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# Texas Register

Volume 14, Number 37, May 19, 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Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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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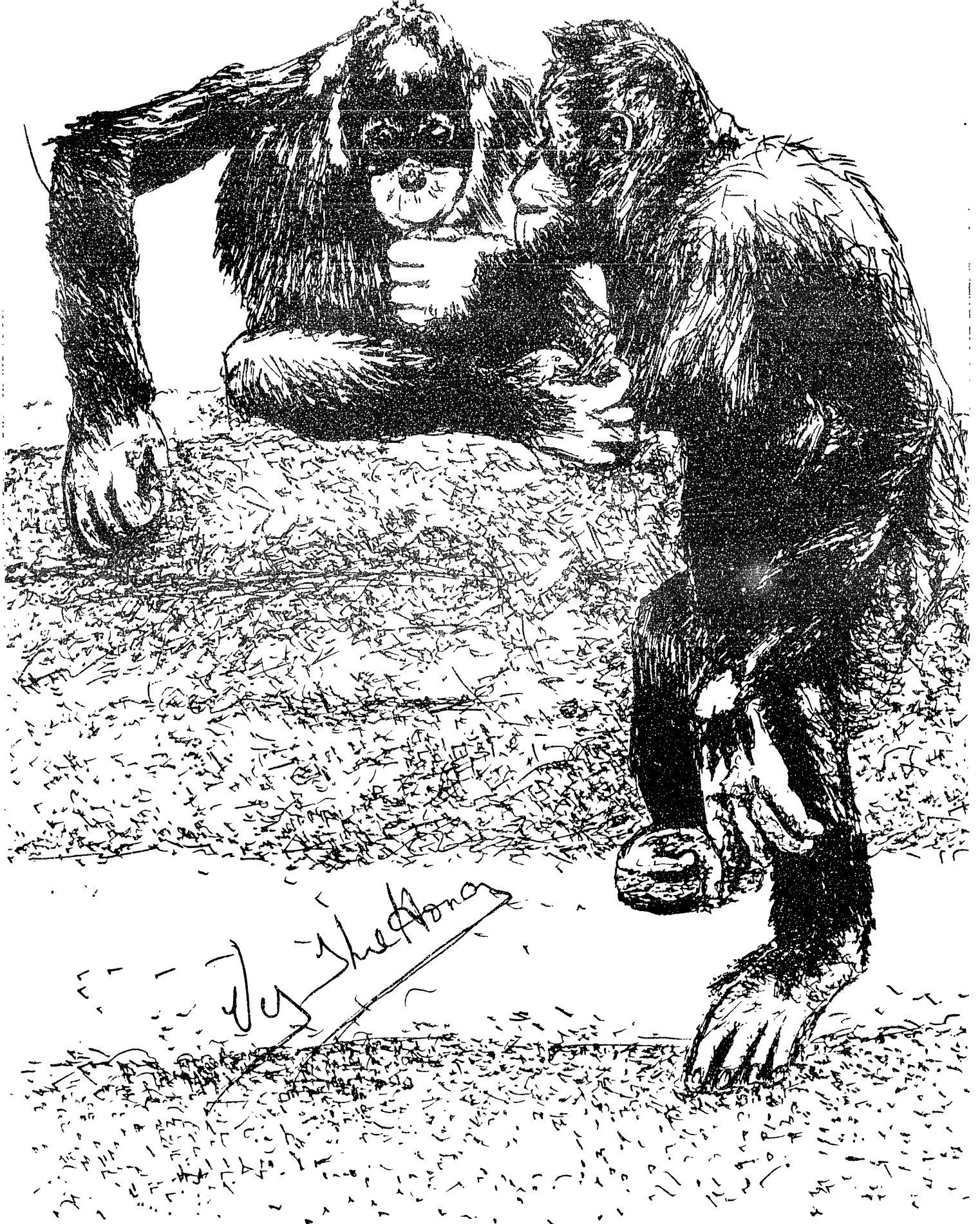
2483-Enforcement Orders

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Name: Vy The Hong

Grade: 8

School: T.H. McDonald Middle School, Mesquite

# TAC Titles Affected

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## TAC Titles Affected—May

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

### TITLE 1. ADMINISTRATION

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1 TAC §5.301—2463

1 TAC §5.401—2153

#### *Part XIII. State Employee Incentive Commission*

1 TAC §271.1—2317

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1 TAC §275.1—2318

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### TITLE 4. AGRICULTURE

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

4 TAC §18.33—2291

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7 TAC §65.2—2154

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16 TAC §5.186—2155

16 TAC §9.64—2413

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

16 TAC §23.61—2151, 2155

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22 TAC §131.55—2363

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22 TAC §186.3—2156

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#### *Part XII. Texas State Board of Podiatry Examiners*

22 TAC §365.3, §375.10—2451

#### *Part XV. Texas State Board of Pharmacy*

22 TAC §§281.1, 281.2, 281.30, 281.32, 281.39, 281.59, 281.60—2323

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22 TAC §§375.4, 375.6, 375.7—2409

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

25 TAC §§301.11-301.15, 301.17—2113

25 TAC §325.731—2151, 2139

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#### *Part I. State Board of Insurance*

28 TAC §27.413—2111, 2151, 2139

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AND CONSERVATION**

**Part I. General Land Office**

31 TAC §4.11—2465

31 TAC §4.12—2465

**Part II. Parks and Wildlife Department**

31 TAC §65.46, §65.78—2324

31 TAC §§65.192, 65.194, 65.197, 65.201, 65.202,  
65.210, 65.211, 65.215, 65.229—2325

31 TAC §§65.312, 65.313, 65.315—2328

31 TAC §§65.701-65.705—2329

31 TAC §305.50—2332

31 TAC §331.3—2332

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31 TAC §331.3—2447

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34 TAC §81.7—2140

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**Part V. Texas County and District Retirement System**

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**Part VII. State Property Tax Board**

34 TAC §155.35—2456, 2461

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34 TAC §171.1—2365

34 TAC §171.2—2365

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**Part IX. Bond Review Board**

34 TAC §§181.3, 181.4, 181.5—2141

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37 TAC §1.52, §1.53—2409

**TITLE 40. SOCIAL SERVICES AND  
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21.48-21.51, 21.53, 21.54—2366

43 TAC §21.33, §21.41—2370

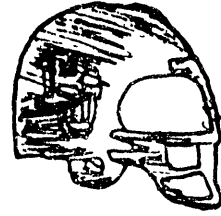
43 TAC §§31.1-31.3—2355

43 TAC §31.11, §31.13—2357

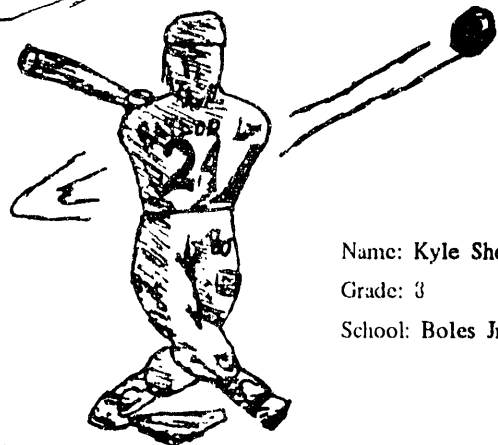
43 TAC §31.16, 31.21, 31.26, 31.31, 31.36—2357

◆ ◆ ◆

**TAYLOR**



**BEARS**



Name: Kyle Sherbourne  
Grade: 3  
School: Boles Jr. High, Arlington



# 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 May 11, 1989

To be a member of the **Texas Board of Mental Health and Mental Retardation** for a term to expire January 31, 1995: Anne Rinker Race, M.D., 3129 Beverly Drive, Dallas, Texas 75205. Dr. Race will be replacing Coke Mills of Waco, whose term expired.

To be a **Branch Pilot for Sabine Bar, Pass and Tributaries**, for a term to expire April 29, 1993: Captain Roland Edward Respass, 5006 Lakeshore Drive, Port Arthur, Texas 77642. Captain Respass is being reappointed.

To be a **Branch Pilot for Sabine Bar, Pass and Tributaries**, for a term to expire April 29, 1993: Captain David A. Wood, 5535 Bellaire, Beaumont, Texas 77706. Captain Wood is being reappointed.

## Appointments Made May 12, 1989

To be a member of the **Interagency Council on Mentally Retarded, Developmentally Disabled and Mentally Ill Offenders**, for a term to expire February 1, 1995: Dr. C. Anne Bishop, 13111 Marble Falls Cove, Austin, Texas 78729. Dr. Bishop is being reappointed.

To be a **Branch Pilot for Galveston Bar, and the Houston Ship Channel**, for a term to expire April 17, 1993: Captain Charles H. Picton, 10602 Twelve Oaks, Houston, Texas 77024. Captain Picton is being reappointed.

To be a **Branch Pilot for Galveston Bar, and the Houston Ship Channel**, for a term to expire April 17, 1993: Captain Charles C. Lary, III, 515 Shealy, Webster, Texas 77598. Captain Lary is being reappointed.

To be a member of the **Family Practice Residency Advisory Committee** for a term to expire August 29, 1991: Charlie Allen

Britsch, 106 River Meadow, Castroville, Texas 78009. Mr. Britsch will be replacing Dr. Exalton Delco of Austin, whose term expired.

To be a member of the **Rio Grande Valley Municipal Water Authority Board of Directors** for a term to expire April 30, 1991: Dr. Joseph B. Coulter, 5519 Salida de Luna, Brownsville, Texas 78521. Dr. Coulter is being reappointed.

To be a member of the **Texas Real Estate Commission**, for a term to expire January 31, 1995: Mr. John L. Minor, Jr., 9200 West Bellfort Place, #16, Houston, Texas 77031. Mr. Minor is being reappointed.

To be a member of the **Rio Grande Valley Municipal Water Authority Board of Directors** for a term to expire April 30, 1991: Connie de la Garza, 2814 Lotus, Harlingen, Texas 78550. Mr. de la Garza is being reappointed.

Issued in Austin, Texas on May 12, 1989.

TRD-8904294

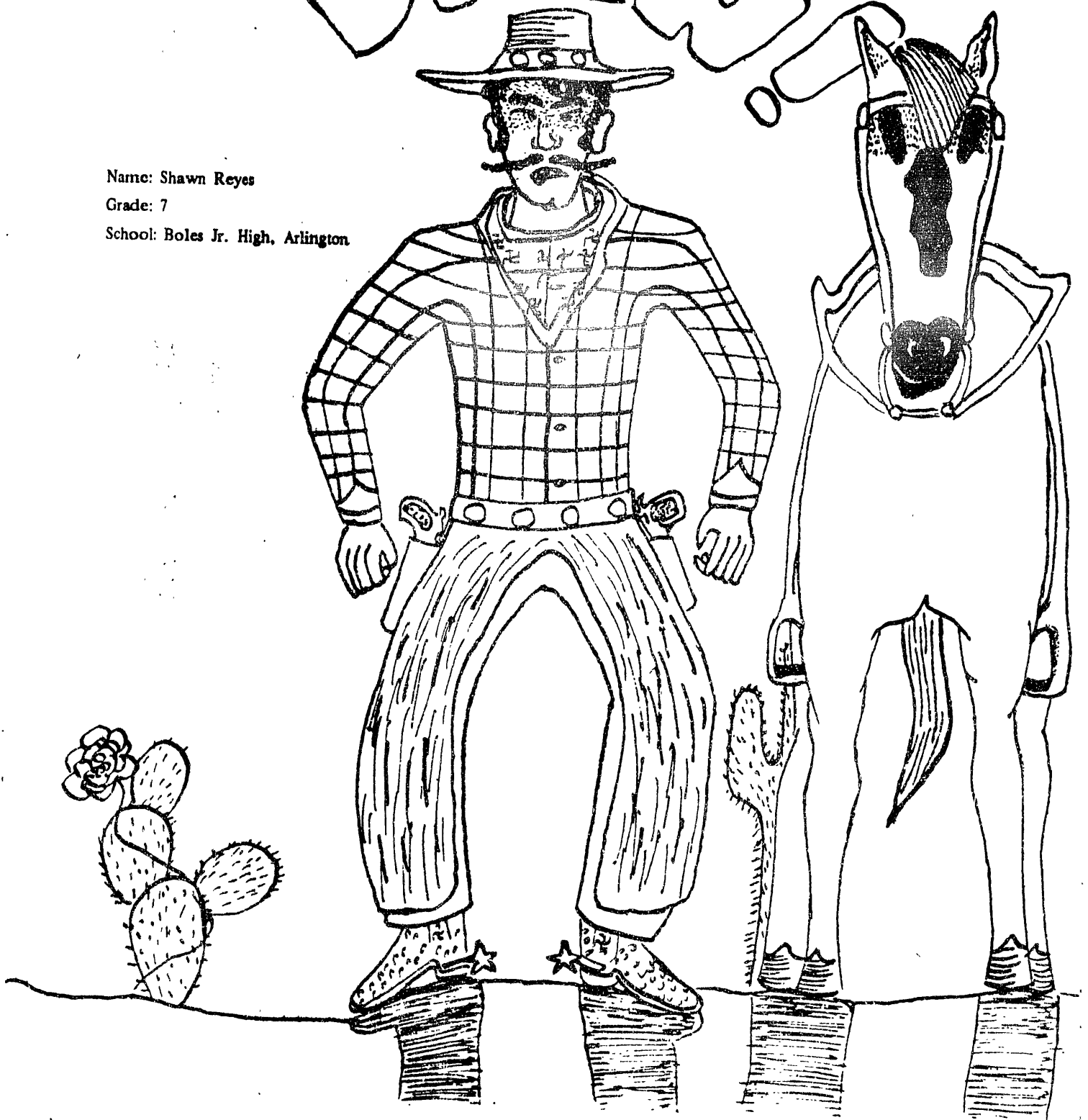
William P. Clements, Jr.  
Governor of Texas

# ORANGE

Name: Shawn Reyes

Grade: 7

School: Boles Jr. High, Arlington



# 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.

## Requests for Opinions

(RQ-1703). Request from William H. Miller, Executive Director, Texas School for the Blind, Austin, concerning the applicability of recuperative leave provision of the Education Code, §13904, to employees of the Texas School for the Blind

(RQ-1704). Request from Honorable A. J. Hartel, Liberty County Attorney, Liberty, concerning the authority of a rural fire prevention district to borrow money without holding an election.

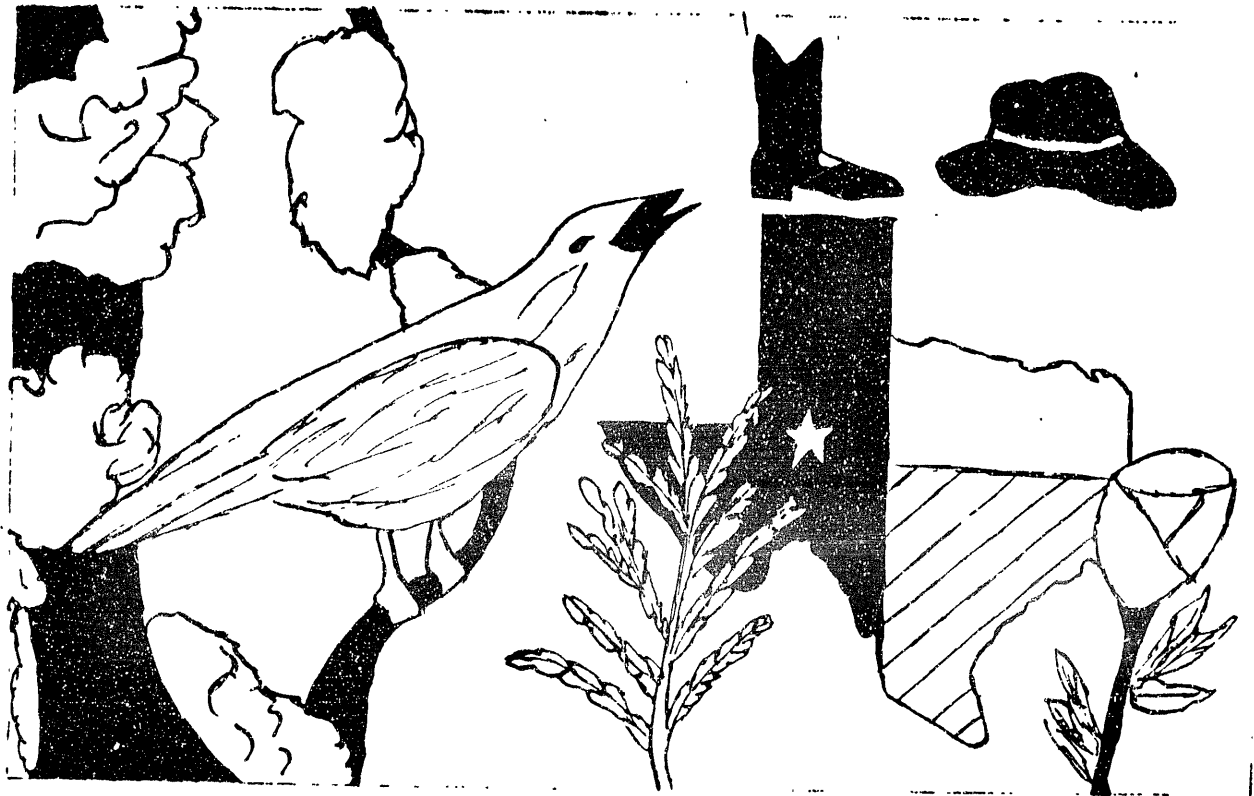
(RQ-1705). Request from Marvin B. Sallop, Executive Director, Texas School for the Deaf, Austin, concerning liability of the Texas School for the Deaf for non-students riding in buses operated by the school.

(RQ-1706). Request from Charles W. Chapman, Hays Criminal District Attorney, San Marcos, concerning the responsibility for serving a summons issued by a justice of the peace.

(RQ-1707). Request from Charles W. Chapman, Hays Criminal District Attorney, San Marcos, concerning the proper procedure for a recount of ballots in a disputed county election.

(RQ-1708). Request from John T. Montford, Chairman, Senate Committee on State Affairs, Austin, concerning whether a farm to market road is a state highway for purposes of right-of-way acquisition under Texas Civil Statutes, Article 6702-1, §4.301(c).

(RQ-1709). Request from Morris Samford, Jr., Panola County Attorney, Carthage, concerning use by a city of forfeiture funds under Texas Civil Statutes, Article 4476-15, for maintenance and repair of police cars. TRD-8904293



Name: Samad Jabbar  
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# Emergency Sections

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

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

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part IX. Texas Water Commission

#### Chapter 305. Consolidated Permits

##### Subchapter C. Application for Permit

###### • 31 TAC §305.50

The Texas Water Commission adopts on an emergency basis an amendment to §305.50, concerning the requirements for an application for a solid waste permit. The amendment incorporates rules promulgated by the Environmental Protection Agency (EPA) pursuant to their authority under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RR, 42 United States Code, §§6901 et seq., as amended, concerning standards applicable to owners and operators of hazardous waste miscellaneous units.

The commission finds that an urgent need exists to adopt this amendment on an emergency basis to maintain the state's primacy in the regulation of hazardous waste. It is the position of the commission that the public health and safety of the citizens of the state are best protected by the state regulatory agency. In addition, the amendment allows for the permitting of technologies not currently covered by the state's permitting scheme, thereby allowing the consideration of additional means of disposing of hazardous waste. The commission will also propose this amendment as a proposed permanent section in conjunction with a number of other regulatory revisions to Chapter 335, concerning industrial solid waste and municipal hazardous waste.

The amendment is adopted on an emergency basis under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

**§305.50. Additional Requirements for an Application for a Solid Waste Permit.** Unless otherwise stated, an application for a permit to store, process, or dispose of solid waste shall meet the following requirements.

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

(4) In the case of an application for a permit to store, process, or dispose of hazardous waste, the application shall also contain any additional information required by 40 Code of Federal Regulations §§270.13-270.21 and 270.23, except that closure cost estimates shall be prepared in accordance with 40 Code of Federal Regulations §§264.1(a)(1), (3), and (4); (b) and (c) and §335.178 of this title (relating to Cost Estimate for Closure). At any time after the effective date of the requirements contained in Chapter 335, Subchapter F of this title (relating to Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities), the executive director may require the owner or operator of an existing hazardous waste management facility to submit that portion of his application containing the information specified in 40 Code of Federal Regulations §§270.14-270.21 and 270.23. Any owner or operator shall be allowed a reasonable period of time from the date of the request to submit the information. An application for a new hazardous waste management facility must be submitted at least 180 days before physical construction of the facility is expected to commence.

(5)-(10) (No change.)

Issued in Austin, Texas, on May 15, 1989.

TRD-8904317

Jim Halsey  
Director, Legal Division  
Texas Water Commission

Effective date: May 15, 1989

Expiration date: July 14, 1989

For further information, please call: (512) 463-8087

## Chapter 331. Underground Injection Control

### Subchapter A. General Provisions

#### • 31 TAC 331.3

The Texas Water Commission adopts on an emergency basis an amendment to §331.3, concerning underground injection control. This amendment incorporates rules promulgated by the Environmental Protection Agency (EPA) pursuant to their authority under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), 42 United States Code, §§6901 et seq., as amended.

Section 331.3 is amended in order that an injection well for which the technical standards of this chapter are not generally appropriate and which is permitted as a miscellaneous unit under Chapter 335, concerning industrial solid waste and municipal hazardous waste, will be considered to be authorized by an injection well permit.

