

SEP 05 89

Texas Register

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Pages 4493-4563

In This Issue...

Attorney General

Opinion

4501-JM-1086 (RQ-1773)

Request for Opinions

4501-RQ-1791

4501-RQ-1792

4501-RQ-1793

4501-RQ-1794

Emergency Sections

Office of the Governor

4503-Criminal Justice Division

Office of the Secretary of State

4505-Texas Register

Railroad Commission of Texas

4505-Oil and Gas Division

Comptroller of Public Accounts

4508-Tax Administration

Texas Department of Human Services

4508-Medicaid Programs-Children and Pregnant Women

4509-Medicaid Eligibility

4510-Investigations

4510-General Licensing Procedures

Texas Employment Commission

4511-Child Labor

Proposed Sections

Office of the Governor

4513-Criminal Justice Division

Office of the Secretary of State

4513-Texas Register

State Securities Board

4527-Transactions Exempt from Registration

Railroad Commission of Texas

4527-Oil and Gas Division

4528-Transportation Division

Texas Department of Licensing and Regulation

4528-Labor/Licensing and Enforcement Division

4528-Career Counseling Services

4531-Personnel Employment Services

4534-Auctioneers

4539-Child Labor

4539-Health Spa Act/Labor, Licensing, and Enforcement

State Board of Insurance

4539-Trade Practices

Texas Department of Human Services

4540-Medicaid Programs-Children and Pregnant Women

4540-Medicaid Eligibility

4541-Investigations

4541-General Licensing Procedures

Withdrawn Sections

Texas Department of Human Services

4543-Intermediate Care Facilities/Skilled Nursing Facilities (ICF/SNF)

Adopted Sections

Structural Pest Control Board

4545-Licenses

Texas Water Development Board

4545-Agricultural Water Conservation Program

Texas Department of Human Services

4546-Civil Rights

4546-Legal Services

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Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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



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Open Meetings

4549-Texas Adult Probation Commission
4549-Texas Aquaculture Liaison Office
4549-Texas Board of Architectural Examiners
4549-Texas Commission on the Arts
4550-State Bar of Texas
4550-Child Care Development Board
4550-Texas Education Agency
4551-Texas State Board for Registered Professional Engineers
4551-Texas Housing Agency
4552-Texas Department of Human Services
4552-Texas Department of Licensing and Regulation
4552-Texas Department of Mental Health and Mental Retardation
4552-Texas Motor Vehicle Commission
4552-Texas Parks and Wildlife Department
4552-State Board of Plumbing Examiners
4553-Texas State Board of Public Accountancy
4553-Public Utility Commission of Texas
4553-Railroad Commission of Texas
4553-Texas National Research Laboratory Commission
4553-Task Force on Public Utility Regulation
4553-Teacher Retirement System of Texas
4553-Texas Water Commission
4553-Regional Meetings

