold II, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Requests for information, regional planning objectives, and applicable planning rules in accordance with 31TAC §§355.10-355.19, may be directed to T. James Fries at the address in the preceding paragraph or by calling (512) 463-8422.

**Statement of contract terms and required completion date.** Procedures for awarding contracts shall comply with the Texas Water Code, §15.406, and with 31 TAC §§355.10-355.19. Contractual agreements and associated funding will terminate on August 31, 1989. Completion date: August 31, 1989.

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TRD-8901859

Suzanne Schwartz  
General Counsel  
Texas Water Development Board

Filed: February 27, 1989

For further information, please call (512) 463-7850