The commission finds that an urgent need exists to adopt this amendment on an emergency basis to maintain the state's primacy in the regulation of hazardous waste. It is the position of the commission that the public health and safety of the citizens of the state are best protected by the state regulatory agency. In addition, the amendment allows for the permitting of technologies not currently covered by the state's permitting scheme, thereby allowing the consideration of additional means of disposing of hazardous waste. The commission will also propose the amendment as a permanent section in conjunction with a number of other regulatory revisions to Chapter 335.

The amendment is adopted on an emergency basis under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission (TWC) with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission. In addition, the Texas Water Code, §27.019, authorizes TWC to adopt rules and procedures reasonably required for the performance of its powers and duties under Chapter 27. The TWC is designated the state agency which manages injection wells which are not within the jurisdiction of the Railroad Commission. As such, TWC is required to maintain the quality of fresh water in the state to extent consistent with the public health and welfare, the operation of existing industries, and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

#### §331.3. Injection Prohibited.

(a) Unless excluded under subsection (b) of this section, the construction of an injection well, the conversion of a well into an injection well, and the use or operation of an injection well is prohibited unless authorized by an injection well permit, order, or rule of the commission. A Resource Conservation and Recovery Act of 1976 (RCRA) permit applying the standards of §335.152(14) of this title (relating to standards) will constitute a underground injection control (UIC) permit for hazardous waste injection wells for which

the technical standards of this chapter are not generally appropriate.

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

Issued in Austin, Texas, on May 15, 1989.

TRD-8904318

Jim Haley  
Director, Legal Division  
Texas Water Commission

Effective date: May 15, 1989

Expiration date: July 14, 1989

For further information, please call: (512) 463-8087

## Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

### Subchapter A. Industrial Solid Waste and Municipal Hazardous Waste Management in General

#### • 31 TAC §335.1

The Texas Water Commission adopts on an emergency basis amendments to §§335.1, 335.112, 335.152, 335.155, 335.164, and 335.165, concerning industrial solid waste and municipal hazardous waste. These amendments incorporate rules promulgated by the Environmental Protection Agency (EPA) pursuant to their authority under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), 42 United States Code, §§6901 et seq., as amended.

Sections 335.1, 335.152, and 335.155 are amended to incorporate by reference the federal regulations regarding standards applicable to owners and operators of hazardous waste miscellaneous units promulgated by the EPA on December 10, 1987 (52 FedReg 46946). The standards cover both existing and future treatment, storage, and disposal technologies. The standards are general in nature to provide for flexibility in permitting the variability of miscellaneous units while requiring that these units be located, designed, constructed, operated, maintained, and closed in a manner that will prevent any release that may have adverse effects on human health or the environment.

In addition, §335.112 and §335.152 are amended to incorporate by reference the federal regulations regarding liability requirements for hazardous waste facilities promulgated on November 18, 1987 (52 FedReg 41312). These regulations authorize the use of a corporate guarantee for liability for firms capable of passing the financial test and able to meet the other requirements.

Sections 335.164 and 335.165 are amended to track the federal regulations promulgated in the July 9, 1987, issue of the *Federal Register* (52 FedReg 25942). Under these rules, groundwater taken from groundwater monitoring wells at RCRA land based hazardous waste disposal units will be required to be analyzed for all constituents in 40 Code of Federal Regulations, (CFR) Part 264, Appendix IX in lieu of requiring analysis to detect constituents listed 40 CFR, Part 261, Appen-

dix VIII.

Hazardous waste is defined in §335.1 as any solid waste identified or listed as hazardous waste by the administrator of EPA pursuant to the federal Solid Waste Disposal Act, as amended by RCRA, as amended. Therefore, the modifications in the federal definition of hazardous waste are incorporated into the state's definition of hazardous waste. A technical correction was promulgated by EPA in the July 10, 1987, issue of the *Federal Register* (52 FedReg 26012). The correction clarifies that residues remaining in containers that have held commercial chemical products that are listed in 40 CFR, §261.33(e) and (f) are hazardous when discarded, not the containers or liners themselves. Other technical corrections were promulgated by EPA in the April 22, 1988, issue of the *Federal Register* (53 FedReg 13382) which correct the lists of commercial chemical products that are hazardous wastes when discarded and correct the list of hazardous constituents in 40 CFR, Part 261, Appendix VIII.

The commission finds that an urgent need exists to adopt these amendments on an emergency basis to maintain the state's primacy in the regulation of hazardous waste. It is the position of the commission that the public health and safety of the citizens of the state are best protected by the state regulatory agency. In addition, the amendments allow for the permitting of technologies not currently covered by the state's permitting scheme, thereby allowing the consideration of additional means of disposing of hazardous waste as well as facilitating the regulated communities ability to comply with the liability requirements. The commission will also propose the amendments as permanent sections.

The amendment is adopted on an emergency basis under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. These sections are also promulgated under the Texas Solid Waste Disposal Act, Texas Revised Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Texas Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to implement the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. The Texas Solid Waste Disposal Act, §3(b), also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

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

**Landfill**—A disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile land treatment facility, a surface impoundment, [or] an injection well, [...] a salt dome formation, a saltbed formation, an underground mine, or a cave.

**Miscellaneous unit**—A hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under Chapter 331 of this title (relating to Underground Injection Control), or unit eligible for a research, development, and demonstration permit under Chapter 305, Subchapter K of this title (relating to Research, Development, and Demonstration Permits).

Issued in Austin, Texas, on May 15, 1989.

TRD-8904314

Jim Haley  
Director, Legal Division  
Texas Water Commission

Effective date: May 15, 1989

Expiration date: July 14, 1989

For further information, please call: (512) 463-8087

## Subchapter E. Interim Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities

#### • 31 TAC §335.112

The amendment is adopted on an emergency basis under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. This section is also promulgated under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Texas Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and haz-

ardous municipal waste and is required to implement the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. The Texas Solid Waste Disposal Act, §3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.112. *Standards.*

(a) Except to the extent that they are clearly inconsistent with the express provisions of the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, or the rules of the commission (including the provisions set forth in this subchapter), the following regulations contained in 40 Code of Federal Regulations, Part 265 (including all appendices to Part 265) which are in effect as of June 4, 1987, are adopted by reference:

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

(7) Subpart H—Financial Requirements, except 40 Code of Federal Regulations, §265.142(a)(2), and facilities qualifying for a corporate guarantee for liability are subject to §264.147(g)(2) and §264.151(h)(2), as amended December 12, 1987;

(8)-(16) (No change.)

(b) (No change.)

Issued in Austin, Texas, on May 15, 1989.

TRD-8904315

Jim Haley  
Director, Legal Division  
Texas Water Commission

Effective date: May 15, 1989

Expiration date: July 14, 1989

For further information, please call: (512) 463-8087

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**Subchapter F. Permitting  
Standards for Owners and  
Operators of Hazardous  
Waste Storage, Processing or  
Disposal Facilities**

• 31 TAC §§335.152, 335.155,  
335.164, 335.165

The amended sections are adopted on an emergency basis under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. The amended sections are also adopted on an emergency basis under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and pur-

poses of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. The Solid Waste Disposal Act, §3(b) also grants to the commission the powers and duties specifically prescribed in the

Act and all other powers necessary or convenient to carry out its responsibilities.

§335.152. *Standards.*

(a) Except to the extent that they are clearly inconsistent with the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, or the rules of the commission (including the provisions set forth in this subchapter), the following regulations contained in 40 Code of Federal Regulations, Part 264 (including all appendices to Part 264), which are in effect as of June 4, 1987, are adopted by reference:

(1) Subpart B—General Facility Standards; in addition, the facilities subject to regulation under 40 Code of Federal Regulations, §264.15(b)(4) and §264.18(b)(1)(II), as amended January 1, 1988;

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

(4) Subpart E—Manifest System, Recordkeeping, and Reporting, except 40 Code of Federal Regulations §§264.71, 264.72, 264.75-264.77; facilities which are subject to 40 Code of Federal Regulations §264.73(b)(6), as amended January 1, 1988;

(5) Subpart G—Closure and Post-Closure; facilities which are subject to 40 Code of Federal Regulations, §264, Subpart X are subject to 40 Code of Federal Regulations, §§264.90(d), 264.111(c), 264.112(a)(2), 264.114, 264.117(a)(1)(I) and (II), and 264.118(b)(1), (2) (I) and (II), as amended January 1, 1988;

(6) Subpart H—Financial Requirements, except 40 Code of Federal Regulations, §264.142(a)(2); facilities which are subject to 40 Code of Federal Regulations, §264 Subpart X are subject to 40 Code of Federal Regulations, §§264.142 (a), 264.144 (a) and 264.147 (b), as amended January 1, 1988; and facilities which qualify for the corporate guarantee for liability are additionally subject to

§264.147(g)(2) and §264.151(h)(2), as amended December 12, 1987;

(7)-(12) (No change.)

(13) Subpart O—Incinerators;[.]

(14) Subpart X—Miscellaneous Units.

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

§335.155. *Additional Reports.* In addition to submitting the annual report and waste reports described in §335.15 of this title (relating to Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities) and §335.154 of this title (relating to Reporting Requirements of Owners and Operators), the owner or operator must also report to the executive director:

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

(3) as otherwise required by 40 Code of Federal Regulations Part 264, Subparts F, [and] K-N and X.

§335.164. *Detection Monitoring Program.* An owner or operator required to establish a detection monitoring program must, at a minimum, discharge the following responsibilities:

(1)-(7) (No change.)

(8) If the owner or operator determines pursuant to paragraph (7) of this section, that there is a statistically significant increase for parameters or constituents specified pursuant to paragraph (1) of this section at any monitoring well at the compliance point, he must:

(A) (No change.)

(B) immediately sample the groundwater in all monitoring wells and determine [the concentration of all] whether constituents identified in the listing 40 Code of Federal Regulations, Part 264, Appendix IX [Appendix VIII of 40 Code of Federal Regulations Part 261 that] are present [in groundwater and indicate if there are other unidentified compounds present in the groundwater] and if so, in what concentration;

(C) establish a background value for each [Appendix VIII] constituent [that has been] found in the groundwater at each monitoring well at the compliance point under paragraph (8)(B) of this section, as follows:

(i)-(iii) (No change.)

(D) within 90 days, submit to the executive director an investigation report describing a compliance monitoring program meeting the requirements of §335.165 of this title (relating to Compli-

ance Monitoring Program). The report must include the following information:

(i) An identification of the concentration of each constituent [any Appendix VIII constituents] found in the groundwater at each monitoring well at the compliance point;

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

(E) (No change.)

(9)-(11) (No change.)

**§335.165. Compliance Monitoring Program.** An owner or operator required to establish a groundwater monitoring program must, at a minimum, discharge the following responsibilities.

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

(6) The owner or operator must analyze samples from all monitoring wells at the compliance point [for all constituents contained in Appendix VIII of 40 Code of Federal Regulations Part 261] to determine

whether constituents identified in the listing 40 Code of Federal Regulations, Part 264, Appendix IX are present and if so, at what concentration at least annually to determine whether additional [hazardous] Appendix IX constituents are present in the uppermost aquifer. If the owner or operator finds Appendix IX [VIII] constituents in the groundwater that are not identified in the permit as [hazardous] monitoring constituents, the owner or operator must report the concentrations of these additional constituents to the executive director within seven days after completion of the analysis.

(7)-(13) (No change.)

Issued in Austin, Texas, on May 15, 1989.

TRD-8904316

Jim Haley  
Director, Legal Division  
Texas Water Commission

Effective date: May 15, 1989

Expiration date: July 14, 1989

For further information, please call: (512) 463-8087



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 41. Utilization Review

##### Waiver for Utilization Review Procedures

###### • 40 TAC §§41.101-41.111

The Texas Department of Human Services is renewing the effectiveness of the emergency adoption of repealed §§41.101-41.111, for a 60-day period effective May 12, 1989. The text of repealed §§41.101-41.111 was originally published in the January 20, 1989, issue of the *Texas Register* (14 TexReg 339).

Issued in Austin, Texas on May 12, 1989.

TRD-8904295

Cathy Rossberg  
Division Administrator  
Texas Department of  
Human Services

Effective date: May 12, 1989

Expiration date: July 11, 1989

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





# 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 view 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 organization 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 22. EXAMINING BOARD

### Part XII. Texas State Board of Podiatry Examiners

#### Chapter 375. Rules Governing Conduct

##### • 22 TAC §375.3, §375.10

The State Board of Podiatry Examiners proposes amendments to §375.3 and §375.10, concerning advertising and fees. The amendments are proposed in order to comply with the relatively recent developments in advertising rules as they relate to the Anti-Trust Law.

Dr. J. C. Littrell, executive director, 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.

Dr. Littrell 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 better clarity in the rules. 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 Sandra Marshall, 8317 Cross Park Drive, Suite 401, Austin, Texas 78754, (512) 834-0558.

The amendment(s) are proposed under Texas Civil Statutes, Articles 4568(j) and 4590(e), which provide the State Board of Podiatry Examiners with the authority to adopt all reasonable or necessary rules, regulations, and by-laws not consistent with the law regulating the practice of podiatry, the laws of this state, or of the United States; to govern its proceedings and activities; the regulation of the practice of podiatry, and the enforcement of the law regulating the practice of podiatry.

##### §375.3. Advertising.

(a) (No change.)

(b) A false, fraudulent, misleading, deceptive, or unfair statement or claim includes, but is not limited to, a statement or claim which:

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

[(3) contains any testimonial or laudatory statement, or other statement or

implication that podiatric services are of exceptional quality;]

(3)[(4)] is intended or likely to create false or unjustified expectations of favorable results;

(4)[(5)] implies educational or professional attainment or licensing recognition not supported in fact;

(5)[(6)] states or implies that the podiatrist has received formal recognition as a specialist or claim any specialized expertise in any aspect of the practice of podiatry, if this is not the case; or

[(7) contains statistical data or information solely to reflect past performance or prediction of future success;

(8) represents that podiatric service can or will be completely performed for a stated fee when this is not the case, or makes representations with respect to fees for podiatric services that do not disclose all variables affecting the fee that will in fact be charged; or]

(6)[(9)] contains other presentations or implications that a reasonable probability will cause an ordinary prudent person to misunderstand or be deceived.

(c) Information contained in a public communication by a podiatrist may include, but is not limited to, the following: [A podiatrist may use or participate in the use of a public communication which states the following information about the podiatrist and any associates:]

(1)-(11) (No change.)

(d) (No change.)

##### §375.10 Fees.

[(a) The fee which a podiatrist charges for his service should be commensurate with the reasonable and customary fee for such services in the community in which the podiatrist practices.]

(a)[(b)] The podiatrist has special knowledge which his patient does not have; therefore, to avoid misunderstanding he should advise his patient in advance of beginning treatment of the nature and extent of the treatment needed; the approximate time required to perform the recommended treatment and services; and any further or additional services or return by the patient for treatment, adjustments, or consultation

and the time in which this shall occur. A podiatrist should inform his patients as to the fees to be charged for services before the services are performed, regardless of whether the fees are charged on a case basis, on the basis of a separate charge for each service, or a combination of these two methods, or on other basis. If an exact fee for a particular service is intended care cases cannot be quoted to a patient, a fair and reasonable estimate of what the fee will be and the situation where it will be determined should be given to patient.

(b) A podiatrist shall not tender or receive a commission for a referral without disclosing to the patient the fact that a commission was tendered or received.

[(c) A podiatrist shall not engage in fee splitting. However, a podiatrist may pay an assistant's fee according to the established percentage rate prevailing in the community.]

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 May 9, 1989.

TRD-8904151

Sandra Marshall  
Administrative Technician II  
Texas State Board of  
Podiatry Examiners

Earliest possible date of adoption: June 16, 1989

For further information, please call (512) 834-0558

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part IX. Texas Water Commission

#### Chapter 293. Water Districts

##### Economic Feasibility of Projects

##### • 31 TAC §293.59

The Texas Water Commission (TWC) proposes new §293.59, concerning the staff analysis of proposed bond issues, bond amendments, and extensions of time applications for bond issues, to assure that proposed water district projects to be funded through

bond proceeds are economically feasible. Emergency §293.59, identical to the proposed rule, is now in effect and was adopted by the TWC on January 27 1989, as it appears in the February 7, 1989, issue of the *Texas Register* (14 TexReg 652).

The new section defines economic feasibility of a project as the determination of whether the land values, existing improvements, and projected improvements in the district will be sufficient to support a reasonable tax rate for debt service payments for existing and proposed bonded indebtedness while maintaining competitive utility rates. It requires the staff of the commission to address economic feasibility in all staff recommendations concerning bond proceeds use. The section provides that before the bonds of the district are approved, the developer of the project is required to have in place the streets, utilities, and vertical development adequate to support an assessed valuation which will produce the projected tax revenues necessary to support the bonds. Maximum tax rates are placed on both the combined projected debt service tax rates and combined no-growth debt service tax rates according to the feasibility history of district in different areas of the state as identified by county. Surcharge revenues required in city consent agreements will be required to be integrated into and considered as a part of the district's tax structure. Developers and other land owners and their lenders must permanently waive by written agreement with the district any claims to agricultural, open space, timberland or inventory valuation of any land, homes or buildings which they own in the district. The effect of the section will be to provide guidelines for the staff and the commission to make sure that projected tax revenues anticipated for district development will be sufficient to pay both the districts' existing and proposed bonded indebtedness. The new section will require a district to submit sufficient data to enable the commission, as well as the district itself to determine whether a proposed bond issue is feasible and will enable the district to realistically assess the feasibility of a bond issue before it commits itself to the risk of selling bonds.

Roger G. Bourdeau, chief fiscal officer, has determined that for the first five-year period the proposed new section will be in effect, there will be no fiscal implications for state or local governments or small business as a result of enforcing or administering the proposed new section.

Mr Bourdeau, also has determined that for each year of the first five years this new section is in effect, the public benefit anticipated as a result of enforcing the new section will be the assurance to the public that the bonded indebtedness to be incurred by water districts will be reasonable, feasible, and not unduly burdensome with the result that property owners within districts will have greater assurance of reasonable tax rates and purchasers of district bonds will have increased protection for their investment. There is no anticipated cost to individuals who are required to comply with the new proposed section. No costs of any kind were imposed by the new proposed section.

Comments on the proposal may be submitted to Royston S. Lanning, Staff Attorney, Legal Division, Texas Water Commission, P. O. Box 13087, Austin, Texas 78711-3087. Comments shall be accepted for 30 days following the date of this publication.

The new section is proposed under the Texas Water Code §§5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

#### §293.59. Economic Feasibility of Project.

(a) In addition to determining the engineering feasibility of a project, the commission shall also determine the economic feasibility of each proposed bond issue, bond amendment, and extension of time application for a bond issue. The staff of the commission shall use the following sections in making its economic feasibility analysis. In its written recommendations to the commission which analyzes the particular application, the staff shall always address the economic feasibility.

(b) Economic feasibility is the determination of whether the land values, existing improvements, and projected improvements in the district will be sufficient to support a reasonable tax rate for debt service payments for existing and proposed bonded indebtedness while maintaining competitive utility rates. Utility rates which do not exceed the rates of the largest city in the geographic area in which the district is located are conclusively deemed to be competitive. Economic feasibility is influenced by many factors and varies widely depending on economic conditions, the real estate market, the number of competing projects, and geographic location.

(c) Projected debt service tax rate is the tax rate required to meet projected annual debt service requirement using projected assessed valuations and an appropriate tax collection rate. The projected annual debt service requirement shall include the previous and proposed debt. The projected debt service tax rate for any bond issue shall be shown in the cash flow table as a level or decreasing tax rate.

(d) No-growth debt service tax rate is the tax rate required to meet projected annual debt service requirements using the current assessed value and a 100% tax collection rate. The current value is determined by either:

- (1) the most recent certificate of assessed valuation from the central appraisal district; or
- (2) a certificate of estimated as-

essed valuation from the central appraisal district. Projected annual debt service requirements shall include the previous and proposed debt. The no-growth debt service tax rate for any bond issue shall be shown on the cash flow table as a level or decreasing tax rate.

(e) Combined no-growth debt service tax rate is the sum of the following:

- (1) no-growth debt service tax rate of the district;
- (2) projected no-growth debt service tax rate of all overlapping entities specifically attributable to water, sewer, drainage, and for roads if the entity is a road district or road utility district smaller in size than a county commissioner's precinct. In other words for road districts or road utility districts that are as large as one county commissioner's precinct, the road district tax is not counted.

(3) an equivalent surcharge tax rate for water and sewer surcharge, if any;

(4) city tax rate specifically attributable to water, sewage and drainage if the district is located within a city;

(5) current or proposed maintenance tax levy, if any;

(6) less any equivalent tax rebate or other payments.

(f) Combined projected debt service tax rate is the sum of the following:

(1) projected debt service tax rate of the district;

(2) projected debt service tax rate of all overlapping entities specifically attributable to water, sewer, and drainage, and for roads if the entity is a road district or road utility district smaller in size than a county commissioner's precinct;

(3) an equivalent surcharge tax rate for water and sewer surcharge, if any;

(4) city tax rate specifically attributable to water, sewage, and drainage if the district is located within a city;

(5) current or proposed maintenance tax levy, if any;

(6) less any equivalent tax rebate or other payment.

(g) A surcharge is a flat charge in addition to rates imposed on residents receiving water and/or sewer service from resources of a city or other entity and supplied through district facilities. Surcharge revenues are placed in the district's debt service fund and are intended to be used to meet the debt service requirement on the district's bonds.

(h) For districts collecting surcharge revenues, the equivalent surcharge tax rate shall be calculated as follows.