In Addition

Texas Department of Banking

4555-Notice of Application

Texas Department of Human Services

4555-Demonstration Project

4555-Notice of Correction

4555-Public Notice

4558-Public Notice Open Solicitation

4559-Requests for Proposals

State Board of Insurance

4559-Company Licensing

4560-Notice of Public Hearing

Texas Commission on Law Enforcement

Officer Standards and Education Law

Enforcement Management Institute

4560-Correction of Error

Legislative Budget Board

4560-Budget Execution Proposals

Texas State Board of Public Accountancy

4562-Computer System Feasibility Study

Texas Water Commission

4565-Notice of Application for Waste Disposal Permit

TAC Titles Affected

TAC Titles Affected—September

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

TITLE 1. ADMINISTRATION

Part I. Office of the Governor

1 TAC §§3.602, 3.603, 3.604, 3.606, 3.607, 3.609, 3.637—4503, 4513

Part IV. Secretary of State

1 TAC §91.26—4505, 4513

1 TAC §91.36—4513

1 TAC §§91.50-91.53—4514

1 TAC §§91.51-91.53—4514

1 TAC §91.91—4514

1 TAC §91.93—4515

1 TAC §§91.93-91.96, 91.98—4515

1 TAC §91.94—4519

1 TAC §91.95—4521

1 TAC §91.96—4523

1 TAC §91.98—4525

1 TAC §§102.1, 102.10, 102.20, 102.30, 102.40, 102.41, 102.70-102.73, 102.80, 102.90, 102.91—4441, 4453

1 TAC §§103.1, 103.2, 103.10, 103.21—4444, 4453

1 TAC §104.1, §104.10—4445, 4453

Part V. State Purchasing and General Services

TITLE 4. AGRICULTURE

Part II. Animal Health Commission

4 TAC §35.1—4469

4 TAC §35.2—4469

4 TAC §35.4—4471

4 TAC §49.1—4471

4 TAC §51.2—4471

4 TAC §57.11—4471

TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

7 TAC §109.7—4527

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

10 TAC §1.21—4472

10 TAC §1.23—4472

10 TAC §1.25—4472

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

16 TAC §3.50—4505, 4527

16 TAC §5.536—4528

Part IV. Texas Department of Licensing and Regulation

16 TAC §§61.201-61.207—4528

16 TAC §§62.1-62.10—4528

16 TAC §§62.1, 62.10, 62.20, 62.21, 62.30, 62.40, 62.60, 62.70, 62.80, 62.81, 62.82, 62.90, 62.91—4529

16 TAC §§63.1, 63.10, 63.20, 63.21, 63.30, 63.40, 63.60, 63.70, 63.80-63.82, 63.90, 63.91—4531

16 TAC §§67.1-67.28—4534

16 TAC §§67.1, 67.10, 67.20-67.23, 67.30, 67.40, 67.60, 67.70, 67.80-67.83, 67.90, 67.91, 67.100-67.104—4535

16 TAC §§71.1-71.6—4539

16 TAC §§71.1, 77.5, 77.9, 77.13, 77.17-77.21—4539

TITLE 22. EXAMINING BOARDS

Part XXV. Structural Pest Control Board

22 TAC §§593.1, 593.3, 593.5, 593.7—4545

TITLE 28. INSURANCE

Part I. State Board of Insurance

28 TAC §21.122—4539

28 TAC §§3.3302-3.3309, 3.3313, 3.3315-3.3318—4446

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

31 TAC §103.42—4454

31 TAC §103.66—4454

Part X. Texas Water Development Board

31 TAC §§367.1, §367.2—4545

31 TAC §§367.21, 367.23-367.27, 367.29—4546

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

34 TAC §3.319—4451

34 TAC §3.558—4508

34 TAC §3.641—4455

**TITLE 37. PUBLIC SAFETY AND
CORRECTIONS**

Part I. Texas Department of Public Safety

37 TAC §§13.1-13.5, 13.7-13.9, 13.12-13.14, 13.16,
13.17, 13.24, 13.27-13.30, 13.32-13.36, 13.38, 13.43,
13.45-13.50, 13.52-13.54—4458

37 TAC §15.58—4472

**TITLE 40. SOCIAL SERVICES AND
ASSISTANCE**

Part I. Texas Department of Human Services

40 TAC §4.1001, §4.1010—4508

40 TAC §4.1004, §4.1010—4540

40 TAC §§6.1, 6.2—4473

40 TAC §6.103—4473

40 TAC §6.301, §6.304—4473

40 TAC §6.303, §6.306—4297

40 TAC §7.302—4473

40 TAC §15.465—4509, 4541

40 TAC §15.505—4509, 4541

40 TAC §16.1601—4543

40 TAC §§35.101, 35.102, 35.107—4467

40 TAC §73.4109—4546

40 TAC §73.4114, §73.4115—4546

40 TAC §75.1001, §75.1002—4510, 4541

40 TAC §79.1203—45

40 TAC §§79.1203, 79.1207, 79.1208—4546

40 TAC §79.1210—4547

40 TAC §85.2012—4510, 4541

40 TAC §85.3059—4511, 4542

40 TAC §175.18—4473

40 TAC §301.33—4316

Part X. Texas Employment Commission

40 TAC §303.1—4511



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.