(1) For residential development with similar house prices:

equivalent monthly surcharge X 12 X 100  
tax rate = average house price

(2) For mixed-use development and diverse house prices:

total annual surcharge revenues  
equivalent at projected build out X 100  
tax rate = total assessed value of district  
at buildout

(3) For purposes of this calculation, no adjustments shall be made for projected collection rate of the surcharge,

interest earnings on the surcharge account or other factors.

(i) For districts receiving a rebate for taxes paid to a city or other entity for

water, sewer, drainage, or road service, the equivalent tax rebate shall be calculated as follows:

(total amount rebated by entity to district) X 100  
certified assessed value of district

(j) The assessed value is the appraised value after considering exemptions and special valuations and is the amount to which the tax rate is applied to determine the total tax levy.

(k) For a district's first bond issue, the following paragraphs apply except that paragraphs (5), (6), (7), (8), and (10) are only applicable to a district that has a developer as defined by the Texas Water Code §50.026(d).

(1) The district shall provide the current and projected tax rates of all entities levying or proposing to levy taxes on land within the district and a comparison of such taxes with the total tax levy on all competing projects in the same market area, as defined in the market study, if applicable, shall be provided.

(2) A cash flow analysis to determine the projected debt service revenue and projected tax rate shall be provided. It should include the following assumptions.

(A) Each ending debt service balance in the cash flow analysis will be not less than 25% of the following year's debt service requirement.

(B) Interest income will only be shown on the ending debt service balance for the first two years.

(C) A 90% tax collection rate shall be used in all the projected tax rate calculations and a 100% tax collection rate shall be used in the no-growth tax rate calculations.

(D) The projected tax rate shall be level or decreasing for the life of the bonds. (3)The combined projected debt service tax rate shall not exceed the following:

(A) \$1.50 in Harris, Galves-

ton, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(B) \$1.20 in Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties;

(C) \$1.00 in all other counties.

(4) The combined no-growth debt service tax rate shall not exceed the following:

(A) \$2.50 in Harris, Galveston, Montgomery, Fort Bend, Waller, Brazoria Counties;

(B) \$2.20 in Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties;

(C) \$2.00 for all other counties.

(5) The following applies to the tax assessor's certificate.

(A) If the valuations contained in the certificate of certified assessed valuation are at least 25% higher than those contained in the previous year's certified valuation, a written explanation from the district of such increase and a detailed calculation demonstrating how the value was derived shall be provided.

(B) In determining the projected or no-growth debt service tax rates, a certificate of estimated assessed valuation may be used under the following conditions.

(i) The developer or landowner to receive bond proceeds shall certify, represent, and agree that it will not challenge and attempt to reduce its valuations below the values shown on the certificate for the life of the bonds.

(ii) If the valuation contained in the certificate of estimated taxable valuation is at least 25% higher than that contained in the most recent certified valuation, a written explanation from the district of such increase shall be provided.

(iii) If the estimated taxable valuation results in an exemption from §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer) and the final certificate of taxable value is not sufficient for an exemption from that section, the developer will be obligated to refund to the district the difference in the bond issue requirement without developer contribution and with developer contribution plus interest at the bond interest rate to the district.

(iv) Developed land values will not be used in the commission's analysis for lots which do not have completed water, sewer, and drainage facilities and roads constructed to county or city standards, as applicable, at the time of development.

(6) At the time of approval of the bond sale, the following shall apply.

(A) All underground water, sewer, and drainage facilities to be financed with proceeds from the proposed bond issue shall be at least 95% complete as certified by the district's engineer.

(B) All groundwater, surface water, waste discharge permits, or other permits needed to secure capacity to support the projected buildout shall have been obtained.

(C) Sufficient lift station, water plant, and sewage treatment plant capacity, as applicable depending on the type

of district, to serve the connections projected for a period of not less than 18 months shall be either 95% complete as certified by the district's engineer or available in existing plants pursuant to executed contracts for capacity in plant(s) owned by other entities (but in no event less than 50,000 gallons per day water plant and sewage treatment plant capacity).

(D) Water supply, lift station, and wastewater treatment capacity needed to support the projected buildout used to support the feasibility of the subject bond application shall be existing or funds for that capacity shall be included in the bond issue or secured by a letter of credit or other acceptable guarantees approved by the commission.

(E) All street and road construction to provide access to the areas provided with utilities to be financed with proceeds from the proposed bond issue shall be 95% complete as certified by the district's engineer. All streets and roads shall be constructed in accordance with county standards, as appropriate.

(7) At least 25% of the projected value of houses, buildings and/or other improvements shown in the projected tax rate calculations shall be completed prior to advertising for the bond issue. The projections used to satisfy this section shall also be used in the calculations required by subsection (k) (2) and (3) of this section.

(8) A written agreement must be executed between the district and the developer and any other landowner and their respective lenders receiving proceeds of the bonds which permanently waives the right to claim agricultural, open-space, timberland or inventory valuation for any land, homes or buildings which they own in the district with respect to taxation by the district. The agreement shall be permanently binding on such developer, other landowners, their respective lenders, any related or affiliated entities and their successors and assignees, unless such exemptions were in effect at the time of the commission's approval of the bond issue and such exemptions were shown in the projected tax rate calculations. Such developer, landowners, and lenders shall record covenants running with the land to such effect, which shall not be modified or released without written authorization of the commission, and shall provide recorded copies to the commission prior to the approval of the bond issue.

(9) One or more of the foregoing requirements may be waived for good cause by commission order if all of the facilities proposed under a bond issue application are essential because of valid orders, permits or actions against the district by a governmental agency or court. If only a portion of the bond issue is for facilities

essential because of valid orders, permits or actions against the district by a governmental agency or court and if a waiver of any of the foregoing requirements is requested, all nonessential projects may be deleted from the bond issue if not feasible under the other provisions of these rules.

(10) A current market study is required for districts using growth projections to support the feasibility of the bond issue. The market study will meet the guidelines set out in the bond application report format. The market study provided will specifically address the projected building program for the three years subsequent to filing of the bond application and the period of projected build-out shown in the bond application and the competing projects in the surrounding market area. The study shall contain a detailed description of the proposed development and the houses, buildings, and other improvements which are proposed.

(11) Requirements of subsection (k) (6) and (7) of this section shall not apply in the following cases where.

(A) The no-growth debt service tax rate for a district containing 2,000 acres or more providing only drainage facilities does not exceed \$1.30, or the no-growth debt service tax rate of a district providing major water and sewage facilities which it finances by the issuance of its bonds to an area containing 2,000 acres or more does not exceed \$1.30, and the combined no-growth debt service tax rate does not exceed \$2.00, and with respect to each of the described cases, the developer has completed a substantial amount of major thoroughfare or other infrastructure to serve the district.

(B) The district has an acceptable credit rating as defined in §293.47(b)(4) (relating to Thirty Percent of District Construction Costs To Be Paid by Developer) or a credit enhanced rating as defined in paragraph (5).

(C) The district is providing water, sewer, and drainage facilities and the combined no-growth debt service tax rate of all overlapping entities specifically attributable to water, sewage and drainage, and roads if the entity is a special district encompassing less than one county commissioner's precinct, if any, does not exceed the following:

(i) \$1.50 in Harris, Galveston, Montgomery, Fort Bend, Waller, and Brazoria Counties;

(ii) \$1.20 in Dallas, Denton, Collin, Tarrant, Travis, Hays, Williamson, Comal, and Guadalupe Counties;

(iii) \$1.00 in all other counties.

(D) For the immediately preceding exceptions in paragraph 11 (A), or (C) of this subsection, the developer shall provide a guarantee for its 30% share, if required pursuant to §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer), in the form and manner required by subsection (g). For the immediately preceding exceptions in paragraph (11) (B) or (C) of this subsection, the developer shall provide a paving guarantee pursuant to §293.48 of this title (relating to Street and Road Construction by Developer).

(1) For a district's second and subsequent bond issues, all of the foregoing sections of subsection (k) of this section shall apply except that the following paragraphs (2), (3), (4), and (5) of this section only apply to districts that have a developer as defined by the Texas Water Code, §50.026(d).

(1) A 90% tax collection rate shall be used in the projected tax rate calculations unless the district demonstrates that its historical collection rate is higher, and a 100% tax collection rate shall be used in the no-growth tax rate calculations.

(2) The water, sewer, and drainage facilities financed by the district under previous bond issues and all road and street construction to serve such connections shall be at least 95% complete as certified by the district's engineer.

(3) Sufficient lift station, water plant, and sewage treatment plant capacity to serve the connections shown in the tax rate calculations submitted in prior bond issues shall be at least 95% complete as certified by the district's engineer, unless the district is a participant in a regional surface water or wastewater plant, a permit sufficient for the expansion has been issued, and either:

(A) funds are available to finance such capacity and any additional capacity necessary for a feasible expansion;

(B) sufficient capacity is contractually available to serve all such prior connections; or

(C) the plant is under construction with sufficient capacity to serve all such prior connections.

(4) Houses and/or buildings equal to 75% of the value of houses and/or buildings used in the projected tax rate calculations contained in all prior bond issues shall be completed. The equivalent 75% value may be located on either:

(A) the area developed from the proceeds of the prior bond issues; or

(B) a combination of the area

developed from the proceeds of prior bond issues, the proposed bond issue, and future bond issues.

(5) The requirements of subsection (k)(10) of this section shall apply, unless the district requests and the commission, in its discretion waives such requirement for one of the following reasons:

(A) the value of the houses and/or buildings within the areas to be served by the proposed bond issue is 50% of the proposed value of the houses and/or buildings shown in the projected tax rate calculations;

(B) the district has an acceptable credit rating as defined in §293.47(b)(4) of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer) or a credit enhanced rating as defined in paragraph (5); or

(C) the district has ratio of debt to assessed valuation as provided in §293.47(a)(1) of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer).

(m) A district may request a variance if it does not meet the guidelines contained in subsection (k) and (1) of this section, and a majority of the district's board of directors finds by resolution that the district would be justified in requesting a variance. The district will be responsible for providing sufficient documentation to justify any request for a variance. The commission will only grant variances in exceptional cases and may deny any request for a variance. In determining whether to grant a variance, the following factors shall be considered:

(1) the degree of variation from the guidelines;

(2) the past history of the district with respect to its projections versus actual build-out and compliance with commission rules;

(3) the past history of the developer and related or affiliated entities with respect to its projections versus actual build-out and its compliance with commission rules and agreements with the district and other districts in which it developed land;

(4) other factors peculiar to the district, such as the area in which situated, economic factors, the adjoining competitive developments and their status;

(5) the financial resources of the developer and its lender and any special commitments, obligations or expenditures for the project;

(6) past history of the market area in which the project is located; and

(7) other factors which may affect the feasibility of the project.

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 May 15, 1989.

TRD-8904313

Jim Haley  
Director, Legal Division  
Texas Water Commission

Earliest possible date of adoption: June 19, 1989

For further information, please call: (512) 463-8087

## TITLE 34. PUBLIC FINANCE

### Part V. Texas County and District Retirement System

#### Chapter 103. Calculation or Types of Benefits

##### § 34 TAC §103.2, §103.3

The Texas County and District Retirement System proposes an amendment to §103.2 and new §103.3, concerning calculation or types of benefits. The amendment will bring the additional optional benefit provisions of §103.2 into alignment with revisions to Texas Civil Statutes, Title 110B, §54.104 and §54.3041, by providing for a lump-sum benefit to be paid to a designated beneficiary or estate of a retiree in the event that monthly payments under an optional service retirement annuity or optional disability retirement annuity otherwise would cease before the sum of all monthly payments equals or exceeds the amount of the member's accumulated deposits. New §103.3 is also added, which requires spousal consent in the selection of certain types of benefits.

J. Robert Brown, director of the system, 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. Brown also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be prevention of the possibility of the designated beneficiary or estate of a member of the system who has selected one of the optional benefits from losing the member's own accumulated deposits as a result of the death of the member or the member's designated beneficiary. 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 J. Robert Brown, Director, Texas County and District Retirement System, 400 West 14th Street, Austin, Texas 78701.

The amendment and new section are proposed under Texas Civil Statutes, Title 110B, §55.102, which provide authorization for the board to adopt rules.

### §103.2. Additional Optional Benefits.

(a) A member entitled to service retirement may elect to receive, in lieu of a standard service retirement benefit, one of the optional benefits set forth in Texas Civil Statutes, Title 110B, §54.104(c), which optional benefits shall be designated as Options 1, 2, 3, and 4A respectively, [defined as Options 1, 2, and 3 in subsection 3, section VII, of the Act] or one of the [following] optional benefits described in subsection (c) of this section [which shall be designated as follows]:

(b) A member entitled to disability retirement may elect to receive, in lieu of a standard disability retirement benefit, one of the optional benefits described in Texas Civil Statutes, Title 110B, §54.3041, which optional benefits shall be designated as Options 1, 2, 3, and 4A respectively, or one of the optional benefits described in subsection (c) of this section.

(c) The optional benefits under this section that are not established by statute shall be as designated as follows, and shall be a reduced monthly allowance certified by the actuary as the actuarial equivalent of the standard annuity to which the person is entitled, and shall be:

(1) Option 4A. A reduced monthly allowance that is the actuarial equivalent of the standard service retirement benefit, payable during the lifetime of the annuitant, but with 120 monthly payments guaranteed to be paid to his estate, or to a designated beneficiary or the estate of such beneficiary or both.]

(1)(2) Option 4B. [A reduced monthly benefit that is the actuarial equivalent of the standard service retirement benefit.] Payable to the member during his lifetime, and upon his death, one-fourth of the reduced benefit to be continued during the life of, and paid to, such person as the member shall nominate by written designation filed with the board within 30 days after the date fixed for retirement.

(2)(3) Option 4C. [A reduced monthly benefit that is the actuarial equivalent of the standard service retirement benefit.] Payable to the member during his lifetime, and upon his death, three-fourth of the reduced benefit to be continued during the life of and paid to such person as the member shall nominate by written designation filed with the board within 30 days after the date fixed for retirement.

(3)(4) Option 4D. [A reduced monthly allowance that is the actuarial equivalent of the standard service retirement benefit.] Payable during the lifetime of the annuitant, but with 180 monthly payments guaranteed to be paid either to the member's [his] estate, or to a designated beneficiary or the estate of such beneficiary

[or both].

(d) If monthly payments under an option retirement annuity described in (c) of this section cease before the sum of all of the monthly payments equals or exceeds the amount of accumulated contributions in the individual account in the employee saving fund at the time of retirement of the member on whose service the annuity was based, a lump-sum benefit equal to the amount by which the accumulated contributions exceed the sum of all monthly payments made under the annuity is payable:

(1) to the designated beneficiary, if living, or if not living, to the estate of the designated beneficiary, if the designated beneficiary survived the retiree; or

(2) to the estate of the retiree, if the designated beneficiary predeceased the retiree.

### §103.3. Requirement of Spousal Consent.

(a) The selection by any member of the system on any form filed with the system of a retirement annuity in the form of an annuity other than a joint-and-survivor annuity that pays benefits to the member's spouse only the death of the member is not effective unless the member's spouse consents to the selection.

(b) The consent of a spouse required by subsection (a) of this section must be in writing and either witnessed by an officer or employee of the system or acknowledged by a notary public.

(c) The consent required by subsection (a) of this section is not required if it is established to the satisfaction of the system that:

(1) there is no spouse;

(2) the spouse cannot be located;

(3) the spouse has been judicially declared incompetent in which case the consent may be given by the guardian or other ad litem;

(4) the spouse and the member will have been married for less than one year as of the date the annuity first becomes payable; or

(5) a former spouse is entitled to receive a portion of the member's service retirement benefit under a qualified domestic relations order.

(d) For the purposes of this section, the term "joint-and-survivor annuity that pays benefits to the member's spouse on the death of the member" means a retirement annuity for the life of the member with a survivor annuity for the life of the spouse which is not less than 50% of the amount of the annuity which is payable during the joint lives of the member and the spouse.

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 May 12, 1989.

TRD-8904291

J. Robert Brown  
Director  
Texas County and District  
Retirement System

Earliest possible date of adoption: June 23, 1989

For further information, please call: (512) 476-6651

## Part VII. State Property Tax Board

### Chapter 155. Tax Record Requirements

#### • 34 TAC §155.35

The State Property Tax proposes an amendment to §155.35, concerning agricultural land use application forms. The amendment adopts by reference amended special use application forms for 1-d-1 agricultural land, 1-d-1 ecological laboratory land, and 1-d agricultural land. The amended forms reflect statutory changes related to raising of exotic animals and provide for information necessary for appraisal districts to determine qualification for special appraisal.

Sands L. Stiefer, General Counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Stiefer 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 more efficient determinations by appraisal districts of qualification for agricultural appraisal. 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 Sands L. Stiefer, General Counsel, State Property Tax Board, P.O. Box 15900, Austin, Texas 78761-5900.

The amendment is proposed under the Texas Tax Code, §23.43(d) and §23.54(b), which provides the State Property Tax Board with the authority to prescribe model forms for 1-d and 1-d-1 appraisal applications.

#### §155.35. Special Use Application Forms.

(a) (No change.)

(b) The following model application forms are adopted by the State Property Tax Board by reference. Copies of these forms are available for inspection at the office of the *Texas Register* or can be obtained from the Office of General Counsel, State Property Tax Board, P.O. Box 15900, Austin, Texas 78761:

(1) 1-d appraisal application for land designated for agricultural use (1-d Agricultural Land), State Property Tax

Board Special Use Form 23.43, as amended December 14, 1988 October 1983;

(2) 1-d-1 appraisal open space land application (1-d-1 Agricultural Land), State Property Tax Board Special Use Form 23.54, as amended December 14, 1988 October 1983;

(3) (No change.)

(4) open-space land application (1-d-1 Ecological Laboratory Appraisal Application Land), State Property Tax Board Special Use Application Form 23.51[;] as amended December 14, 1988;

(5)-(6) (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 May 11, 1989.

TRD-8904222 Ron Patterson  
Executive Director  
State Property Tax Board

Earliest possible date of adoption: June 19, 1989

For further information, please call: (512) 834-4802

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 29. Purchased Health Services

##### Subchapter L. General Administration

###### • 40 TAC §29.1112

The Texas Department of Human Services (DHS) proposes an amendment to §29.1112, concerning exclusions and limitations, in its Purchased Health Services chapter. The amendment allows the department to provide medically necessary influenza and pneumococcal immunizations.

Burton F. Raiford, deputy commissioner for support operations, 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 is an estimated additional cost of \$324,864 in fiscal year (FY) 1990; \$476,906 in FY 1991; \$522,582 in FY 1992; \$551,176 in FY 1993, and \$593,127 in FY 1994. There is no anticipated effect on local government or small businesses as a result of enforcing or administering the section.

Mr. Raiford 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 immunization of high-risk recipients for influenza and pneu-

monia, which is expected to lessen the incidence of diseases and their impact on the health of recipients. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Services Division-216, Texas Department of Human Services 222-E, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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.

#### §29.1112. Exclusions and Limitations.

(a) Benefits do not extend to:

(1) (No change.)

(2) special shoes or other supportive devices for the feet, ambulation aids (except as provided for in the home health services program), immunizations (except for influenza and pneumococcal immunizations determined to be medically necessary by the department or its designee), or occupational therapy (except as provided for under other rules in this chapter).

(3)-(21) (No change.)

(b)-(d) (No change.)

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

Issued in Austin, Texas, on May 15, 1989.

TRD-8904309 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Proposed date of adoption: September 1, 1989.

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

#### Chapter 48. Community Care for Aged and Disabled

##### Intermediate Community Services Program

The Texas Department of Human Services (DHS) proposes the repeal of §48.2201 and §48.2202 and new §§48.2201-48.2207 concerning eligibility for home and community-based services (HCS) and requirements for provider reimbursement for the HCS program for mentally retarded individuals funded through a Medicaid waiver in accordance with the Social Security Act, §1915(c). Section 1915(c) authorizes the Secretary of Health and Human Services to waive certain Medicaid requirements to enable states to cover an array of home and community-based services as alternatives to institutionalization.

Existing §48.2201 and §48.2202 are to be

repealed because they contain obsolete material. The purpose of new §48.2201 and §48.2202 is to extend HCS eligibility to individuals who once received but are now denied SSI benefits and are eligible for Medicaid. In addition, new §48.2201 and §48.2202 extend eligibility to children under age 18 who reside with parents or spouses. Implementation of the changes in client eligibility criteria is contingent upon approval by the Health Care Financing Administration. New §§48.2203-48.2207 specify the requirements for provider reimbursement.

Burton F. Raiford, deputy commissioner for support operations, has determined that for the first five-year period the proposed repeals and new sections will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the repeals and new sections.

Mr. Raiford also has determined that for each year of the first five years the repeals and new sections are in effect the public benefit anticipated as a result of enforcing the repeals and new sections will be to provide HCS benefits to eligible clients through a protective status provided by Congress, and to provide HCS benefits to clients living at home with their parents or spouses. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals and new sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Services Division-190, Texas Department of Human Services 222-E, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

###### • 40 TAC §48.2201, §48.2202

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

The repeals are 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.

#### §48.2201. Client Eligibility Criteria.

#### §48.2202. Right to Appeal.

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 May 15, 1989.

TRD-8904307 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Proposed date of adoption: August 1, 1989.

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

###### • 40 TAC §§48.2201-48.2207

The new sections are proposed under the

Human Resources Code, Title 2, Chapters 22 and 23, which provides the department with the authority to administer public and medical assistance programs.

**§48.2201. Client Eligibility Criteria.**

(a) To be determined eligible by the Department of Human Services (DHS) for home and community-based services (HCS), an applicant must:

(1) be categorically eligible for supplemental security income (SSI) benefits;

(2) have once been eligible for and received SSI benefits and continue to be eligible for Medicaid as a result of protective coverage mandated by federal law; or

(3) be under age 18 and reside with parents or spouses. Clients under 18 must satisfy all of the following:

(A) be eligible for Medicaid benefits only if institutionalized;

(B) meet the SSI criteria for disability as documented on the appropriate DHS forms;

(C) meet the SSI criteria for institutional deeming; and

(D) have income and resources which meet the requirements of the SSI program.

(b) To be determined eligible by DHS for HCS services, clients must also:

(1) meet the ICF-MR I, V, or VI level-of-care criteria as determined by the Texas Department of Health (TDH) according to applicable state and federal regulations and as verified by a current level-of-care assessment form;

(A) A preadmission level-of-care assessment form by TDH expires 90 calendar days from its issuance. For clients who are enrolled into the HCS program within 30 calendar days of discharge from an ICF-MR or another HCS provider, the current level-of-care assessment may be used for enrollment and is valid until the expiration date on the level-of-care assessment form.

(B) Re-evaluations of ICF-MR level-of-care criteria are performed annually by the Texas Department of Mental Health and Mental Retardation (TDMHMR) using the same criteria used by TDH. An initial re-evaluation of level of care must be performed no later than 364 calendar days from the date of enrollment. Subsequent level-of-care re-evaluations must be performed no later than 364 calendar days from the effective date of the prior level-of-

care assignment.

(C) Any gaps in level-of-care coverage periods result in loss of payment to the provider.

(2) live in the contracted provider's geographic catchment area as defined in the waiver request. If an applicant has been removed from his home and community because of ICF-MR institutional placement, he may be considered for placement in the HCS program even though his original county of residence is outside the provider's geographic catchment area;

(3) have had a comprehensive diagnosis and evaluation performed by a TDMHMR certified comprehensive diagnosis and evaluation center team within one year prior to enrollment into the HCS program;

(4) have an individual plan of care for home and community-based services form developed by the providers' interdisciplinary team; the team must be composed of a case management services provider, nurse, and social worker who meet the qualifications specified in the waiver;

(A) the individual plan of care for home and community-based services form must specify the type of waiver services required to keep an individual in the community, the units of waiver services, and their frequency and duration.

(B) The individual plan of care for home and community-based services form must be signed and dated by the interdisciplinary team prior to implementation. The interdisciplinary team must certify in writing that the waiver services authorized on the individual plan of care are necessary to avoid ICF-MR institutional placement and are appropriate to meet the applicant's needs in the community, as recommended.

(C) The individual plan of care for home and community-based services form must be approved by the Texas Department of Human Services and updated by the provider at least annually. Any gaps in the coverage periods of the individual plans of care approved by DHS result in loss of payment to the provider.

(c) The estimated annual cost of the applicant's individual plan of care for home and community-based services form must not exceed \$37,781 annually, the individual client cost ceiling used to determine eligibility.

(d) Enrollment into the HCS Program is limited to the number of clients approved by Health Care Financing Administration (HCFA) and allocated to the provider.

**§48.2202. Right to Appeal.** Any applicant or client who is denied home and community-based services is entitled to a fair hearing conducted by the DHS according to applicable agency rules.

**§48.2203. Provider Claims Payment.**

(a) The provider agency is reimbursed at a per diem rate for the home and community-based services (HCS) delivered to eligible clients based on an individual plan of care for home and community-based services form. Units of service must be provided and documented according to the individual plan of care. The provider agency must accept the department's payment as payment in full for waiver services. Units of service must be provided and documented according to the individual plan of care.

(b) Room and board are not included in the reimbursement rate to providers except in the case of respite care services which must not exceed 30 calendar days per year per client

(c) The provider agency is not entitled to payment if:

(1) the client is ineligible for Medicaid benefits or is an inpatient of a hospital, ICF, SNF, or ICF-MR;

(2) DHS has not authorized client enrollment on approval of application for enrollment form;

(3) gaps exist in the coverage periods for the level-of-care assessment form or the individual plan of care for home and community-based services form. Coverage periods are defined by the begin and end dates on the individual plan of care for home and community-based services form and the effective and end dates on the level-of-care assessment form;

(4) the initial claim for service is not received in the DHS Provider Payment Division within 365 calendar days from the end of the month of service;

(5) the provider agency fails to adequately document the reasons for discrepancies between the services authorized on the individual plans of care for home and community-based services and the services actually delivered; or

(6) the client is discharged from the HCS program. Payment is not made for the day of discharge from the HCS program.

**§48.2204. Delegation of Signature Authority.** The provider agency delegating signature authority to employees or to a billing service for claims preparation is responsible for the accuracy of the claim submitted for payment.

**§48.2205. Rejected Claims.** If DHS rejects



a claim because of errors, the provider agency must research the errors, initiate appropriate corrective action, and resubmit a corrected claim to the department with supporting documentation within 365 calendar days from the end of the month of service.

**§§48.2206. Right to Appeal.** Any provider who is denied payment is entitled to a fair hearing conducted by the DHS according to applicable agency rules.

**§48.2207. Cost Report.**

(a) Provider agencies must submit

financial and statistical information at least annually on cost report forms provided by DHS or on facsimiles which are formatted according to DHS specifications and are preapproved by DHS staff.

(b) Provider agencies must submit cost reports to DHS no later than 90 calendar days following receipt of the cost report forms unless a written extension is granted by the department.

(c) If a provider agency fails to file a cost report according to all applicable rules and instructions and within the allowable time period, DHS may withhold all provider payments until the provider agency

submits an acceptable cost report.

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 May 15, 1989.

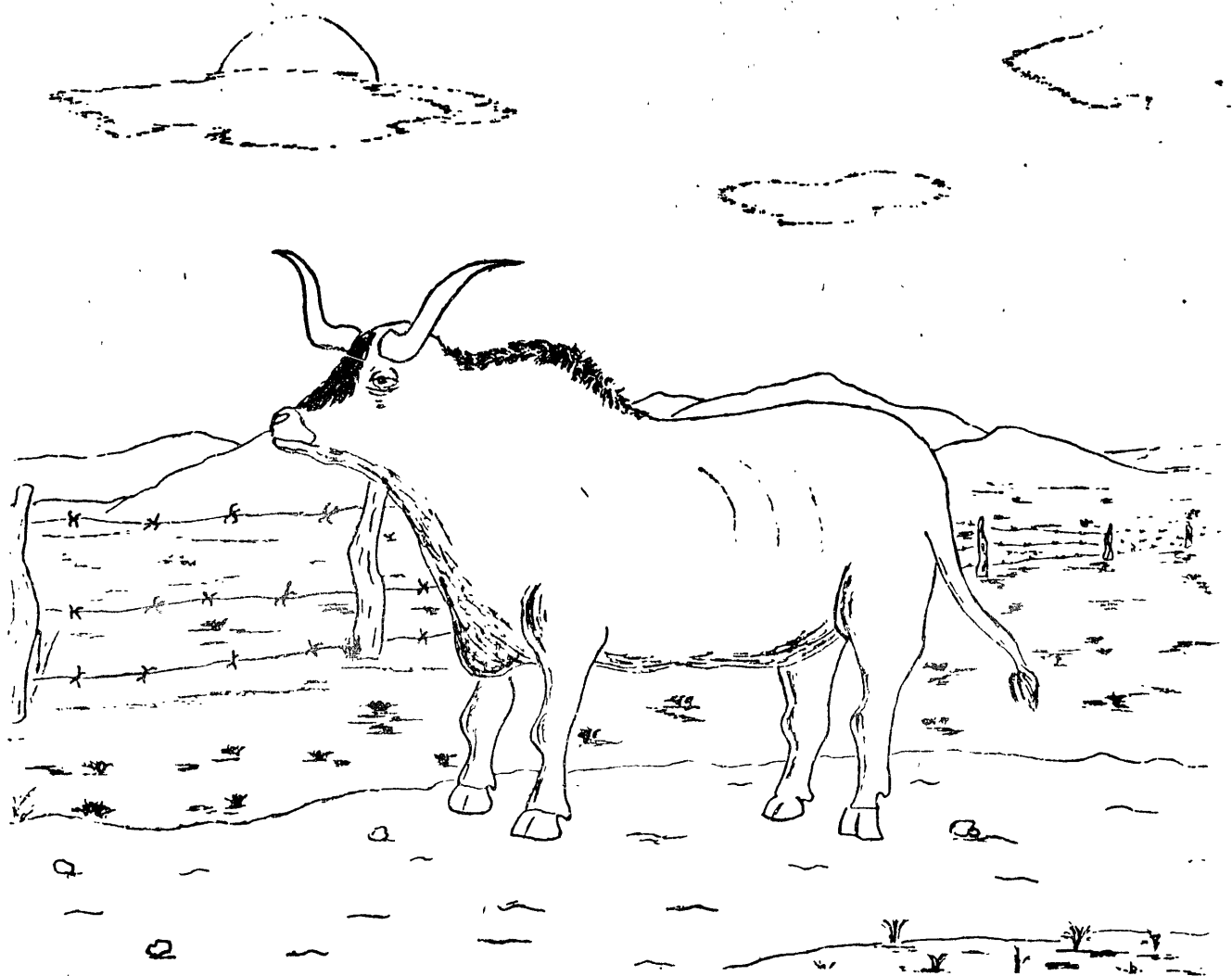
TRD-8304308

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Proposed date of adoption: August 1, 1989.

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





Name: B.G. Wilson

Grade: 9

School: Boles Jr. High, Arlington

# 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 34. PUBLIC FINANCE

### Part VII. State Property Tax Board

#### Chapter 155. Tax Record Requirements

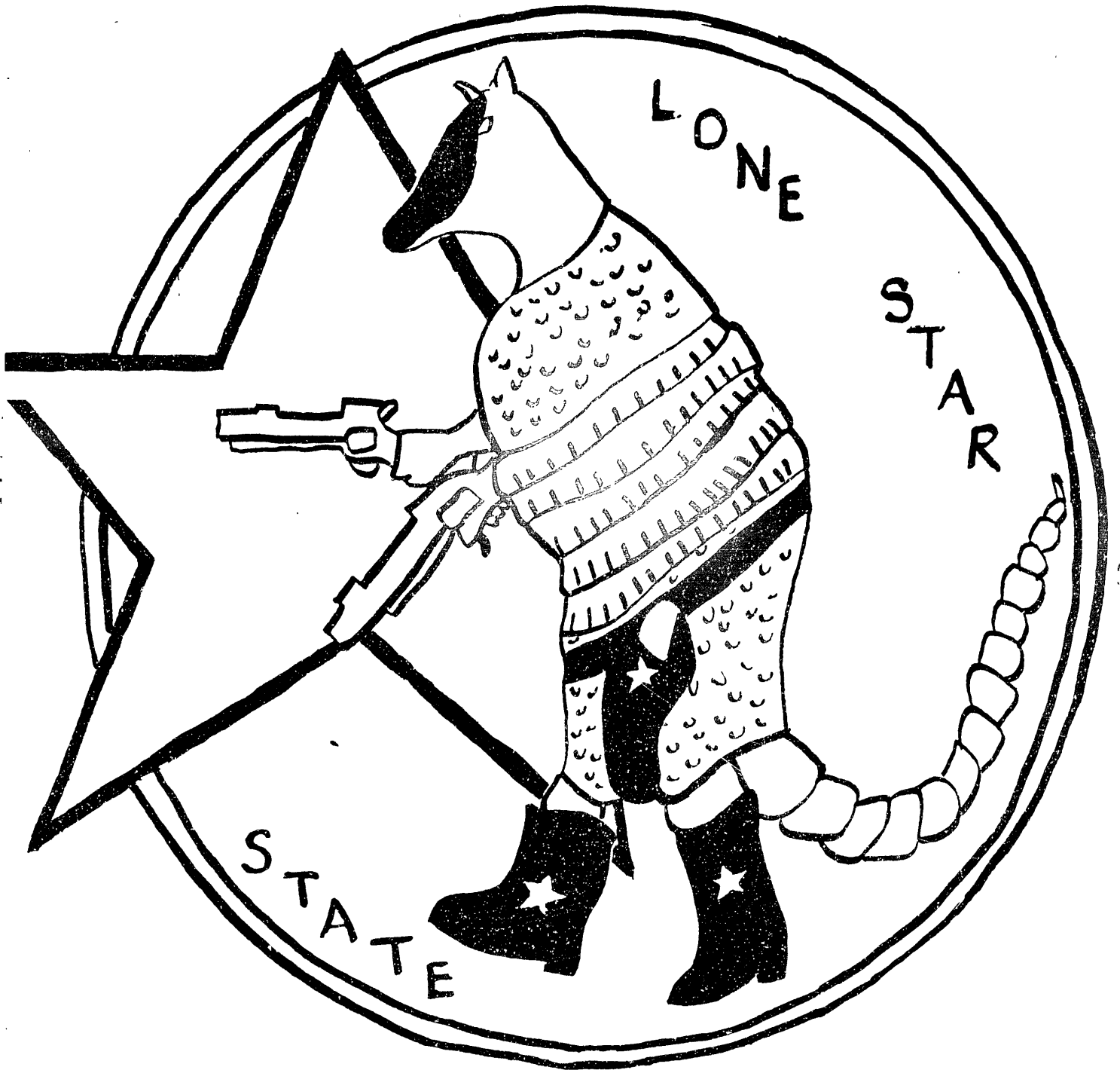
##### ◦ 34 TAC §155.35

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed amendment to §155.35, submitted by the State Property Tax Board has been automatically withdrawn, effective May 12, 1989. The amendment as proposed appeared in the November 11, 1988, issue of the *Texas Register* (13 TexReg 5674).

THD-8904269

Filed: May 12, 1989





Name: Tobi Helmintaler

Grade: 9

School: Boles Jr. High, Arlington

# Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 1.

### ADMINISTRATION

#### Part I. Office of the Governor

##### Chapter 5. Budget and Planning Office

##### Subchapter C. Energy Conservation Design Standards

##### Energy Conservation Design Standards for New State Buildings

###### ◦ 1 TAC §5.301

The Energy Management Center (EMC) of the Governor's Office of Budget and Planning adopts new §5.301, which adopts by reference the Energy Conservation Design Standard for New State Buildings, with changes to the proposed text as published in the November 11, 1988, issue of the *Texas Register* (13 TexReg 5671). The new section replaces the existing *State Energy Conservation Manual, #123SBC705, Part II, Apartment and Nonresidential Buildings* published by the State Purchasing and General Services Commission.

The purposes of the new section are to set minimum requirements and provide guidance for the energy efficient design of new state buildings in order to minimize their energy use without unduly constraining the building function nor the comfort or productivity of the occupants, and to provide minimum criteria for energy efficient building design and to provide a method for determining if a new building design complies with these criteria.

The Energy Management Center received 37 comments on the standard during the public review period which ended on December 30, 1988.

Commenting were representatives of Texas A&M University; the University of Texas Center for Energy Studies; the State Purchasing and General Services Commission; Lone Star Gas Company; the Austin Chapter of the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.; the Austin Section of the Illuminating Engineering Society; PPG Industries; National Cogeneration, Inc.; and the General Land Office.

Most comments were favorable. A few comments were editorial corrections or clarifications, and one was a generally supportive statement. Several nonsubstantive changes were made to improve clarity and are not detailed in this document. Most commenters

made technical recommendations which have been incorporated where appropriate, as summarized below.

One commenter submitted several general editorial corrections which EMC incorporated into the text.

Another commenter pointed out inconsistencies in the name used for the envelope compliance software. EMC changed the document at the beginning of Appendix D to reflect the correct envelope compliance software file name.

EMC adopted one commenter's recommendation to change the formula for calculation of fenestration U-values to adopt the ASHRAE TC 4.5 formulation by substituting it for Equation 8-4 in §8.4.2.2 as suggested.

One commenter recommended the addition of a paragraph on filter system design requirements, which EMC inserted at the end of §9.5.4.1.

Instead of deleting §9.4.2.2, per one comment, EMC added the following clause at the end of this section: "unless it can be shown that such a system is more energy efficient."

One commenter recommended that the insulation requirement for heating system pipes with diameters of 2.5 inches to four inches be increased from one to 1.5 inches for fluids in the operating temperature range of 105-140 degrees, and EMC has incorporated this increase in Table 9-1.

One commenter pointed out that fibrous glass ducts have leakage problems, and provided two alternative recommendations for addressing that issue. EMC adopted the second alternative by adding the clause, "or for fibrous glass ducts designed to operate at any operating pressure," to the last sentence in §9.4.8.4(b).

Another comment recommended adding an exception that would not require trimming of pump impellers in cases where load growth will occur. EMC made the suggested change, adding a time requirement. An exception (e) has been added to §9.4.10.3 as follows: "(e) where it can be shown that load growth will occur within the first five years of operation."

A commenter recommended lowering the minimum VAV fan motor size from 75 to 25 horse power and requiring variable speed drives by lowering the maximum demand from 50% to 35% of design wattage at 50% of design air volume. EMC incorporated the first change. The words "variable-speed drives or multiple speed drives unless an alternative design is shown to reduce total energy consumption" have been substituted for the phrase "controls and devices necessary for the fan motor to demand no more than 50% of design wattage at 50% of design air volume, based on manufacturer's test data" in

§9.5.4.3 of the adopted standard.

A commenter recommended deletion of the phrase allowing pumping flow variance by letting the pumps ride performance curves, and deletion of the exception for pumping systems that serve no more than one control valve. EMC has incorporated this comment by changing the last sentence in the first paragraph of §9.5.5.3 to read, "Flow may be varied by either variable speed pumps or staged multiple pumps," and by deleting Exception (b), regarding systems serving no more than one control valve.

A comment recommending requiring 100% hot deck reset for air systems, and deletion of the cold deck reset requirement has been incorporated by deleting the words "or cooled" from the first sentence of §9.5.6.1, and inserting the words "capable of being fully" after "temperature shall be" in the second sentence. This commenter also suggested changes to §9.5.6.2, that would make it consistent with §9.5.6.1. Thus, the words "and/or chilled" have been deleted from the first sentence of §9.5.6.2., and "fully" has been inserted before "reset" in the second sentence. Additionally, "by at least 25%." has been changed to "to 100% ." in the second sentence. Also, exception (c) in this section has been changed by deleting "cooling" and "dehumidification."

EMC incorporated a comment recommending that the standard suggest consideration of thermal-break type frames by adding the sentence, "Thermal-break type frames should be considered, especially for frames with extended surface area," to §8.4.2.2.

EMC incorporated a comment which recommended requiring vestibules on primary entries in all buildings five-story or taller by adding the suggested sentence, "Vestibules are required on all primary entries in buildings five stories or greater" to §6.4.5.1(f). EMC added the clause, "unless it can be shown that the total building energy consumption will be less without a vestibule" to this sentence.

In response to a comment recommending deletion of the exceptions for sign and display window lighting equipment in retail facilities, EMC deleted exceptions (1) and (m) from §6.2.2 since the state does not own such facilities.

Two different commenters recommended changing the control point requirement in §6.4.2.3 from one per 1,500 watts to one per 12 amps. EMC incorporated this change into the adopted text.

Two commenters remarked on confusion over the phrase "when sufficient daylight is available" in §6.4.3.2.(d) and EMC deleted this poorly defined phrase.

One commenter recommended deletion of

references to certain types of entertainment facilities. This change was incorporated in §6.2.2, exception (b) since the state does not own such facilities.

A comment recommending clarification by changing criterion (f) in §6.4.3. 2(f) to require a manual and photocell override off switch has been achieved by changing this criterion to read "with a photocell override for a manual ON switch."

One commenter pointed out that the state does not own speculative or shell buildings. EMC removed all references to these types of buildings in the standard.

One commenter recommended changes to the exceptions to §9.5.2. EMC changed exception (b) of this section to read "zones where special pressurization relationships or cross-contamination requirements exist, such as in some areas of hospitals and laboratories." Exception (d) has been modified by replacing the clause "such as computer rooms and museums" with "and these needs cannot be met without reheating or mixing."

One commenter recommended lowering the design fan power allowance in the proposed §9.5.4.3.1 to .8 watts/per cubic foot per minute. EMC finds the suggested reduction of combined fan system power from 1.25 to .8 watts/per cubic foot per minute impractical and substituted a 1 watt/per cubic foot per minute value for the 1.25 watts/per cubic foot per minute criterion in the adopted §9. 5.4.3.

Although EMC incorporated most of the comments received, some were considered inappropriate for a variety of reasons. Following is a summary of all the comments with which EMC does not concur, with an explanation of that position.

Two commenters recommended including gas-fired cooling equipment in the standard. Adopted §10.4.2.3 and §10.4.1.4 do not preclude the use of gas-fired, double-effect absorption, and gas engine-driven chillers. These two commenters also recommended including cogeneration equipment in the standard. The EMC agrees that cogeneration can be a cost-effective technology and points out that it is not precluded by the standard. However since cogeneration is an alternative utility supply option, it goes beyond the scope of the building standard, as proposed. Therefore, no changes were made.

EMC disagrees with the recommendation that lighting control points be extended for designs utilizing daylighting. Even though clients may resist installation of automatic daylighting controls, they are necessary if lighting energy is to be saved. Building occupants usually will not use manual on-off controls even when sufficient daylight is present. Thus, automatic control is necessary and the requirement should stand. The following sentence has been added, however, at the end of the first paragraph in §6.4.2.1: "Perimeter rows of lights should be on a separate switch from inboard rows of lights. Preferably, the controls for the perimeter lights should be automatic (responsive to light level)."