Opinion

JM-1086 (RQ-1773). Request from W. N. Kirby, Ph.D., Commissioner of Education, Texas Education Agency, Austin, concerning the effective date of House Bill 2566, §7, which revises the teacher career ladder statutes.

Summary of Decision. The amendment to the Education Code, §13.309, adopted by House Bill 2566, §7, takes effect September 1, 1990.

TRD-8907915

Requests for Opinions

(RQ-1791). Request from L. Richard Emerson, Chairman, Texas Aeronautics Commission, Austin, concerning status of former employees of the Texas Aeronautics Commission between September 1 and October 17, 1989.

(RQ-1792). Request from Charles D. Penick, Criminal District Attorney, Bastrop, concerning creation of a road district in Bastrop County.

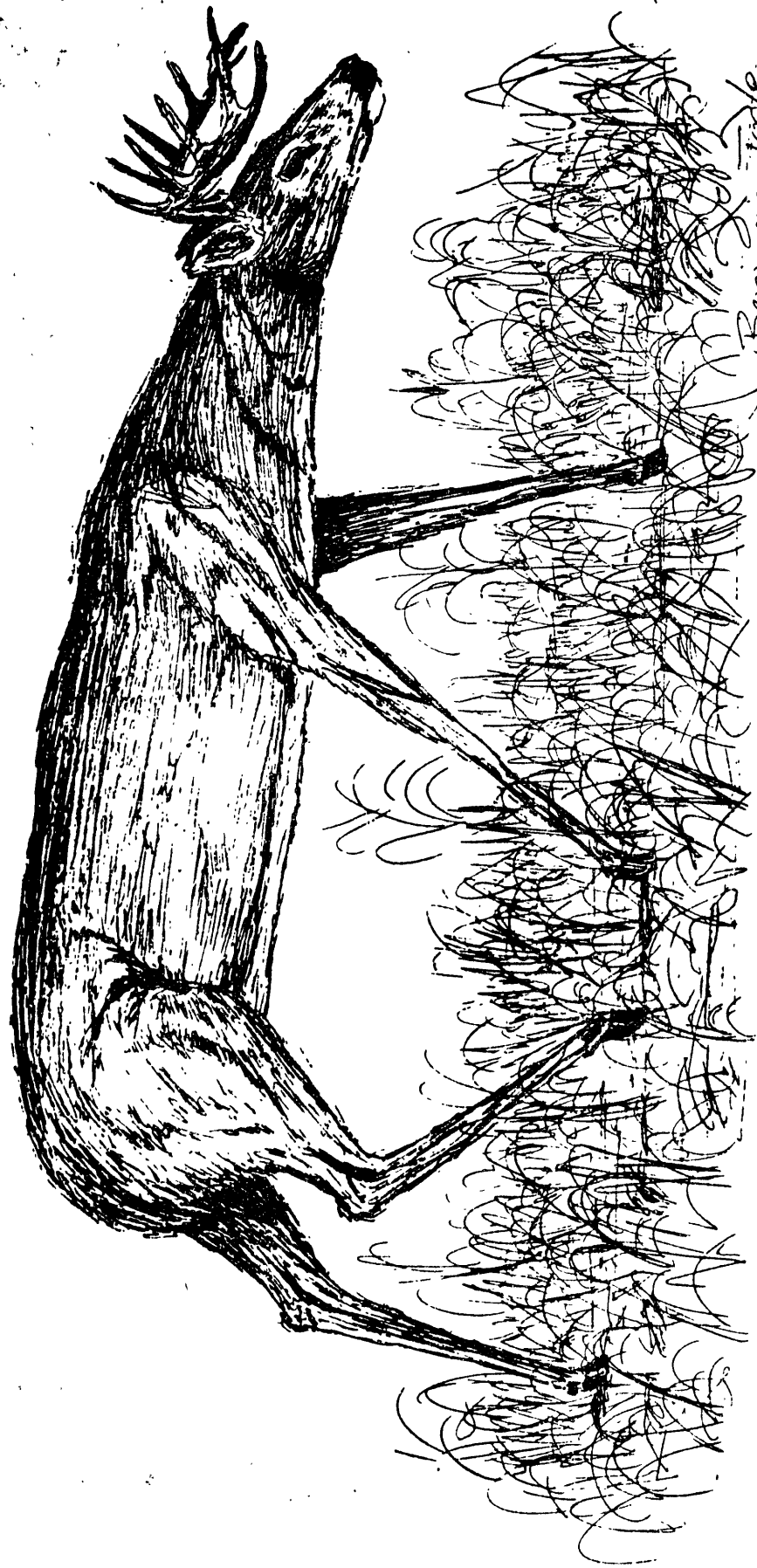
(RQ-1793). Request from Charles Stevenson, Acting Commissioner, Texas Department of Human Services, Austin,