One commenter recommended including peak demand standards for the building as whole. EMC did not incorporate this a comment, although the idea is noteworthy. Peak power factor could be measured fairly simply, however, its prediction during building design

would be difficult. Therefore, no change was made.

One commenter recommended revision of §8.5 to include credit for reduction of lighting energy consumption through the use of fenestration. EMC did not make the suggested change. It is true that §8.5 provides credit only for the thermal benefits of daylighting, but additional daylighting credit is given in §6.4 through the allowance for increased lighting power density. This allowance is indeed a credit given for lighting equipment. If daylighting is achieved through fenestration optimization coupled with automatic lighting controls, the designer may add other artificial lighting (e.g., to improve aesthetic quality or for decorative lighting) for the artificial lighting that is supplanted by daylighting. While this daylighting credit is indirect it is nonetheless intended to encourage the use of daylighting by giving the lighting designer greater flexibility if daylighting is used. Until a more effective procedure for giving credit is devised, no change in the proposed standard is warranted.

One commenter recommended deleting the prescriptive criteria compliance method for determining maximum fenestration percentages and changing the VLT- SC requirement. The discrepancies between the prescriptive and performance compliance methods have been alleviated partially by correcting the ACP tables using current ASHRAE Standard 90.1P procedures. The ACP compliance method is still more stringent than the performance method, however, it must be available as a compliance methodology.

One commenter recommended deleting exception (c) in §9.5.2, relating to the provision of 75% of reheating energy supply by site-recovered or site-solar energy. EMC disagrees with this suggestion since the reheat energy requirement is set at 75% and may be well-suited to waste heat recovery or solar energy.

One commenter recommended deleting the economizer cycle requirement in §9.5. 3.1. EMC agrees that enthalpy economizers are sometimes unreliable, but does not agree that their use should be precluded by the standard. Therefore, no change was made.

One commenter recommended changing the power adjustment factor criterion (b) in §6.4.3.2 to 100% of controlled luminaire. EMC disagrees with the suggested substitution of "50% or more" for "100%" in this section because it is an accounting procedure and therefore should not lead to overdesign. No change was made.

One commenter recommended elimination of the Ballast Efficacy Factor requirement in §6.4.4. EMC believes that more technical information must be provided before this change is justified.

One commenter recommended replacing the phrase "or equivalent procedures" found in the second sentence of the first paragraph of §9.4.10.2, with "and balancing procedures shall be performed by contractors licensed by the NEBB or AABC." EMC disagrees, however, because requiring licensed contractors is beyond the scope of the standard. Thus, no change has been made.

The new section is adopted under the Texas Government Code, Title 4, §447. 004, which

provides the Energy Management Center with the authority to adopt and publish energy conservation design standards for all new state buildings.

### §5.301. Energy Conservation Design Standard for New State Buildings.

(a) The Energy Management Center of the Governor's Office of Budget and Planning, adopts by reference the energy conservation design standard entitled, "Energy Conservation Design Standard for New State Buildings, Energy Efficient Design of New Buildings Except Low-Rise Residential Buildings," Version 89/1, published by the Governor's Energy Management Center in May 1989. The purposes of the standard are to set minimum requirements and provide guidance for the energy efficient design of buildings in order to minimize their energy use without constraining the building function nor the comfort or productivity of the occupants, and provide criteria for energy efficient building design and methods for determining if a new building design complies with these criteria. All new state buildings, including buildings of state-supported institutions of higher education, are required to meet the minimum requirements unless specifically exempted by the standard.

(b) Copies of the standard are on file with the Governor's Energy Management Center, Room 620, Sam Houston State Office Building, 201 East 14th Street, Austin, Texas 78711, and may be viewed during normal office hours. The final standard, including compliance software, may be obtained by contacting the Governor's Energy Management Center at the cost of \$15.00 per copy.

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 May 11, 1989.

TRD-8904263

Ron Lindsey  
Director  
Governor's Office of  
Budget and Planning

Effective date: June 1, 1989

Proposal publication date: November 11, 1988

For further information, please call: (512) 463-1931

# TITLE 31. NATURAL RESOURCES AND CONSERVATION

## Part I. General Land Office

### Chapter 4. General Rules of Practice and Procedure

#### Subchapter A. Definitions and General Provisions

##### • 31 TAC §4.11

The General Land Office adopts an amendment to §4.11, with changes to the proposed text as published in the March 21, 1989, issue of the *Texas Register* (14 TexReg 1449).

The amendment clarifies and assures that the proceedings held under this chapter relate only to the redetermination or audit assessments, and that no other substantive rights of persons or entities are affected by these sections.

The section specifically limits the scope of this chapter to redetermination proceedings as a result of royalty audit assessments. The only change from the proposed section is the reference to §151.3 of this title (relating to Meetings, Minutes and Agenda). The old section and proposed new section contained an erroneous reference to §151.1 of this title (relating to Land and Mineral Estate Affected) instead of §151.3.

No comments were received regarding adoption of the amendments.

The amendment is adopted under the authority of the Natural Resources Code, §52.135 and §31.051, which authorizes the commissioner to adopt and enforce suitable rules and procedures for hearings consistent with the law.

##### §4.11. Purpose and Scope.

(a) These sections are intended to provide orderly and efficient procedures for the General Land Office to redetermine royalties, penalties, and interest due as a result of audit billing notices issued under the Texas Natural Resources Code, §52.135. These sections are not intended to cover matters regarding determination of the existence of vacancies (areas of unsurveyed public school land) and those under the jurisdiction of the School Land Board. For proceedings involving vacancies see §1.61 of this title (relating to scope) for proceedings regarding the School Land Board see §151.3 of this title (relating to Meetings, Minutes, Agenda).

(b) These procedures shall apply to the initiation, conduct, and determination of contested cases before the General Land Office, as defined by §4.12 of this title (relating to Definitions), where notice and hearing are required. They shall be fairly and impartially construed. These procedures shall not be construed so as to enlarge, diminish, or alter the jurisdiction, powers,

or authority of the General Land Office or the substantive rights of any person.

(c) These sections shall supplement the provisions of the Administrative Procedure and Texas Register Act (APTRA), Texas Civil Statutes, Article 6752-13a (supplement 1985). All practices and procedures provided for by APTRA, even though not specifically included herein, shall be applicable to practice before the General Land Office.

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 May 2, 1989.

TRD-8903933 Gary Mauro  
Commissioner  
General Land Office

Effective date: May 25, 1989

Proposal publication date: March 21, 1989

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

##### • 31 TAC §4.12

The General Land Office adopts an amendment to §4.12, without changes to the proposed text as published in the March 21, 1989, issue of the *Texas Register* (14 TexReg 1449).

The amendment clarifies and assures that the proceedings held under this chapter relate only to the redetermination of audit assessments, and that no other substantive rights of persons or entities are affected by these sections.

The amendment redefines the term "contested case" to include only redetermination proceedings resulting from royalty audit assessments.

No comments were received regarding adoption of the amendments.

The amendment is adopted under the authority of the Natural Resources Code, §52.135 and §31.051, which authorizes the commissioner to adopt and enforce suitable rules and procedures for hearings consistent with the law.

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 May 2, 1989.

TRD-8903934 Gary Mauro  
Commissioner  
General Land Office

Effective date: May 25, 1989

Proposal publication date: March 21, 1989

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

# TITLE 34. PUBLIC FINANCE

## Part I. Comptroller of Public Accounts

### Chapter 3. Tax Administration

#### Subchapter L. Motor Fuels Tax

##### • 34 TAC §3.197

The Comptroller of Public Accounts adopts new §3.197, without changes to the proposed text as published in the February 28, 1989, issue of the *Texas Register* (14 TexReg 1030).

The new section sets out the requirement that persons dealing in diesel fuel or gasoline must hold a permit.

The new section provides prompt notice to affected persons.

One comment in opposition of the new section was received. Commenter from Roach Oil Company objected to the additional paperwork burden which this new section would cause for businessmen. The comptroller's response was that while he is sympathetic to the problems they may cause, the need to protect the revenue interests of the state is significant and justifies the burden.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, 1982.

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 May 11, 1989.

TRD-8904255 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: June 2, 1989

Proposal publication date: February 28, 1989

For further information, please call: (512) 463-4004

# TITLE 40. SOCIAL SERVICES AND ASSISTANCE

## Part XII. Texas Advisory Board of Occupational Therapy

### Chapter 374. Continuing Education

##### • 40 TAC §374.1

The Texas Advisory Board of Occupational Therapy adopts the repeal of §374.1, without changes to the proposed text as published in the January 3, 1989, issue of the *Texas Register* (14 TexReg 16).

The Texas Advisory Board of Occupational

Therapy is repealing this section to delete obsolete language.

The repeal of §374.1 will function to delete obsolete requirements. A new §374.1 is being adopted to include changes made to the Texas Advisory Board of Occupational Therapy's requirements for continuing education by occupational therapists and occupational therapy assistants as a prerequisite for license renewal.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 3851, §6(e), which provide the Texas Advisory Board of Occupational Therapy with the authority to adopt rules consistent with the law to carry out its duties in administering the act.

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

Issued in Austin, Texas, on May 11, 1989.

TRD-8904223

Charles W. Schiesser  
Assistant Commissioner for  
Legal Services  
Texas Rehabilitation  
Commission

Effective date: June 2, 1989

Proposal publication date: December 27, 1988

For further information, please call: (512) 445-8368





**Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L**

*(Editor's note: As required by the Insurance Code, Article 5.95 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)*

The State Board of Insurance has adopted an amendment to the *Texas Automobile Manual*. Rule 74., §E.2.a. of the *Texas Automobile Manual* has been amended to include a new subsection reading as follows.

(45) Texas Safety Training course requires certification issued on or after June 15, 1989 by Texas Safety Training.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

This amendment is effective June 15, 1989.

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 May 10, 1989.

TRD-8904217      Nicholas Murphy  
                         Chief Clerk  
                         State Board of Insurance

Effective date: June 15, 1989

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



The State Board of Insurance has adopted amendments to the *Texas Automobile Manual* (Manual) 1981 edition.

Rule 97 of the Manual is amended by deletion of section A, as those provisions (concerning liability and collision coverages of elevators in garage operations) are unnecessary. The remaining sections of Rule 97 are redesignated A and B.

In the endorsement supplement of the Manual, Endorsement TE 03 01A is redesignated TE 03 01B, and the per person basis for bodily injury deductible is deleted, as such basis does not appear necessary nor commonly used.

Endorsement TE 04 01A is redesignated TE 04 01B. Numerous changes in terminology are adopted to conform with wording used in the current policy forms promulgated November 1, 1987. Further, the endorsement is made applicable to a non-resident Texas auto policy.

Endorsement TE 04 09A is redesignated TE 04 09B. The description of changes to the endorsement described in the paragraph immediately preceding also applies to the changes made in this endorsement.

Endorsement TE 99 80A is redesignated TE 99 80B. Further, the word "your" in section A, currently in bold type, is corrected to light type.

Some of the above changes necessitate revision of certain index pages in the Manual, and the revisions to these index pages are shown in exhibits attached to the order of the State Board of Insurance.

This amendment is effective on and after September 1, 1989

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas on May 10, 1989.

TRD-8904214      Nicholas Murphy  
                         Chief Clerk  
                         State Board of Insurance

Effective date: September 1, 1989

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



The State Board of Insurance has adopted an amendment to the *Texas Automobile Manual*. Rule 74., §E.2.a. of the *Texas Automobile Manual* has been amended to include a new subsection reading as follows.

(47) Southwest Defensive Driving course re-

quires certification issued on or after June 15, 1989 by Southwest Defensive Driving.

This amendment is effective June 15, 1989.

This notification is made pursuant to the Insurance Code Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act

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

Issued in Austin, Texas on May 10, 1989.

TRD-8904215      Nicholas Murphy  
                         Chief Clerk  
                         State Board of Insurance

Effective date: June 15, 1989

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



The State Board of Insurance has adopted an amendment to the *Texas Automobile Manual*. Rule 74., §E.2.a. of the *Texas Automobile Manual* has been amended to include a new subsection reading as follows.

(46) Lone Star Driving School-Missouri City course requires certification issued on or after June 15, 1989 by Lone Star Driving School-Missouri City

This amendment is effective June 15, 1989.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

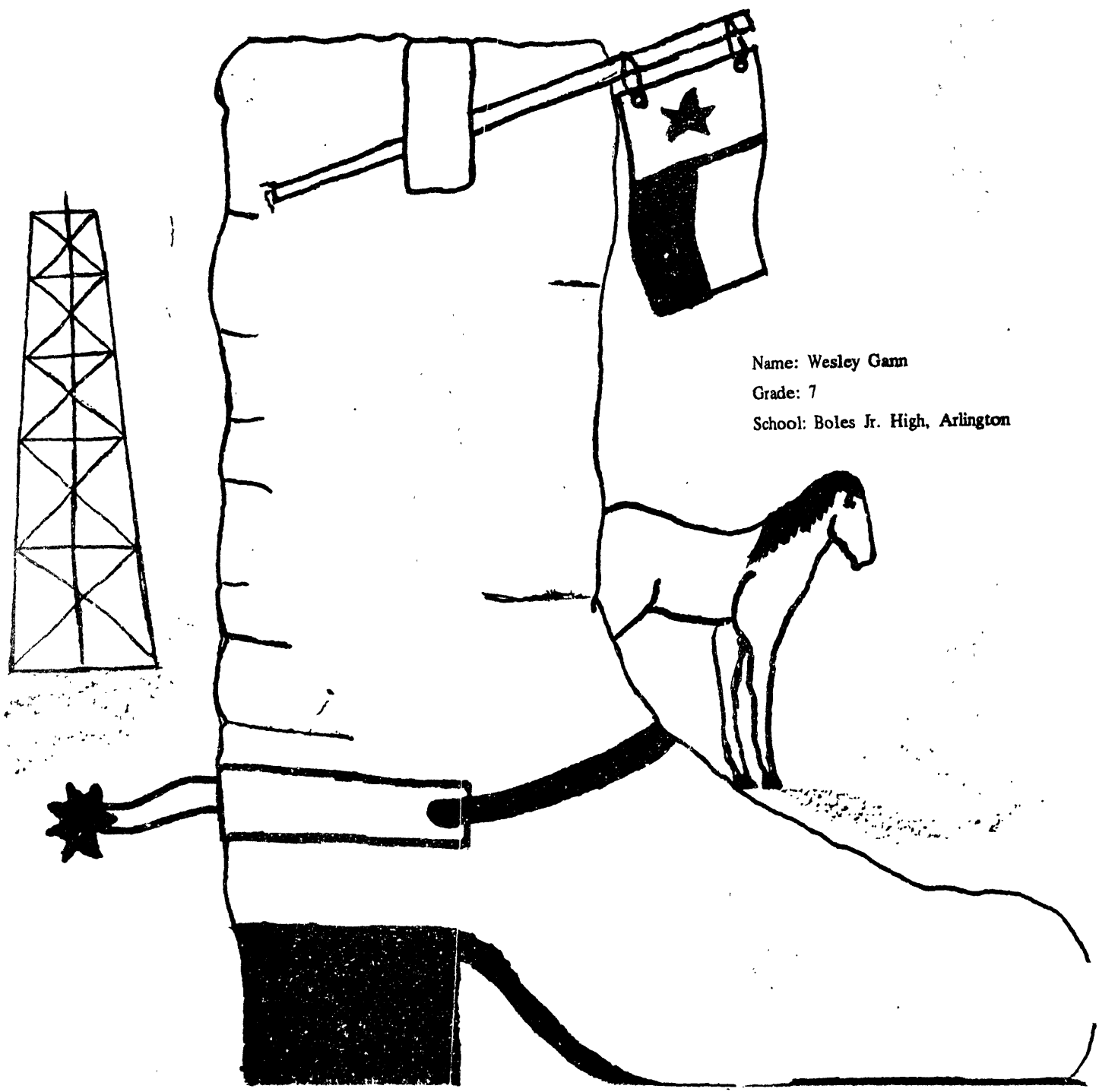
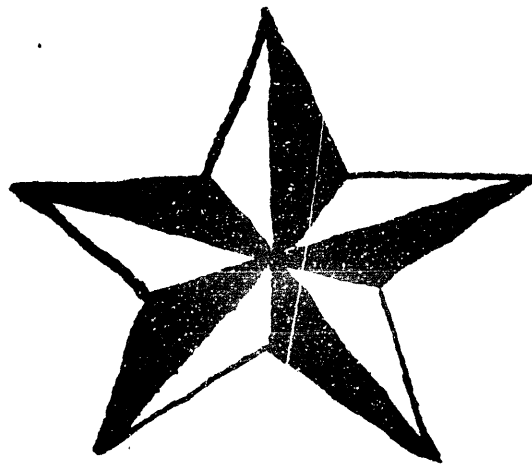
Issued in Austin, Texas on May 10, 1989.

TRD-8904216      Nicholas Murphy  
                         Chief Clerk  
                         State Board of Insurance

Effective date: June 15, 1989

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





Name: Wesley Gann  
Grade: 7  
School: Boles Jr. High, Arlington

# 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

**Wednesday, May 24, 1989.** The Texas Department of Agriculture will meet in the District Office, Expressway 83, two blocks west of Morningside Road, San Juan. Times and agendas follow.

**10:30 a.m.** The department will hold administrative hearing to review alleged violation of Texas Agriculture Code §103.001 by Kay-Dee Produce as petitioned by Alberto Garza.

**Contact:** Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** May 15, 1989, 8:10 a.m.

TRD-8904304

**1:30 p.m.** The department will hold an administrative hearing to review alleged violations of Texas Agriculture Code §103.001 by Francisco Badillo as petitioned by Jose G. Garcia.

**Contact:** Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** May 15, 1989, 8:10 a.m.

TRD-8904305

## Texas Antiquities Committee

**Friday, May 26, 1989, 9:30 a.m.** The Texas Antiquities Committee will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the committee will approve minutes 107, TAC meeting April 11, 1989; approve state archeological landmark (SAL) designation in Harris County; accept for SAL nomination three Bexar County and six Briscoe County archeological sites; hear 1554 Padre Island shipwreck exhibit presentation by Rick Stryker, director, Corpus Christi museum; discuss City of Austin permit request to relocate Austin Moonlight Tower (SAL), Travis County; hear resolution honoring Dr. Mike Hooks, formerly with the General

Land Office; hear a Bowie County courthouse update; discuss possible changes to TAC board; hear fiscal year 1990-1991 appropriation progress report; hear pending legislation update; discuss TAC hearing format; and hear a staff report.

**Contact:** Molly Godwin, P.O. Box 12276, Austin, Texas 78711, (512) 463-6098.

**Filed:** May 15, 1989, 9:02 a.m.

TRD-8904306

## State Bar of Texas

**Thursday, May 18, 1989, 9 a.m.** The Executive Committee of the State Bar of Texas submitted an emergency revised agenda for a meeting held in Room 206-207, Texas Law Center, 1414 Colorado Street, Austin. According to the agenda, the committee considered request to expand database of information on membership for directory purposes. The emergency status was necessary because item unknown at time of original posting.

**Contact:** Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

**Filed:** May 15, 1989, 3:33 p.m.

TRD-8904325

## Texas Bond Review Board

**Friday, May 19, 1989, 10 a.m.** The Texas Bond Review Board will meet in the Sergeant's Committee Room, State Capitol, Austin. According to the agenda, the board will approve minutes of the previous meeting; consider proposed issues concerning Texas State Technical Institute-housing system and auxiliary services revenue bonds, Texas Higher Education Coordinating Board-college student loan bonds, Texas A&M University System-master acquisition program revenue notes, and update on current legislation.

**Contact:** Tom K. Pollard, Sam Houston Building, Room 506, Austin, Texas, (512) 463-1741.

**Filed:** May 11, 1989, 11:14 a.m.

TRD-8904225

## Texas Department of Commerce

**Thursday and Friday, May 25 and 26, 1989, 8:30 a.m., daily.** The State Job Training Coordinating Council of the Texas Department of Commerce will meet in the Radisson Hotel, 700 San Jacinto Boulevard, Austin. According to the agenda summary, the council will consider policies for programs under the Job Training Partnership Act. Action will be taken by the council on the following items: PY89 Title II-A plan modifications; PY88 Wagner-Peyser 7(a) and 7(b) plan; PY88 older workers plan; state plan for federal adult education funding; PY89 deobligation/reobligation policy; PY89 incentives policy; and PY89 sanctions policy. The council will also discuss SJTCC bylaws; committee assignments; and model program for offenders.

**Contact:** Leslie Ross, 8317 Cross Park, Austin, Texas 78754, (512) 834-6143.

**Filed:** May 15, 1989, 2:08 p.m.

TRD-8904324

**Thursday, May 25, 1989, 9:30 a.m.** The Texas/Mexico Authority of the Texas Department of Commerce will meet in Suite 1140, 816 Congress Avenue, Austin. According to the agenda, the authority will introduce new authority members; review of TMA activities and projects to date; review of February 1989 border governors meeting; planning for September authority and Texas/Mexico Bi-State Commissions September conference; planning for November infrastructure finance summit; discuss new business.

**Contact:** Shellye Arnold, (512) 320-9669.

**Filed:** May 15, 1989, 1:02 p.m.

TRD-8904322

## Texas Education Agency

**Monday, May 22, 1989.** The Statewide Advisory Commission on Regional Education Service Centers of the Texas Education Agency will meet in the William B. Travis Building, 1701 North Congress Avenue, Austin. Times, rooms, and agendas follow.

**10 a.m.** The commission will meet in Room 1-104, to hear comments from the commissioner of education and chairman of the State Board of Education; discuss needs of regional service centers; and discuss executive director's salaries.

**Contact:** J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

**Filed:** May 11, 1989, 3:01 p.m.

TRD-8904236

**1 p.m.** The Committee for Research and Information will meet in Room 1-104, to consider public education information management system (PEIMS) update; review action by State Board of Education; and discuss provision of computer services to school districts.

**Contact:** J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

**Filed:** May 11, 1989, 3:01 p.m.

TRD-8904238

**2:30 p.m.** The Committee for Curriculum and Program Development will meet in Room 1-109, to review actions by the State Board of Education; discuss TEA/education service center efforts for curriculum and program development.

**Contact:** J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

**Filed:** May 11, 1989, 3:01 p.m.

TRD-8904235

**2:30 p.m.** The Committee for Finance and Compliance will meet in Room 1-110, to review action by the State Board of Education; discuss issues related to the education service center comprehensive plan and application.

**Contact:** J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

**Filed:** May 11, 1989, 3:01 p.m.

TRD-8904240

**2:30 p.m.** The Committee for Educational Quality will meet in Room 1-104, to review actions by the State Board of Education; and discuss issues related to the provision of training services to school districts.

**Contact:** J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

**Filed:** May 11, 1989, 3:01 p.m.

TRD-8904239

**Tuesday, May 23, 1989, 8:30 a.m.** The Commissioners' Advisory Council for Regional Services of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the council will hear committee reports and comments from the commissioner of education.

**Contact:** J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

**Filed:** May 11, 1989, 3:01 p.m.

TRD-8904237

## Employees Retirement System of Texas

**Tuesday, May 23, 1989, 9 a.m.** The Board of Trustees of the Employees Retirement System of Texas will meet in Room 401, ERS Building, 18th and Brazos Streets, Austin. According to the agenda summary, the board will review/approve minutes to trustee meetings; report on annual audit of insurance carrier operations under uniform group insurance program; hay management consultants analysis of compensation practices; consider/act on Equicor Health Plan, Inc. request for copayment amount reduction; consider/act on emergency/proposed amendments to §81.7(e); consider/act on emergency/proposed amendments to §81.5(c); consider/act on proposed amendment to §81.7(f)(5); consider/act on emergency/proposed amendment to §81.7(i)(1)(E); consider/act on proposed amendment to §85.7; consider/act on adoption of amendment to §85.1; consider/act on adoption of amendment 4 to TexFlex Employee Benefit Plan; consider/discuss/act on proposed legislation; appeals of contested cases; executive director's report; executive session; action resulting from executive session, set next trustee meeting date.

**Contact:** William S. Nail, 18th and Brazos, Austin, Texas, (512) 476-6431.

**Filed:** May 12, 1989, 1:39 p.m.

TRD-8904289

## Texas Department of Health

**Friday, May 19, 1989.** The Texas Board of Health of the Texas Department of Health will meet in the Austin Airport Hilton and Towers, 6000 Middle Fiskville Road, Austin. Times, rooms, and agendas follow.

**2 p.m.** The Public Health Promotion Committee will meet in the Tarrytown Room to discuss new three-year public information plan.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-

7484.

**Filed:** May 11, 1989, 4:05 p.m.

TRD-8904254

**3 p.m.** The Environmental Health Committee will meet in the Tarrytown Room to hear report on complaint from Jency Hills concerning solid waste permitting and consider rules concerning: testing of water fountains for lead contamination; use of an approved narcotic drug (methadone) in the treatment of narcotic addiction; positive results of testing conducted for pesticide in food; asbestos exposure abatement in public buildings; drinking water standards governing drinking water quality and reporting requirements for public water supply systems; amendments to the Texas Regulations for Control of Radiation, Part 21, regarding a memorandum of understanding between the department and the Texas Water Commission; memorandum of understanding related to jurisdiction over sludge from municipal wastewater treatment plants; crab meat; saturated fat and cholesterol content of foods.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** May 11, 1989, 4:05 p.m.

TRD-8904256

**5:30 p.m.** The Budget Committee will meet in the Palmer Room to consider the purchase of a mainframe disk subsystem to provide adequate storage capacity for WIC certification and food delivery data; and allocate preventive health and health services and maternal and child health services block grant funds for fiscal year 1990.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** May 11, 1989, 4:05 p.m.

TRD-8904260

**Saturday, May 20, 1989.** The Texas Board of Health of the Texas Department of Health will meet at 1100 West 49th Street, Austin. Times, rooms, and agendas follow.

**7:30 a.m.** The Executive Committee will meet in Room M-749 to discuss items of procedure for upcoming board meeting.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** May 11, 1989, 4:05 p.m.

TRD-8904253

**8 a.m.** The Chronically Ill and Disabled Children's Services and Maternal and Child Health Committee will meet in Room M-721 to consider: proposed amendments to the chronically ill and disabled children's services program rules concerning craniofacial centers; chronically ill and disabled children's services program hospital approval criteria; status of the Maternal and

**Infant Health Improvement Act (MIHA); and expansion of Children's Speech, Hearing, and Language Screening Advisory Committee.**

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** May 11, 1989, 4:05 p.m.

TRD-8904258

**8:30 a.m.** The Nursing Homes Committee will meet in Room M-752 to adopt new rules concerning minimum licensing standards for facilities servicing persons with mental retardation; and adopt amendments to rules concerning nurse aide training and registry.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** May 11, 1989, 4:05 p.m.

TRD-8904259

**9 a.m.** The Alternate Care Committee will meet in Room M-741, to adopt amendments to the rules relating to fee increases for all licensed professional counselors; adopt amendments to the rules concerning the certification of medical radiologic technologists; and revise rule concerning providers under the state hearing aid loan program.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** May 11, 1989, 4:05 p.m.

TRD-8904257

**9 a.m.** The Emergency and Disaster Committee will meet in Room M-764 to consider proposed new rule concerning operations of the Medical Advisory Board and the standards on Motor Vehicle Operation Division.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** May 11, 1989, 4:05 p.m.

TRD-8904251

**10 a.m.** The Legislative Committee will meet in Room M-652 to hear update on proposed legislation, 71st Legislative session.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** May 11, 1989, 4:05 p.m.

TRD-8904252

**10:30 a.m.** The board will meet in Room M-739, to approve minutes of previous meeting and consider: commissioner's report; AIDS update; resolutions; rural health care and AIDS legislation; purchase of mainframe disk subsystem for WIC program; allocation of preventive health and health services and maternal and child

health services block grant funds for fiscal year 1990; complaint on solid waste permitting; committee reports; proposed and adopted rules professional counselors; medical radiologic technologists hearing aid loan program; craniofacial center; Medical Advisory Board and standards on Motor Vehicle Operation Division; lead contamination in water fountains; methadone; pesticides in food; asbestos; drinking water; radiation; sludge; persons with mental retardation; nurse aides; and announcements and comments requiring no board action.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** May 11, 1989, 4:05 p.m.

TRD-8904261

### Health and Human Services Coordinating Council

**Thursday, June 1, 1989, 9 a.m.** The Public Private Policy Group of the Health and Human Services Coordinating Council will meet in the Sergeant's Committee Room, State Capitol Building, Austin. According to the agenda, the group will approve minutes of the previous meeting; discuss pending legislation and committee restructuring; hear report of the Levels of Care Committee concerning discussion of monitoring process and implementation strategies and discussion of technical group's recommendations for revisions to the common application; and consider update on 1988 cost report process, old business, and new business.

**Contact:** Tom Olsen, 311-A East 14th Street, Austin, Texas (512) 463-2105.

**Filed:** May 15, 1989, 4:02 p.m.

TRD-8904327

### Texas Heroes Monument Commission

**Tuesday, May 16, 1989, 10 a.m.** The Texas Heroes Monument Commission met in emergency session in the Caduceus Room, UTMB Administration Building, 301 University, Galveston. According to the agenda, the commission heard secretary's report and treasurer's report, discussed bidding conservators; and considered other items. The emergency status was necessary because original film was lost.

**Contact:** Cindy Sullivan, 51 Colony Park Circle, Galveston, Texas 77551, (409) 744-5632.

**Filed:** May 16, 1989, 8:46 a.m.

TRD-8904344

### University of Houston System

**Friday, May 19, 1989, 7:30 a.m.** The Board of Regents of the University of Houston System, will meet in the Zodiac Room, Conrad Hilton College Hotel, University of Houston. According to the agenda, the board will discuss and/or act upon the following: minutes; executive session: personnel—University of Houston-president, University of Houston System chancellor, report from employee-consultants and increase of project cost-third electrical feeder.

**Contact:** Peggy Cervenka, 4600 Gulf Freeway, Suite 500, Houston, Texas 77023, (713) 749-7545.

**Filed:** May 15, 1989, 8:47 a.m.

TRD-8904311

### State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto, Austin. Dates, times, rooms, and agendas follow.

**Monday, May 22, 1989, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 442, to consider Docket 13078-Proposed plan of merger of Praetorian Mutual Life Insurance Company, Dallas, into State Mutual Life Insurance Company, Rome, Georgia.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 11, 1989, 3:23 p.m.

TRD-8904248

**Tuesday, May 23, 1989, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10359-Application of Mimi Marr, Dallas, for a group I, legal reserve life insurance agent's license.

**Contact:** Will McCarrn, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 15, 1989, 3:53 p.m.

TRD-8904330

**Tuesday, May 23, 1989, 9 a.m.** The Commissioner's Hearing Section will meet in Room 442, to consider Docket 10347-Whether disciplinary action should be taken against Lucas Rosales, Jr. San Antonio, who holds a group II, life, health, and accident insurance agent's license issued by the board.

**Contact:** O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 15, 1989, 3:52 p.m.

TRD-8904331

**Tuesday, May 23, 1989, 10 a.m.** The board will meet in Room 414, to consider filing by insurance services office of rates,

rules, and forms for commercial fine arts. Final action on 28 TAC §§7.1007, 7.1201-7.1206, and 29. 601-29.607. Final action on repeal of 28 TAC §§9.301-9.308 and 29.501-29.507. Board orders on several different matters. Personnel matters. Pending and contemplated litigation. Solvency matters.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

**Filed:** May 15, 1989, 3:34 p.m.

TRD-8904340

**Tuesday, May 23, 1989, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10246-Whether disciplinary action should be taken against Bobby Jack Baker, Fort Worth, who holds a group I, legal reserve life insurance agent's license.

**Contact:** Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 15, 1989, 3:53 p.m.

TRD-8904328

**Tuesday, May 23, 1989, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 442, to consider Docket 10374-Issuance of a certificate of authority for John Knox Villages of the Rio Grande Valley, Inc. Weslaco, under the Texas Continuing Care Facility Disclosure and Rehabilitation Act, §4(g).

**Contact:** Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 15, 1989, 3:58 p.m.

TRD-8904326

**Tuesday, May 23, 1989, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10340-Whether disciplinary action should be taken against Earl Wayne Kountz, South Lake, who holds a group I, legal reserve life insurance agent's license and a group II, life, health, and accident insurance agent's license issued by the board.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 15, 1989, 3:52 p.m.

TRD-8904335

**Wednesday, May 24, 1989, 9 a.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10338-Whether disciplinary action should be taken against Walter Homer Schick, Jr., doing business as Dallas Commercial Agency, Dallas/Richardson/Plano, who holds a group I, legal reserve life insurance agent's license, a group II, health and accident insurance agent's license, and a local recording agent's license issued by the board.

**Contact:** Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 15, 1989, 3:52 p.m.

TRD-8904332

**Wednesday, May 24, 1989, 9 a.m.** The Commissioner's Hearing Section will meet in Room 442, to consider Docket 10348-Whether disciplinary action should be taken against Jim Dan Webb, Garland/Dallas, who holds a group I, legal reserve life insurance agent's license issued by the board.

**Contact:** O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 15, 1989, 3:52 p.m.

TRD-8904334

**Wednesday, May 24, 1989, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 442, to consider Docket 10336-Whether disciplinary action should be taken against Dennis L. Karen, Dallas, who holds a group I, legal reserve life insurance agent's license.

**Contact:** Will McCam, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 15, 1989, 3:53 p.m.

TRD-8904329

**Wednesday, May 24, 1989, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 13061-Whether disciplinary action should be taken against Ernest R. Gamez, San Antonio, who holds a group I, legal reserve life insurance agent's license and a local recording agent's license.

**Contact:** Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 15, 1989, 3:52 p.m.

TRD-8904335

### The Advisory Commission on Intergovernmental Relations

**Friday, May 19, 1989.** The Advisory Commission on Intergovernmental Relations will meet at Joe C. Thompson Conference Center, 202 and Red River, Austin. Times, rooms, and agendas follow.

**8:30 a.m.** The Special Committee on Operations and Funding will meet in Room 1.122 to consider potential new grants and contracts, review the status of budget request for 1990-1991 biennium, consider organization and funding proposals for the next fiscal year, consider an amendment to 1989 operating budget, and review report on current finances.

**Contact:** Jay G. Stanford, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

**Filed:** May 11, 1989, 1:58 p.m.

TRD-8904232

**9:30 a.m.** The New Federalism Committee will meet in Room 1.122, to discuss projects and funding sources and consider progress reports including the study on superconducting super collider project; the productivity and management project; a potential study related to expansion of for-mosa plastics and other current projects.

**Contact:** Jay G. Stanford, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

**Filed:** May 11, 1989, 1:58 p.m.

TRD-8904233

**9:30 a.m.** The State-Local Issues Committee will meet in Room 1.126 to hear progress reports on commission projects for rural addressing, the Texas Cancer Council, subdivision regulations, and other current projects.

**Contact:** Jay G. Stanford, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

**Filed:** May 11, 1989, 1:58 p.m.

TRD-8904231

**10:30 a.m.** The commission will meet in Room 1.126 to consider the following items: executive director's report; committee reports; including Operations and Funding Committee; State-Local Issues Committee; and New Federalism Committee. The commission will also consider project reports for final publication, review status reports on all current projects, consider potential new projects as well as consider organization and funding proposals for the next fiscal year.

**Contact:** Jay G. Stanford, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

**Filed:** May 11, 1989, 1:58 p.m.

TRD-8904230

### Texas Board of Irrigators

**Wednesday, May 24, 1989, 9 a.m.** The Texas Board of Irrigators will meet in Room 513-F, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will elect a chairman. The board will elect a vice-chairman. The board will consider approval of the minutes. The board will consider certification of licensed irrigators/installers who passed the exam. The board will designate site and date for next exam. The board will address the expiration of license 283, Robert Wingfield, Jr. The board will discuss Article 8751, §2.(2), registered professional engineers. The board will discuss pending legislation and the appropriation. The executive secretary will report on the status of various matters of

interest to the board.

Contact: Joyce Watson, 1700 North Congress Avenue, Austin, Texas (512) 463-7992.

Filed: May 11, 1989, 10:37 a.m.

TRD-8904228

## Department of Labor and Standards

Friday, May 19, 1989, 2 p.m. The Manufactured Homeowners' Recovery Fund of the Texas Department of Labor and Standards will meet in Room 105, E.O. Thompson Building, 920 Colorado Street, Austin. According to the agenda, the fund will consider status of fund, claims pending, request for attorney general's opinion, legislative update, new business, and date/place/time of next meeting.

Contact: James H. Keahey, 920 Colorado Street, Austin, Texas 78701.

Filed: May 11, 1989, 10:36 a.m.

TRD-8904228

Thursday, May 25, 1989, 9 a.m. The Labor, Licensing, and Enforcement Division of the Department of Labor and Standards will meet in Room 1012, E.O. Thompson Building, 920 Colorado, Austin. According to the agenda, the department will include processing, that consider suspension, revocation, denial, or a civil penalty for Richard Sayton's auctioneer license, for violation of the department's auctioneering rules and regulation.

Contact: Jack Shiver, 920 Colorado, Austin, Texas 78711, (512) 463-3i27.

Filed: May 15, 1989, 10:31 a.m.

TRD-8904320

## Texas State Board of Medical Examiners

Saturday, May 20, 1989, 8:30 a.m. The Texas State Board of Medical Examiners will meet at 1101 Camino La Costa, Austin. According to the agenda, the board will consider election of officers under authority of Texas Civil Statutes, Article 6252-17.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: May 11, 1989, 3:59 p.m.

TRD-8904250

## Midwestern State University

Friday, May 12, 1989, 9 a.m. The Board of Regents of Midwestern State University submitted an emergency revised agenda for a meeting held in the Hardin Boardroom, MSU, Wichita Falls. According to the agen-

da, the board discussed the renewing of a contract with the Continental Basketball Association Texans. A recommendation will be made concerning the 1989-1990 season. The administration recommends the allocation of up to \$82,000 for the purchase of a wooden floor and covering for the Ligon Coliseum. The emergency status was necessary because action on these two items must be taken immediately. The board will be unable to meet in a quorum for discussion for some time. Information just became available.

Contact: Deborah Barrow, 3400 Wichita Falls, Texas 76308, (817) 692-6551, (817) 691-2253.

Filed: May 12, 1989, 9:24 a.m.

TRD-8904270

## Texas National Research Laboratory Commission

Thursday, May 25, 1989, 10:30 a.m. The Texas National Research Laboratory Commission will meet in the Ellis County Courthouse, Waxahachie. According to the agenda, the commission will approve minutes of the April 27, 1989 meeting; hear chairman's comments, executive director's report, and committee report; and consider old and new business.

Contact: Frances K. Springer, 1801 North Hampton Road, Suite 252, DeSoto, Texas 75115, (214) 709-6481.

Filed: May 15, 1989, 8:20 a.m.

TRD-8904301

## Board of Pardons and Paroles

Friday, May 12, 1989, 9:30 a.m. The Board of Pardons and Paroles met in emergency session at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board discussed the pre-parole transfer program and the award of contracts for additional PPP facility beds. The emergency status was necessary because the overcrowded conditions of county jails and TDC population necessitates immediate action.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-7249.

Filed: May 11, 1989, 2:21 p.m.

TRD-8904234

Monday, May 15, 1989, 3 p.m. The Board of Pardons and Paroles met in emergency session at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board considered assigning the executive director as a division director with the duties and responsibilities determined by the board at a later date and appointing Bill Brooks as

acting executive director. The emergency status was necessary because immediate personnel needs of the agency mandate immediate action by the board.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-7249.

Filed: May 15, 1989, 12:41 p.m.

TRD-8904321

Monday-Friday, May 22-26, 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: May 12, 1989, 11:22 a.m.

TRD-8904273

Tuesday, May 23, 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: May 12, 1989, 11:22 a.m.

TRD-8904274

## Texas State Board of Pharmacy

Tuesday and Wednesday, May 23 and 24, 1989, 8:30 a.m., daily. The Texas State Board of Pharmacy will meet in the Embassy Suites Hotel North, 5901 North 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 March 7 and 8, 1989; approve option to renew office lease space contract; discuss and review legislation passed during the 71st session, board member participation in informal conferences, "closed door pharmacies"; hear reports on previous national meetings and upcoming meetings; consider proposed rules 291.74, defining rural hospital area and 283.2, defining "state"; hear report on the status of TSBP fiscal year 1990-1991 budget request; discuss United States Department of Health and Human Services

office of the Inspector General's office visit of May 16 and 17, 1989; consider proposed agreed board orders, and; executive session to discuss litigation and personnel matters; and discuss possible policy pertaining to rural physicians.

**Contact:** Fred S. Brinkley, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754.

**Filed:** May 15, 1989, 2:06 p.m.

TRD-8904323

## State Property Tax Board

**Monday-Wednesday, May 22-24, 1989, 9 a.m. daily.** The State Property Tax Board will meet in the Agency Conference Room, 9501 North IH 35, Austin. According to the agenda summary, the board will approve minute of the March 30, 1989, board meeting; consider budget amendments; consider executive director's financial statement; consider hearings examiner for intangible appeals. Discussion items, public comments on activities of board staff, report on activities; introduce new staff; hold orientation of board members in preparation for school and appraisal district appeal of the 1988 property value study. Action items: consider school and appraisal district appeals of hearing panel decision on the 1988 property value study; and approve the 1988 property value and appeals. The board will also meet in executive session to consider personnel matters.

**Contact:** Ron Patterson, 9501 North IH-35, Austin, Texas (512) 834-4800.

**Filed:** May 12, 1989, 11:07 a.m.

TRD-8904272

## Texas State Board of Public Accountancy

**Friday, May 19, 1989, 9 a.m.** The Executive 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 legislative matters; discuss implementation of amendments to the Act; review the board's financial matters; review board's financial statement; discuss appropriated fiscal year 1989 expenditures; review the status of computer purchase; discuss substantive rule 505.10. Board committees: review of NASBA/CPA matters; report on the status of GAO complaints against Texas accounting firms; review status of board member appointments review of personnel matters—executive session, and other matters.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** May 15, 1989, 1:32 p.m.

TRD-8904246

**Friday and Saturday, May 19 and 20, 1989 1 p.m. and 8:30 a.m. respectively.** The board will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the board will approve minutes of April 20 and 21, 1989, meeting; report of the Executive Committee; report of the Technical Standards Review Committee; report of the Constructive Enforcement Committee; action on substantive rule 505.8, board meetings; ratification of board orders, consent orders, and proposals for decision; review of certain board communications; review of future meeting/hearing schedules; briefing of plans for the May 20, 1989 swearing-in ceremony; and conduct the swearing-in ceremony for CPAs.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** May 15, 1989, 1:32 p.m.