concerning obligation of a metropolitan transit authority with regard to medicaid recipients.

TRD-8907940

(RQ-1794). Request from James R. Hine, Acting Commissioner, Texas Employment Commission, Austin, concerning availability to the claimant in a hearing before the Texas Employment Commission of certain administrative records held by the commission.

TRD-8907939



Name: Benjamin Toole

School: Marshall High, Marshall

Emergency Sections

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

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

TITLE 1.

ADMINISTRATION

Part I. Office of the Governor

Chapter 3. Criminal Justice Division

Subchapter A. Criminal Justice Administration of the Crime Victims Assistance

• 1 TAC §§3.602, 3.603, 3.604, 3.606, 3.607, 3.609, 3.637

The Criminal Justice Division (CJD) of the Office of the Governor adopts on an emergency basis amendments to §§3.602, 3.603, 3.604, 3.606, 3.607, 3.609, and 3.637, concerning the Crime Victims Assistance Program rules. The CJD is now in the process of reviewing applications for federal funds that are available under the federal Victims of Crime Act of 1984 (VOCA). The amendments are being adopted on an emergency basis to ensure that the applicants for VOCA funds have complete and accurate information essential for the implementation of their grant and are fully aware of statutory and administrative requirements that may affect their proposed projects.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 4413 (32a), §6(a)(11), which provide the Criminal Justice Division with the authority to adopt such rules, regulations, and procedures as may be necessary to carry out the provisions of the Act.

§3.602. Applicability. These sections shall apply only to applications and grants awarded to local units of government, state agencies, and nonprofit organizations for crime victims assistance projects operated and funded under the Victims of Crime Act of 1984 (VOCA), Public Law 98-473, [.] as amended by Public Law 100-690, Anti-Drug Abuse Act of 1988.

§3.603. Compliance; Adoption by Reference. Grantee/applicants shall comply with all applicable state and federal statutes, rules, regulations, and guidelines. The Criminal Justice Division (CJD) adopts by reference the following documents and forms. Information regarding these adoptions by reference may be obtained from the Criminal Justice Division, Attention: Crime Victims Assistance Section, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919:

(1) Public Law 98-473, Title II, Chapter XIV, Victims of Crime Act of 1984, [.] as amended by Public Law 100-690, Anti-Drug Abuse Act of 1988;

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

(4) Crime Victims Assistance Program: Grant Administration Guidelines;

(5)[(4)] United States Department of Justice, *Final Program Guidelines for the Victims of Crime Act Victims Assistance Grant Program* [Crime Victim Assistance Grants: Final Guidelines,], *Federal Register*, Volume 54 [52], Number 95 [62], May 18, 1989 [April 1, 1987], pp. 21499-21508 [10421-10428];

(6)[(5)] Office of Justice Programs, *OJP Guideline Manual, OJP M7100.1c, Financial and Administrative Guide for Grants*;

(7)[(6)] audit guidelines:

(A) United States General Accounting Office, *Standards for Audit for Governmental Organizations, Programs, Activities, and Functions*;

(B) United States General Accounting Office, *Guidelines for Financial and Compliance Audits of Federally Assisted Programs*;

(C) (No change.)

(8)[(7)] *Uniform Grant and Contract Management Standards* developed under directive of the Uniform Grant and Contract Management Act of 1981, Texas Civil Statutes, Article 4413(32g).