TRD-8904245

**Friday, May 24, 1989, 9 a.m.**

**Wednesday, May 24, 1989, 9 a.m.** The Behavioral Enforcement 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 consider March and April report; recommendations regarding specific complaints—licensees: complaints 88-12-20L; 89-03-08L; 89-03-09L; 89-03-10L; 89-03-11L; 88-12-04L; 89-03-14L; 88-12-21L; 88-12-12N; 88-12-13N; 89-03-22L; 89-02-13L; 88-11-06L; 88-11-07L; 88-11-12L; 88-09-12L; 88-12-23L; 88-12-24L; 88-09-11L; 88-12-02L; 89-03-03L; 88-12-22L; 88-11-14L; 89-01-06L; discussion items: complaint 88-08-08L; Armstrong; Withers; Colburn; Henry; McElhane; Solt; Taylor; complaint 88-04-17L; complaints 85-05-06L, 85-06-07L; 85-050-08L; Lovelady; Middleton; Morgenthau and Associates; question on consulting services; Beason, Jacks, and Willis, Sugg; Armstrong; Cook; Smith; Brumley; complaint 88-12-07L; Burns; Leuppi; Tannery; and review of backlog of complaints.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** May 15, 1989, 1:32 p.m.

TRD-8904338

## Texas Department of Public Safety

**Thursday, May 25, 1989, 10 a.m.** The Public Safety Commission of the Texas Department of Public Safety will meet in the Commission Room, 5805 North Lamar, Austin. According to the agenda, the commission will approve minutes; budget matters; DPS salaries; personnel matters; real estate matters; pending and contemplated

litigation; miscellaneous and other unfinished business.

**Contact:** Joe E. Milner, 5805 North Lamar, Austin, Texas (512) 465-2000, ext. 3700.

**Filed:** May 16, 1989, 8:13 a.m.

TRD-8904342

## 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.

**Thursday, June 1, 1989, 10 a.m.** The Hearings Division will consider Docket 8233-Application of Sam Rayburn G&T Electric Coop., Inc. for sale, transfer, or merger.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 15, 1989, 3:25 p.m.

TRD-8904336

**Tuesday, June 6, 1989, 1:30 p.m.** The Hearings Division will consider Docket 8523-Application of Southwestern Bell Telephone Company for extension of Plexar Custom Analog Service to the City of Dallas.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 15, 1989, 3:24 p.m.

TRD-8904337

## State Purchasing and General Services Commission

**Wednesday, May 24, 1989, 9 a.m.** The State Purchasing and General Services Commission will meet in Conference Room 402, Central Services Building, 1711 San Jacinto, Austin. According to the agenda, the commission will consider the repeal of §115.62 and final adoption of new §115.62 concerning the elimination of architectural barriers, consider proposed amendments to §§113.1, 113.2, 113.5 and 113.6 concerning purchasing rules, Long Range Planning Committee report, monthly legislation report, monthly 369 report, monthly operating budget report, monthly construction project report, monthly division activity report, executive session to consider the status of the potential purchase of real property pursuant to the provisions of Texas Civil Statutes, Article 601b., executive session to receive a report from counsel concerning the status of all pending litigation, executive session to receive information from, and ask questions of, staff concerning potential leg-



islation for the 71st Legislature.

Contact: John R. Neel, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3446.

Filed: May 16, 1989, 8:44 a.m.

TRD-8904343

## Texas Racing Commission

**Monday, May 22, 1989, 9 a.m.** The Texas Racing Commission will meet at 405 West 15th Street, Austin. According to the agenda summary, the commission will approve minutes; consider official breed registry for Appaloosa Horses; presentation by Ken Campbell, Texas Appaloosa Horse Club and vote to designate Texas Appaloosa Horse Club as the official breed registry; consider resolution delegating certain duties to the executive secretary and vote; consider the regulation of Las Palmas Downs as a nonpari-mutuel racetrack and vote; consider application forms for occupational licenses and vote to approve; vote to propose amendments to §§301.1, 303.151, 303.154, 305.6, 305.13, 305.53, 309.12, 309.56, in the *Texas Register* for publication; vote to propose new §§305.52, 305.35, 309.66, 319.131, in the *Texas Register* for publication; vote to propose Chapter 311, Subchapter C and Chapter 321 for publication in the *Texas Register*; vote to repeal §305.34.

Contact: Paula Cochran Carter, 400 West 15th Street, Austin, Texas 78701, (512) 476-7223.

Filed: May 15, 1989, 9:19 a.m.

TRD-8904310

## Railroad Commission of Texas

**Monday, May 22, 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 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: May 12, 1989, 11:43 a.m.

TRD-08904281

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 12970, Austin, Texas 78711, (512) 463-7274.

Filed: May 12, 1989, 11:43 a.m.

TRD-08904280

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: May 12, 1989, 11:43 a.m.

TRD-08904287

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: May 12, 1989, 11:43 a.m.

TRD-08904278

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: May 12, 1989, 11:43 a.m.

TRD-08904285

The commission will consider and act on the Legal Division report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to receive legal advice regarding pending and/or contemplated litigation, including the following matter: case 88-4781-G in the judicial district Nueces County, Alida Rosemarie Quintero v Railroad Commission of Texas. Report to commission on gas storage.

Contact: Cue Boykin, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6921.

Filed: May 12, 1989, 11:43 a.m.

TRD-08904285

The commission will consider and act on the LP Gas Division director's report on division administration, budget, procedures, and personnel matters. Consideration of proposal for public comment amendment to §13.13 and proposed new §13.100 pertaining to the regulations for compressed natural gas of the Liquefied Petroleum Gas Division of the commission.

Contact: Meredith Kawaguchi, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7009.

Filed: May 12, 1989, 11:43 a.m.

TRD-08903105

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 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: May 12, 1989, 11:43 a.m.

TRD-08904276

The commission will consider category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie L. Osborn, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6755.

Filed: May 12, 1989, 11:43 a.m.

TRD-08904277

The Oil and Gas Division will consider plugging with the use of state funds; Western Energy Resources, Inc., O. Mills et al (22370) lease, well 1 and 2, Baylor County regular field, Baylor County.

Contact: Willie Steed, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-6830.

Filed: May 12, 1989, 11:43 a.m.

TRD-8904279

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. The commission will consider guidelines for registered professional engineers.

Contact: Mark Bogan, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-6981.

Filed: May 12, 1989, 11:43 a.m.

TRD-08904286

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 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: May 12, 1989, 11:43 a.m.

TRD-08904282

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 its entirety or for particular action at a future time or date. Consideration of a declaratory order to interpret the certificates listed in the appendix "A".

Contact: Raymond Bennett, P.O. Drawer 12970, Austin, Texas 78711, (512) 463-7122.

Filed: May 12, 1989, 11:43 a.m.

TRD-08904288

### Texas Real Estate Research Center

Wednesday, June 14, 1989, 9 a.m. The Advisory Committee of the Texas Real Estate Research Center will meet in Conference Room 9, Marriott Rivercenter, San Antonio. According to the agenda, the committee will approve minutes of the previous meeting; hear progress reports (Research, Communications, and Administrative) and current budget report; consider plan of work, date of next meeting, and other business.

Contact: Richard L. Floyd, Real Estate Center, Texas A&M University College Station, Texas 77843-2115, (409) 845-9691.

Filed: May 11, 1989, 3:22 p.m.

TRD-8904249

### Texas Surplus Property Agency

Monday, May 22, 1989, 9 a.m. The Governing Board of the Texas Surplus Property Agency will meet in the Administrative Offices, 2103 Ackerman Road, San Antonio. According to the agenda, the board will elect board officer(s); approve minutes of the February 22, 1989 meeting; consider sunset legislation update and fiscal year 1990-1991 budget update; discuss agency automation/vendor presentations; Lubbock facility expansion, and security system for San Antonio warehouse.

Contact: Marvin J. Titzman, P.O. Box 8120, San Antonio, Texas 78208, (512) 661-2381.

Filed: May 11, 1989, 3:23 p.m.

TRD-8904247

### The University of Texas at Austin

Wednesday, May 17, 1989, 1 p.m. The Intercollegiate Athletics Council for Men of the University of Texas at Austin met in the Boardroom, Eighth Floor, Four Seasons Hotel, 98 San Jacinto Boulevard, Austin. According to the agenda summary, the council approved minutes of March 6, 1989, schedules, awards, academics, budget and budget items, new business, tickets and ticket prices, construction, development, and old business. The council also met in executive session.

Contact: Betty Corley, P.O. Box 7399, Austin, Texas 78713.

Filed: May 12, 1989, 8:10 a.m.

TRD-8904265

### University of Texas System, M.D. Anderson Cancer Center

Tuesday, May 16, 1989, 10 a.m. The Institutional Animal Care and Use Committee of the University of Texas System, M.D. Anderson Cancer Center, met in Conference Room AW7.707, Seventh Floor, M.D. Anderson Cancer Center, 1515 Holcombe Boulevard, Houston. According to the agenda summary, the committee reviewed protocols for animal care and use and modifications thereof.

Contact: Arthur H. Dilly, P.O. Box N, Austin, Texas 78713 7328, (512) 499-4402.

Filed: May 11, 1989, 11:20 a.m.

TRD-8904226

### Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Dates, times, and agendas follow.

Thursday, June 1, 1989, 10 a.m. The commission will determine whether to affirm, modify, or set aside an emergency order reissued May 4, 1989 to M.A. Mortenson Co. on behalf of El Paso Water Utilities Public Service Board, c/o Tom Noonan, 10001 Southside Road, El Paso, Texas 79927. The emergency order permits M.A. Mortenson Co. to continue to discharge groundwater from its southeast sewage treatment plant construction site located between the riverside canal and the Rio Grande at 10001 Southside Road, El Paso in El Paso County. The groundwater is to be discharged into the riverside lateral/riverside intercepting drain extension and the riverside canal.

Contact: Sharon Smith, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: May 15, 1989, 2:45 p.m.

TRD-8904337

Thursday, June 1, 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 its 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: May 15, 1989, 11:09 a.m.

TRD-8904319

Monday, June 26, 1989, 10 a.m. The commission will consider United States Department of Energy, 900 Commerce Road East, New Orleans, Louisiana 70123 seeks to amend adj. 12-5332 which authorizes the diversion and use of not to exceed 135 acre-feet of water per annum for emergency fire protection purposes and the diversion and use of not to exceed 104,900,000 acre-feet per annum from the Brazos River, Brazos River Basin, for mining and potable water supply at the Bryan Mount Salt Dome Project, approximately 3.5 miles southwest of Freeport, Brazoria County. The combined maximum diversion rate on the certificate is 72.0 cfs (17,400 gpm). The applicant seek to increase the combined maximum diversion rate to 75.0 cfs (30,950 gpm).

Contact: Terry Wade, P.O. Box 13087, Austin, Texas 78711, (512) 463-8265.

Filed: May 11, 1989, 3:09 p.m.

TRD-8904243

Monday, July 10, 1989, 10 a.m. The commission will consider Elmer Dale Scarth and wife, Helen Marie Scarth, 212 Lace Lane, Burleson, Texas 76028 seeks a permit to divert and use not to exceed 12 acre-feet of water per annum directly from Village Creek, tributary of the Trinity River, Trinity River Basin, to irrigate six acres of land out of a 10.35-acre tract in the David Clark Survey, Abstract 138, approximately two miles southwest of Burleson, Johnson County.

Contact: Pete Hawthorne, P.O. Box 13087, Austin, Texas 78711, (512) 463-8266.

Filed: May 11, 1989, 3:10 p.m.

TRD-8904241

Monday, July 10, 1989, 10 a.m. The commission will consider Texas Municipal Power Agency, P.O. Box 7000, Bryan seeks to amend adj. 12-5311 which authorizes the impoundment of 26,824 acre-feet of water in Gibbons Creek Reservoir on Gibbons Creek, tributary of the Navasota River, tributary of the Brazos River, Brazos River Basin, approximately 15.2 miles north of

Navasota, Grimes County. The applicant seeks to increase the amount of water authorized for impoundment in Gibbons Creek reservoir from 26,924 acre-feet to 32,088 acre-feet at a normal maximum operating elevation of 247 feet above mean sea level.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 463-8265.

Filed: May 11, 1989, 3:10 p.m.

TRD-8904242

Monday, July 10, 1989, 10 a.m. The commission will consider Texas Municipal Power Agency, P.O. Box 7000, Bryan, Texas 77805, seeks to amend adj. 12-5307 which authorizes the maintenance of a dam and reservoir impounding 17,000 acre-feet of water on the Navasota, a tributary of the Brazos River, Brazos River Basin, approximately 10 miles east of Navasota, Grimes County, and diversion of water of not to exceed 100 acre-feet of water per annum to a maximum diversion rate of 24,000 acre-feet from the reservoir for industrial purposes at the Gibbons Creek Steam Electric Station. The applicant seeks to increase the amount of water diverted from the Navasota to the agency via pipeline and the bed of the banks of Hog Creek into Gibbons Creek reservoir for industrial purposes, from 2,600 acre-feet per annum to 6,000 acre-feet per annum.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 463-8265.

Filed: May 11, 1989, 3:09 p.m.

TRD-8904244

Monday, July 10, 1989, 10 a.m. The commission will consider application by Upper Neches River Municipal Water Authority, certificate of adjudication 06-3254, for an extension of time to commence and complete construction and installation of facilities authorized under certificate of adjudication 06-3254, as amended. The amendment requires that construction of the levee forming the off-channel reservoir be in accordance with plans and the specifications which at this time have not been approved by the executive director. The time limitation to commence construction of the project was extended to April 18, 1989 and the time to complete construction of the project was extended to April 18, 1991. The authority is now requesting that the time begin construction of the project be extended to April 18, 1994 and the time to complete construction of project be extended to April 18, 1996.

Contact: Weldon Hawthorne, P.O. Box 13087, Austin, Texas 78711, (512) 463-8266

Filed: May 12, 1989, 4:03 p.m.

TRD-8904302

Monday, July 31, 1989, 10 a.m. The commission will consider notice of application by Baywood Country Club, Application

5230, for an 11.121 permit to divert 200 acre-feet of water per annum from Armand Bayou, tributary of Clear Creek, tributary of Clear Lake, tributary of the Houston Bay, San Jacinto-Brazos Coastal Basin. Three existing interconnected off-channel reservoirs formed by dam No. 2, 3 and 7 on a natural swale for irrigation of 80 acres (gold course) of land with a 185.49 acre tract in the George B. McManus Survey, abstract 47, the James Lindsey Survey, abstract 43 and the V. H. H. Survey, abstract 16, approximately 17 miles southeast of Houston, Harris County.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 463-8151.

Filed: May 12, 1989, 4:03 p.m.

TRD-8904303

## West Texas State University

Tuesday, May 23, 1989, 11 a.m. The Board of Regents of West Texas State University will meet in Room 317, Old Main Building, West Texas State University, Canyon. According to the agenda summary, the board will consider report of Merger Study Committee and any action thereon; budget changes; construction contracts-change orders; construction contracts-permission to bid and award; surplus property sale; campus street name; replacement of certificates of accrual on treasury securities (CATS) resolution; code of student life revisions; traffic and parking regulations revisions; executive session: university personnel; oral arguments concerning appeals of Faculty Grievance Hearing Committee (Treskell, Isett) Report of Panhandle-Plains Historical Society and any action thereon; appeals of Faculty Grievance Hearing Committee and any action thereon; president's contract of employment.

Contact: Texas Smith, West Texas State University, Canyon, Texas 79016, (806) 656-2100.

Filed: May 12, 1989, 1:42 p.m.

TRD-8904290

## Regional Meetings

### Meetings Filed May 11, 1989

The Coryell County Appraisal District, Appraisal Review Board, met at 113 North Seventh Street, Gatesville, on May 18, 1989, at 10 a.m. Information may be obtained from Dorell Eissenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593.

The Deep East Texas Council of Governments-Area Agency on Aging, will meet at the Angelina County Senior Center, 2801 Valley Avenue, Lufkin, on May 19, 1989, at 10 a.m. Information may be obtained from Holly Anderson, 203-A South Main, Jasper, Texas 75951, (409) 384-9085.

The Gonzales County Appraisal District, Board of Directors, met at 927 St. Paul Street, Gonzales, on May 16, 1989, at 5 p.m. Information may be obtained from Glenda Strickland, P.O. Box 867, Gonzales, Texas 78629, (512) 372-2879.

The Hays County Appraisal District, Appraisal Review Board, met at 632 A East Hopkins, San Marcos, on May 17, 1989, at 9:30 a.m. Information may be obtained from Lynell Scollar, 632 A East Hopkins, San Marcos, Texas 78666, (512) 754-7400.

The Central Appraisal District of Johnson County Board of Directors, met in Room 202, Suite 201, 102 North Main, Cleburne on May 18, 1989, at 4:30 p.m. Information may be obtained from Jackie Gunter, 109 North Main, Cleburne, Texas 76031, (512) 645-3987.

TRD-8904224

### Meetings Filed May 12, 1989

The MHMR Authority of Brazos Valley, Board of Trustees, met at 302 East 24th Street, Bryan, on May 12, 1989, at 1:30 p.m. Information may be obtained from Leon ...om, P.O. Box 4588, Bryan, Texas 77801, (409) 646-6467.

The Dallas Area Rapid Transit, Budget and Finance Committee, Planning and Development Committee and Legislative Committee met in the Boardroom, 601 Pacific Avenue, Dallas, on May 16, 1989, at 1 p.m., 3 p.m., and 5:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Harris County Appraisal District, Board of Directors, will meet on the Eighth Floor, 2800 French Loop West, Houston, on May 17, 1989, at 1:30 p.m. Information may be obtained from Maggie Hilliard, P.O. Box 920975, Houston, Texas 77292-0975, (713) 957-5291.

The Hays County Appraisal District, Board of Directors, met at 632 A East Hopkins, San Marcos, on May 16, 1989, at 1 p.m. Information may be obtained from Lynell Scollar, 632 A East Hopkins, San Marcos, Texas 78666, (512) 754-7400.

The Jack County Appraisal District, Board of Directors, met at 216-D South Main, Jacksboro, on May 16, 1989, at 7 p.m. Information may be obtained from Gary L. Zeitler or Donna E. Hartzell, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Lamb County Appraisal District, Appraisal Review Board, met at 330 Phelps Avenue, Littlefield, on May 18, 1989, at 6:30 p.m. Information may be obtained from Murlene J. Godfrey, P.O. Box 552, 330 Phelps Avenue, Littlefield, Texas 79339-0552, (806) 385-6474.

The Lower Colorado River Authority,

Board of Directors, met at 3700 Lake Austin Boulevard, Austin, on May 15, 1989, at 3:30 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 270, Austin, Texas (512) 473-3250.

The Rio Grande Council of Governments, Board of Directors, will meet in the Second Floor Conference Room, The Centre, 123 Pioneer Plaza, El Paso, on May 19, 1989, at 9:30 a.m. Information may be obtained from Cecile C. Gamez, 123 Pioneer Plaza, Suite 210, El Paso, Texas 79901, (915) 533-0598.

The Texas Water Conservation Fund Association Risk Management Fund, Board of Trustees, met in the Radisson Hotel, 700 San Jacinto, Austin, on May 17 and 18, 1989, at 7 p.m. and 8 a.m., respectively. Information may be obtained from Leroy Goodson, 205 San Jacinto Building, Austin, Texas, (512) 472-7116.

The Trinity River Authority of Texas, Red Oak Creek Regional Wastewater System Right-of-Way Committee, met at 5300 South Collins, Arlington, on May 18, 1989, at 10 a.m. Information may be obtained from Jack C. Worsnan, P. O. Box 60, Arlington, Texas 76004, (817) 467-4343.

The Upshur County Appraisal District, Board of Directors, met at Warren and Trinity Streets, Gilmer, on May 15, 1989, at 9 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644, (214) 843-3041.

The West Central Texas Council of Governments, Regional Advisory Council on Aging, met at the Holiday Inn, IH 20 and State Highway 351, Abilene, on May 18, 1989, at 9:30 a.m. Information may be obtained from Lewis E. Lemmond, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544, ext. 46.

The Wood County Appraisal District, Board of Directors, met at 217 North Main, Quitman, on May 18, 1989, at 1:30 p.m. Information may be obtained from W. Carson Wages, P.O. Box 951, Quitman, Texas 75783, (214) 763-4891.

TRD-8904264

◆ ◆ ◆  
Meetings Filed May 15, 1989

The Central Texas Council of Governments, Central Texas Private Industry Council and Executive Committee, will meet at 302 East Central Belton, on May 25, 1989, at 10 a.m. and 12:30 p.m., respectively. Information may be obtained from A.C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-3771.

The Deep East Texas Private Industry Council, Inc. Planning Committee/Educa-

tion Advisory Subcommittee, Monitoring and Evaluation Committee, and council will meet at 118 South First Street, Lufkin, on May 24, 1989, at 9 a.m., 10 a.m., and 2 p.m., respectively. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-2247.

The East Texas Council of Governments, Private Industry Council, met at ETCCG Offices, Kilgore, on May 18, 1989, at 9:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas (214) 984-8641.

The Education Service Center, Region IV, will meet in the Boardroom, 7145 West Tidwell, Houston, on May 19, 1989, at 11:30 a.m. Information may be obtained from William L. McKinney, 7145 West Tidwell, Houston, Texas 77092, (713) 462-7708.

The Ellis County Appraisal District, met at 406 Sycamore Street, Waxahachie, on May 18 and 19, 1989, at 7 p.m. and 10 a.m., respectively. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Gray County Appraisal District, Board of Directors, met at 815 North Sumner, Pampa, on May 18, 1989, at 5 p.m. Information may be obtained from W. Pat Bagley, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791.

The Gregg Appraisal District, Appraisal Review Board, will meet at 2010 Gilmer Road, Longview, on May 25, 1989, at 9 a.m. Information may be obtained from William T. Carrell, P.O. Box 6700, Longview, Texas 75608, (214) 759-0615.

The Heart of Texas Council of Governments, Private Industry Council met at 320 Franklin Avenue, Waco, on May 18, 1989, at 5:30 p.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701-2297, (817) 756-6631.

The Houston-Galveston Area Council, Projects Review Committee and Board of Directors will meet in the Board of Directors Conference Room, Fourth Floor, 3555 Timmons Lane, Houston, on May 23, 1989, 9 a.m. and 10 a.m., respectively. Information may be obtained from Rowena Ballas, 355 Timmons Lane, Houston, Texas (713) 627-3200.

The Jasper County Appraisal District, Appraisal Review Board, will meet at Jasper County Courthouse Annex, 121 North Austin, Jasper, on June 1, 15, and 29, and 30, 1989, at 9 a.m. daily. Information may be obtained from David W. Luther, Jasper County Courthouse Annex, Jasper, Texas 75951, (409) 384-2544.

The Central Appraisal District of Johnson County, Board of Directors, met in Suite 201, Room 202, 109 North Main, Cleburne, on May 18, 1989, at 4:30 p.m. Information may be obtained from Jackie Gunter, 109 North Main, Cleburne, Texas 76031, 645-3987.

The Lamb County Appraisal District, Board of Directors, met at 330 Phelps Avenue, Littlefield, on May 18, 1989, at 8 p.m. Information may be obtained from Muriene J. Godfrey, P.O. Box 552, Littlefield, Texas 79339-0552 (806) 385-6474.

The North Texas Municipal Water District, Board of Directors, will meet at Lowes Anatole Hotel, Dallas, on May 20 and 21, 1989. Information may be obtained from Carl W. Riehn, 505 East Brown Street, Wylie, Texas 75098, (214) 442-5405.

The Nueces River Authority, Board of Directors, met at Corpus Christi Town Club, One Shoreline Plaza, Corpus Christi, on May 18, 1989, at 11 a.m. Information may be obtained from Con Mims, P.O. Box 349, Uvalde, Texas 78802, (512) 278-6810.

The San Antonio-Bexar County Metro Planning Organization, Steering Committee, will meet in the Basement Conference Room, San Antonio City Hall, San Antonio, on May 22, 1989, at 1:30 p.m. Information may be obtained from David F. Pearson, Bexar County Courthouse, San Antonio, Texas 78205-3002, (512) 227-8651.

The Upshur County Appraisal District, Appraisal Review Board, will meet at Warren and Trinity Street, Gilmer, on May 22, 1989, at 8:30 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644, (214) 842 3041.

The Wood County Appraisal District, Appraisal Review Board, met at 217 North Main, Quitman, on May 16, 1989, at 10 a.m. Information may be obtained from W. Carson Wages or Lou Brooke, 217 North Main, Quitman, Texas 75783, (214) 763-4891.

TRD-8904300

◆ ◆ ◆  
Meeting Filed May 16, 1989

The Lower Colorado River Authority, Ad Hoc Committee, Board of Directors, will meet at 3700 Lake Austin Boulevard, Austin, on May 19, 1989, at 10 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3250.

TRD-8904341

# In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## State Banking Department Notice of Cancellation of Hearing

The May 10, 1989, hearing for application for license to sell pre-need funeral service and merchandise contracts by James Robert Bass, McAllen, has been cancelled.

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 May 9, 1989.

TRD-8904220      Ann Graham  
                            General Counsel  
                            State Banking Department

Filed: May 11, 1989

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

## Texas Commission for the Blind Request for Proposals

The Texas Commission for the Blind (commission) announces a request for proposals for services leading to supported employment. Supported employment provides the option of integrated, community-based employment for commission clients who require ongoing support in order to maintain employment.

The intent of the commission is to award grants to organizations located in the following regions: Lubbock, Tyler, and Harlingen

**Funding Areas.** The commission anticipates awarding one grant in each of these regions. Organizations who wish to begin a supported employment project for persons who are blind and visually impaired. Awards will include up to \$35,000 in start-up funds plus fees for job development and job coach services. Individuals served in supported employment may receive these services for a maximum of 18 months before transition is made to extended services (ongoing support).

**Definitions.** Supported employment is defined as competitive employment in an integrated work setting with ongoing support for individuals with severe disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of the severe disability (*Federal Register*, August 14, 1987). Job coach services under supported employment are provided in order to reinforce and stabilize the client on the job. Included are such activities as job skill training, intervention and supervision of the individual at the job site, assistance with transportation and housing, personal care services, contact with the employer about the individual who is working, contact with the family, and assessments to determine the individual's potential for supported employment.

Ongoing support is job skill training provided at least

twice monthly at the work site to enable the individual to perform the work. Ongoing support services, other than job skill training, may be provided so long as the individual has a need for ongoing job skill training and is receiving that training at the job site.

An integrated work setting is one in which most co-workers are not disabled, or individuals are part of a work group of not more than eight individuals with disabilities.

**Grant requirements.** Funds awarded under this grant are intended for new or expanded services to commission clients. Organizations who receive funds must agree to provide or arrange for ongoing support to maintain each individual in their job after the maximum 18-month period. Federal regulations regarding supported employment must be met (*Federal Register*, 34 Code of Federal Regulations Part 363; The Rehabilitation Act amendment of 1986 Title VI, Part C).

**Application process.** Organizations who can provide services leading to supported employment for persons who are blind and visually impaired are encouraged to apply. Write or call Keith Kitchens, Supported Employment Coordinator, Texas Commission for the Blind, P.O. Box 12866, Austin, Texas 78711, (512) 459-2669, to obtain an application packet or ask questions. A committee will review applications for funding and will select applicants based on evaluation criteria within the application packet.

**Deadline.** Applicants responding to this request for proposals must submit proposals postmarked no later than July 21, 1989. It is anticipated that awards will be announced within one month after proposal deadline.

Issued in Austin, Texas on May 15, 1989.

TRD-8904292      Pat D. Westbrook  
                            Executive Director  
                            Texas Commission for the Blind

Filed: May 12, 1989

For further information, please call (512) 459-2601

## Comptroller of Public Accounts Correction of Error

The Comptroller of Public Accounts renewed the emergency effectiveness of an amendment which contained an error as published in the May 12, 1989, issue of the *Texas Register* (14 TexReg 2315).

The expiration date for §3.557 should read: "Expiration date: July 5, 1989."

## 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).

Type of Rate Ceilings	Effective Period (Dates are Inclusive)	Consumer <sup>(3)</sup> /Agri- cultural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Indicated (Weekly) Rate - Art. 1.04(a)(1)	05/15/89-05/21/89	18.00%	18.00%
Monthly Rate Art. 1.04(c) <sup>(1)</sup>	05/01/89-05/31/89	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	04/01/89-06/30/89	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	04/01/89-06/30/89	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) <sup>(3)</sup>	04/01/89-06/30/89	16.81%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	04/01/89-06/30/89	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	04/01/89-06/30/89	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:	04/01/89-06/30/89	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	05/01/89-05/31/89	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 May 8, 1989

TRD-804268

Al Endsley  
Consumer Credit Commissioner

Filed: May 11, 1989

For further information, please call: (512) 479-1280

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## Texas Department of Corrections Site Selection Proposal Request

Pursuant to the authority granted by Texas Civil Statutes, Article 6166g-3 and 6203i, State of Texas and Texas Board of Corrections policy, the Texas Department of Corrections (TDC) hereby requests all interested parties to submit proposals for the donation of sites for the new construction of 2,250-bed maximum security units and

1,000-bed minimum/medium security units. Sites should be located in an area close enough to a county with a population of 100,000 or more to enable the department and inmates to have access to resources provided in those counties. Interested parties may submit proposals for a 2,250-bed facility, a 1,000-bed facility, or be considered for either type facility.

All sites must be a minimum of 300 acres. The site must have a centrally located area within the 300 acres which is reasonable level (no more than six-foot variance in elevation, or brought to engineering specifications at no cost to the state), well drained, cleared, and of sufficient size to accommodate the type unit desired. The proposal must be accompanied by geotechnical report(s) consisting of a least five soil borings of a minimum 25 feet in depth at specified locations on the site. All sites must have viable access roads.

Sites must be transferred to TDC at no cost within 45 days of notification of selection.

A copy of the complete request for proposals (RFP) may be obtained by contacting Bill Barry, Director of Management Services, Texas Department of Corrections, P.O. Box 99, Huntsville, Texas 77342-0099, (409) 294-6450. Sealed proposals will be received at the preceding address until noon, June 30, 1989. All proposals received shall remain confidential until all sites are selected or the proposals are rejected.

Upon review of all proposals submitted pursuant to the RFP, the Texas Board of Corrections will select the most qualified party or parties, in its sole judgment and discretion, with whom to negotiate final site specifics.

It is anticipated that TDC will begin to notify such parties of its selection(s) beginning in September 1989. The TDC reserves the right to reject any or all proposals. Proposals must be responsive to all portions of the RFP to be considered. The TDC assumes no responsibility for any costs incurred by any entity submitting a response to this request, nor does submission of any proposal bind the TDC to select or enter into negotiations with any proposed party.

Issued in Austin, Texas on May 19, 1989.

TRD-8904271 Michael R. Davis  
Assistant General Counsel  
Texas Department of Corrections

Filed: May 12, 1989

For further information, please call (409) 294-6450

## Texas Department of Health Public Hearing

The department will conduct a public hearing on the following municipal solid waste disposal site.

Robert T. Smith Landfill has filed Application 2096 with the Texas Department of Health for a permit to operate a proposed Type II municipal solid waste disposal site to be located approximately 7.5 miles southwest of Bridgeport on the east side of FM Road 920, in Wise County.

The site consists of approximately 21.07 acres of land, and is to daily receive approximately 12 tons of solid waste under the regulatory jurisdiction of the department when disposed of or otherwise processed in accordance with the department's municipal solid waste management regulations.

Pursuant to the provisions of the Texas Solid Waste Disposal Act (Texas Civil Statutes, Article 4477-7), the department's said regulations, and the Administrative Procedure and Texas Register Act (Texas Civil Statutes, 6252-13a), a public hearing on the aforesaid application will be held at Best Western Inn, State Highway 287, Decatur, Texas, in Room 149 at 9 a.m. on Tuesday, June 27, 1989. The purpose of the hearing is to receive evidence for and against the issuance of a permit for the aforesaid application. The hearing will be conducted and the final decision will be rendered in accordance with the applicable rules contained in the department's said regulations, including all changes in effect as of May 10, 1988. All parties having an interest in this matter shall have the right to appear at the hearing, present evidence and be represented by counsel. Pursuant to Texas Civil Statutes, Article 6252-13a, and the department's formal hearing procedures, the cost of a written hearing transcript may be assessed against one or more of the designated parties.

A copy of the complete application may be reviewed at the Texas Department of Health, 1100 West 49th Street, Austin, or at the department's Public Health Region 5 Office located at 2561 Matlock Road, Arlington, Texas 76015-1621, (817) 460-3032.

Issued in Austin, Texas, on May 10, 1989.

TRD-8904204 Robert A. MacLean, M.D.  
Deputy Commissioner for Professional  
Services  
Texas Department of Health

Filed: May 10, 1989.

For further information, please call: (512) 458-7271

## Radioactive Material License Amendments

Notice is hereby given by the Texas Department of Health that it has granted an amendment to the following radioactive material license.

Radioactive Material License Number L03908, issued to Syncor International Corporation for their facility located in Lubbock, (mailing address: Syncor International Corporation, 2420 Quaker Avenue, Suite 203, Lubbock, Texas 79410).

The amendment to this license changes the Radiation Safety Officer for the license from G. Stephen Gillard, R.Ph. to Glen G. Jones, R.Ph.

The Division of Licensing, Registration and Standards has determined that: the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety, and the environment; the licensee's equipment, facilities, and procedures are adequate to minimize danger to public health and safety, and the environment; the issuance of the license amendment should not be inimical to public health and safety, or have a detrimental impact on the environment; and the licensee satisfied any applicable special requirements of the *Texas Regulations for Control of Radiation* (TRCR).

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, as amended, §11B(b), and as set out in TRCR 13.6. A person affected is defined as a person who is a resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East

Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas on May 11, 1989.

TRD-8904266 Robert A. MacLean  
Deputy Commissioner for Professional  
Services  
Texas Department of Health

Filed: May 11, 1989

For further information, please call (512) 835-7000

Notice is hereby given by the Texas Department of Health that it has granted an amendment to the following radioactive material license.

Radioactive Material License Number L03903, issued to Syncor International Corporation for their facility located in San Antonio, (mailing address: Syncor International Corporation, Creekview Garden Offices, Suite 602, 8600 Wurzbach, San Antonio, Texas 78240).

The amendment to this license changes the Radiation Safety Officer for the license from James A. Dasher, R.Ph. to James T. Threadgill, R.Ph.

The Division of Licensing, Registration and Standards has determined that: the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety, and the environment; the licensee's equipment, facilities, and procedures are adequate to minimize danger to public health and safety, and the environment; the issuance of the license amendment should not be inimical to public health and safety, or have a detrimental impact on the environment; and the licensee satisfies any applicable special requirements of the *Texas Regulations for Control of Radiation*(TRCR).

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, as amended §11B(b) and as set out in TRCR 13.6. A person affected is defined as a person who is a resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be

obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas on May 11, 1989.

TRD-8904267 Robert A. MacLean, M.D.  
Deputy Commissioner for Professional  
Services  
Texas Department of Health

Filed: May 11, 1989

For further information, please call (512) 835-7000

## The University of Texas System Consultant Proposal Request

The University of Texas Southwestern Medical Center at Dallas (UT Southwestern), in accordance with provisions of the Texas Civil Statutes, Article 6252-11c, solicits to contract with a consultant to provide operational assessment and potential revenue enhancement in an evaluation of the data gathering and transfer between Parkland Hospital and the center's medical service plan (MSP).

**Project Description.** The consultant selected shall provide UT Southwestern with expertise in improving the quality of demographic data gathered for MSP patients initially contacted through Parkland Hospital, and increase the revenue collected from serving these patients by performing the following tasks: review and assess the existing resources and systems to collect patient data; determine impact of changes that may have been made within UT Southwestern MP's administrative support system; assess impact of data provided by Parkland on operation of UT Southwestern's IDX system; compare Parkland's medical records data with related data produced by the hospital's patient billing system; prepare a final report containing conclusions and recommendations.

The contract shall be for a 17-week period, providing the contractor fulfills all contract requirements and provides the quality of work desired. The possibility of an extension exists at the option of UT Southwestern.

**Contact.** Additional information may be obtained from Peter H. Fitzgerald, Executive Vice President for Business Affairs, 5323 Harry Hines Boulevard, Dallas, Texas 75235, (214) 688-3572.

**Due Date.** Proposals will be received in the office of the Executive Vice President for Business Affairs, Room B9.100, Administration Building, UT Southwestern, Dallas, before 3 p.m. on Monday, June 26, 1989. It is the responsibility of the consultant to have proposals in the above office by that time. Proposals received late for any reason will be returned unopened.

**Procedures for Selection of Consultant.** Similar consulting services have previously been rendered at UT Southwestern by Coopers and Lybrand, from their Houston office. UT Southwestern is satisfied with services performed by Coopers and Lybrand, believes Coopers and Lybrand has a distinct advantage because of its knowledge of UT Southwestern systems, and intends to continue to use those consulting services for the study described herein unless a better offer is received from a firm able to demonstrate a similar advantage.

Proposals will be evaluated by UT Southwestern, and selection will be based on experience and cost considerations. The firm selected must be familiar with medical plan billing systems, medical records, teaching hospital



operations, patient billing systems, operations assessment and operations improvement, and must submit a proposal which describes the organization and its qualifications.

Issued in Austin, Texas on May 11, 1989.

TRD-8904229

Arthur H. Dilly  
Executive Secretary  
The University of Texas System

Filed: May 11, 1989

For further information, please call (512) 499-4402

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**Texas Water Commission**  
**Enforcement Orders**

Pursuant to the Texas Water Code which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

A third amended enforcement order was issued to the City of Houston Wastewater Treatment Plants, Permits 10495-001-10495-121 imposing stipulated administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Kevin McCalla, staff attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas on May 9, 1989.

TRD-8904189

Gloria A. Vasquez  
Notices Coordinator  
Texas Water Commission

Filed: May 10, 1989

For further information, please call (512) 463-7906

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Pursuant to the Texas Water Code which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to GNB, Inc.; SWR30516/HW50206 on May 4, 1989 assessing \$17,600 in administrative penalties-\$8,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Michelle McFaddin, staff attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas on May 9, 1989.

TRD-8904190

Gloria A. Vasquez  
Notices Coordinator  
Texas Water Commission

Filed: May 10, 1989

For further information, please call (512) 463-7906

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**Notice of Award**

The Texas Water Commission (TWC) furnishes this notice of a professional engineering services contract award for the Remedial Investigation/Feasibility Study for the Wortham Lead Salvage State Superfund site.

The notice for request for proposals was published in the September 2, 1988, issue of the *Texas Register* (13 TexReg 4404).

**Description of Services.** The contractor will characterize and identify the site in terms of wastes present; lateral and vertical extent of contamination in surface waters, ground waters, sediments and soils; rate and direction of waste migration; target receptors (population at risk, threatened resources, sensitive ecosystems); site geology and hydrology; and develop and evaluate alternative remedial measures considering economic feasibility, technological feasibility, environmental impacts, and timeliness of completion and offer recommendations regarding the most feasible remedial alternatives. Final reports will be due upon completion of the Remedial Investigation and the Feasibility Study. Progress reports are due monthly.

**Effective Date and Value of Contract.** The contract will be effective from April 11, 1989, until completion of the project. The total cost in the contract is \$133,701.

**Name of Contractor.** The contract has been awarded to Jones and Neuse, Inc., 2720 Bee Cave Road, Austin, Texas 78746.

Issued in Austin, Texas on May 12, 1989.

TRD-8904298

Jim Haley  
Director, Legal Division  
Texas Water Commission

Filed: May 12, 1989

For further information, please call (512) 463-8196

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**Public Hearing Notice**

The Texas Water Commission will conduct a public hearing on Wednesday, June 21, 1989, at 10 a.m., Stephen F. Austin State Office Building, Room 118, 1700 North Congress Avenue, Austin, Texas 78711-3087, in order to receive testimony concerning proposed Chapter 310, Subchapter A, Use of Reclaimed Water, §§310.1-310.17. These new sections are proposed under the authority of the Texas Water Code, §§5.103-5.105, 5.120, and 26.0311, which provide the commission with the authority to promulgate rules as necessary to carry out its powers and duties under the Texas Water Code and other laws of the state and to establish and approve all general policies of the commission.

The proposed sections concern the use of reclaimed water in substitution for potable water where appropriate. Specifically, this proposal defines terms associated with the activity of reclaimed water usage, explains the commission's purpose in establishing the rules; explains the scope of the rules; establishes water quality criteria for the reclaimed water for various uses; establishes certain other health and safety requirements for utilization of reclaimed water; and establishes requirements for the transfer of reclaimed water from a provider to a user. These rules set up a notification system whereby the executive director will review a water provider and user's plan for reclaimed water use for compliance with the requirement of the rules prior to the use of such water. Upon the executive director's approval of the reclaimed water use plan, the provider and user may proceed with the plan, in accordance with the rules, without the need for a permit or permit amendment.

The public is encouraged to attend the hearing and to present relevant evidence or opinions concerning the new rules. Written testimony which is submitted prior to or during the public hearing will be included in the record.

The commission would appreciate receiving a copy of all written testimony at least five days before the hearing. Comment on the proposal may be submitted to Kevin McCalla, Senior Staff Attorney, Legal Division, Texas Water Commission, P. O. Box 13087, Austin, Texas 78711-8087, (512) 463-8069.

Issued in Austin, Texas on May 12, 1989.

TRD-8904299 Jim Haley  
Director, Legal Division  
Texas Water Commission

Filed: May 12, 1989

For further information, please call (512) 463-8087

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**Texas Water Development Board**  
**Applications Received**

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the board.

City of Troy, P.O. Box 258, Troy, Texas 76579, received April 20, 1989, for financial assistance in the amount of \$415,000 from the Water Quality Enhancement Account

of the Water Development Fund.

City of Blum, P.O. Box 258, Blum, Texas 76628, received April 20, 1989, for financial assistance in the amount of \$190,000 from the Water Quality Enhancement Account of the Water Development Fund.

Gulf Coast Waste Disposal Authority, 910 Bay Area Boulevard, Houston, Texas 77058, received April 17, 1989, regional wastewater planning grant in an amount not to exceed \$30,000 from the Research and Planning Fund.

Tarrant County Water Control and Improvement District #1, P.O. Box 4508, Fort Worth, Texas, 76106-0508, received May 8, 1989, regional wastewater planning grant in an amount not to exceed \$25,000 from the Research and Planning Fund.

Additional information concerning this matter may be obtained from M. Reginald Arnold II, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

Issued in Austin, Texas on May 10, 1989.

TRD-8904200 M. Reginald Arnold II  
Executive Administrator  
Texas Water Development Board

Filed: May 12, 1989

For further information, please call (512) 563-7981

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