(9)[(8)] Criminal Justice Division forms for crime victims assistance projects:

(A)-(G) (No change.)

§3.604. Advisory Council.

(a) (No change.)

(b) Purpose. The council will advise the governor regarding Texas' participation in the federal Victims of Crime Act of 1984, Public Law 98-473, as amended, and will formulate suggested standards, procedures, and guidelines for implementation of the Act relating to the distribution of

grant funds as authorized by the Act. The council has determined that funds available under the Act should be used in a manner that:

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

(c)-(e) (No change.)

§3.606. Project Requirements.

(a) Eligible projects. Only those projects which provide services to victims of crime are eligible for grant funding. Such services must directly benefit individual crime victims, must address needs directly resulting from the crime, and may include the required coordination of those services and the training of service providers. Additionally, to be eligible each project must:

(1) if it is a new project, receive at least 35% [50%] of its budget in either in-kind contributions or in cash from sources other than state grants or federal grants for categorical programs; or, if it is an existing project, must have a record of providing effective services to victims of crime, and receive at least 20% [25%] of its total budget in either in-kind contributions or in cash from sources other than state grants or federal grants for categorical programs. Grants to Indian tribes or Native American organizations on Indian reservations will require only a 5.0% minimum match, in cash or in-kind contributions, for both new and existing projects. In determining whether a project has a record of providing effective services, the state shall consider whether the program has been providing services to victims for a minimum of one year, the support and approval of its services by the community, and whether an analysis of its activities and financial history shows that it achieves its intended results in a cost-effective manner;

(2)-(10) (No change.)

(b) Classification of projects. Projects of crime victim assistance shall be classified according to the six [five] following categories:

(1) category one—crime victim assistance projects whose principal mission is to offer comprehensive specialized services tailored to the specific needs of victims of sexual assault [having as a principal mission or component of its program, assisting victims of sexual assault];

(2) category two—crime victim assistance projects whose principal mis-

sion is to offer comprehensive specialized services tailored to the specific needs of victims of spousal abuse [having as a principal mission or component of its program, assisting victims of spousal abuse];

(3) category three—crime victim assistance projects whose principal mission is to offer comprehensive specialized services tailored to the specific needs of victims of child abuse [having as a principal mission or component of its program, assisting victims of child abuse];

(4) category four—crime victim assistance projects whose principal mission is to offer services to previously underserved populations of victims of violent crime. Those populations are comprised of [this category shall include, but not be limited to the following]:

(A) survivors of victims of homicide; [any combination of categories one, two, and three; and/or]

(B) victims of physical assault (excluding sexual assault, spousal abuse, and child abuse); [projects assisting victims of other types of crime; and]

(C) families of kidnapped children if the kidnapping can be confirmed as an act of violent crime (as distinguished from violation of a court order relating to parental custody);

(D) other victims who show demonstrable evidence of severe traumatic or psychological suffering resulting from the impact of the crime;

(5) category five—other victim assistance—this category shall include, but not be limited to, the following: [comprehensive victim assistance—this category shall include projects that provide assistance to victims of all types of crime.]

(A) any combination of categories one, two, and three; and/or

(B) projects assisting victims of other types of crime; and

(6) category six—comprehensive victim assistance—this category shall include projects that provide assistance to victims of all types of crime.

(c) Prioritization of project applications.

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

(3) Applicants already receiving grant funds under other CJD funding sources are eligible to request VOCA funding if the proposed grant does not duplicate or supplant the other funding. In instances where the applicant is receiving other CJD funding, the VOCA

grant application will be given a lower priority rating by the Criminal Justice Division.

§3.607. Allocation of Funds. The Criminal Justice Division shall allocate at least 10% of all available Victims of Crime Act funds to each of the following categories as described in §3.606(b) of this title (relating to Project Requirements):

(1) (No change.)

[and] (2) victims of spousal abuse;

[.] (3) victims of child abuse; and

(4) previously underserved victim populations.

§3.609. Review of Grant Applications.

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

(d) Recommendations shall be based on applicable statutory requirements, rules, guidelines, fiscal constraints, administrative policies, comments provided under the Texas review and comment system (TRACS), merit of the project, and quality of the grant application. Merit of the project shall include consideration of how well the applicant and the victim assistance program conform to the requirements and intent of governing directives. Specifically, the following factors will be included for consideration [considered].

(1) Does the program provide assistance to victims as soon as possible after the occurrence of a crime? (A negative answer to this question does not indicate that such a program is ineligible for funding, but guidelines of the United States Department of Justice encourage state administrators to give first consideration for funding to those programs that meet the immediate short-term needs of victims such as counseling, shelter, and other emergency assistance that addresses the devastating psychological and emotional consequences experienced by victims and their families, and to programs whose primary purposes are to aid survivors of homicide victims and for whom services may be delayed beyond the initial crisis) [(This is not to imply that a program becomes eligible for funding only if it provides victim assistance immediately after the occurrence of the crime)].

(2)-(8) (No change.)

(e) The United States Department of Justice guidelines provide that there is no requirement that a VOCA-funded program must serve all types of victims as a criterion of eligibility to receive the grant. However, in an attempt to better serve the needs of victims in the vast geographic expanse of Texas, additional consideration toward funding will be given to those applications outside the

priority program categories which show that services will be provided to victims of all types of crime. Applications that are properly categorized as one of the three priority programs will not be impacted—in their order of prioritization—for failure to serve victims of all types of crime [Additional consideration for funding will be given by CJD to those applications which clearly show that victims assistance services will be provided to victims of all types of crime.

§3.637. Audit Requirements for Local Units of Government and State Agencies that Receive \$100,000 or More Annually in Federal Funds, from All Sources Combined.

(a) Audit Responsibilities. Pursuant to Office of Management and Budget (OMB) Circular A-128, Audits of State and Local Governments, grantees [, subgrantees, and subrecipients] have the responsibility to provide for an audit of their activities. These audits shall be made annually, unless the state or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. Grantees [, as well as their subgrantees, contractors, or other organizations under cooperative agreements or purchase of service contracts,] are to arrange for examinations in the form of independent audits in conformance with OMB Circular A-128. These audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits. The required audits are to be performed on an organization-wide basis as opposed to a grant-by-grant basis. The audit report must be forwarded to the Criminal Justice Division upon receipt by the grantee and must include:

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

(b) (No change.)

(c) (No change.)

Issued in Austin, Texas on August 29, 1989.

TRD-8907941

Ryder Scott
Executive Director
Criminal Justice Division,
Office of the Governor

Effective date: August 29, 1989

Expiration date: December 27, 1989

For further information, please call: (512) 463-1919

Part IV. Office of the Secretary of State
Chapter 91. Texas Register

Filing of Documents

• 1 TAC §91.26

The Office of the Secretary of State adopts on an emergency basis an amendment to §91.26, concerning filing of documents. The amendment to §91.26 will conform with new legislation that requires an agency to determine the cost of compliance for small businesses affected by the rules. The amendment will also add a statement to the preamble regarding whether or not the rule(s) will have an effect on local employment.

The amendment is adopted on an emergency basis in order to comply with Senate Bill 612, Chapter 845, which requires an agency to determine if there will be a local employment impact due to the adoption of a particular section.

The amendment is adopted on an emergency basis under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §4A, which provides the secretary of state with the authority to promulgate rules consistent with the Act.

§91.26. Procedure for Filing Proposals.

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

(c) Preamble. The following information must be included in the preamble.

(1) (No change.)

(2) Fiscal note. A fiscal note containing one of the following:

(A) a listing of the fiscal implications for enforcing or administering the section as proposed. The listing should include:

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

(iv) the effect on small businesses:

(I) (No change.)

(II) pursuant to Texas Civil Statutes, Article 6252-13b.1, §6, an analysis of the cost of compliance with the section for small businesses; and

(III) pursuant to Texas Civil Statutes, Article 6252-13b.1, §6, a comparison of the cost of compliance for small businesses with the cost of compliance for the largest businesses affected by the section, based on at least one of the following standards:

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

(B) (No change.)

(3) Local employment impact statement. In accordance with the provisions of the Administrative Procedure and Texas Register Act, §4 (Texas Civil Statutes, Article 6252-13a), and Senate Bill 612, Chapter 845, an agency must state whether or not the proposed section(s) will have an effect on local employment.

(A) The Texas Employment Commission (commission) shall prepare a local employment impact statement for a proposed section upon the request of a state agency. After determining that the section will have an effect on local employment, the agency is required to:

(i) submit a copy of the proposed section to the commission together with any initial information the commission requires on a form prescribed by the commission;

(ii) designate a liaison to furnish information that the commission may require of the agency during the preparation of the local employment impact statement; and

(iii) submit the proposed section to the commission not later than the 30th day before the date the proposed section is filed with the secretary of state.

(B) The commission shall deliver the local employment impact statement to the agency not later than the 25th day after the date the commission receives the proposed section.

(C) The statement must show the name and title of the officer or employee of the commission responsible for preparing or approving it and the name and title of the agency liaison.

(D) If the commission does not deliver the local employment impact statement to the agency within the required time period after the date the commission receives the proposed section, the proposed section will be presumed to have no local employment impact.

(4)[3] Public benefit/cost note. A public benefit/cost note containing the following:

(A) the name and title of the individual responsible for preparing or approving it;

(B) the public benefit [benefits] to be anticipated for each year of the first five years the sections will be in effect. If no dollar amount can be determined then this may be set out in narrative form; and

(C) the possible economic cost to persons who are required to comply with the section. This should include the specific areas that apply to the agency in which this proposal will have an effect for each year of the first five years the rule will be in effect.

(5)[4] Request for public comment. The request for public comment should contain the name, address, and/or telephone number of the contact person to which an interested individual or party may submit comments.

(6)[5] Statutory requirements. A statement containing the statute (article and section) or other authority under which the proposal is submitted. The agency must also explain how it interprets the provisions as authorizing or requiring the section as proposed.

(d) Text. The text of the proposal shall be formatted according to the provisions set forth in §91.52 [§91.53] of this title (relating to Format for Emergency and Proposed Repeal Action), [and] §91.53 of this title (relating to Format for Proposed Amended Action), [and] §91.56 of this title (relating to Typography), and §91.51 of this title (relating to Paper Size and Form).

(e)-(f) (No change.)

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TRD-8907946

Brad N. Gahm
Assistant Secretary of
State
Office of the Secretary of
State

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For further information, please call: (512) 463-5561

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TITLE 16. ECONOMIC
REGULATION

Part I. Railroad
Commission of Texas

Chapter 3. Oil and Gas
Division

Conservation Rules and
Regulations

• 16 TAC §3.50

The Railroad Commission of Texas adopts on an emergency basis new §3.50, concerning requirements for approval and certification of enhanced oil recovery ("EOR") projects to receive a tax incentive pursuant to the Texas Tax Code, Title 2, Chapter 202, Subchapter B, §202.052 and §202.054. The Railroad Commission is adopting this new section on an emergency basis to advance the public welfare. The decline in the oil and gas industry in Texas has had a grave impact on the Texas economy and the public welfare of citizens. This section should encourage increased oil and natural gas production, in-

crease jobs, and increase severance tax revenue in the future. On August 2, 1989, House Bill Number 40 of the 71st Legislature, 1989, (relating to a Reduced Oil Production Tax Rate) was signed into law by Governor Clements, to become effective on September 1, 1989. House Bill Number 40 provides a reduced oil production tax rate for oil produced from enhanced oil recovery projects approved and certified by the Railroad Commission of Texas. Proposed new §3.50 provides the procedure for approval and certification of EOR projects qualifying for the reduced tax rate provided in the Tax Code, §202.052 and § as amended by House Bill Number 40. The proposed section defines terms and sets the standard for qualification, approval, and certification for the severance tax incentive. The Railroad Commission has not fully analyzed the potential severance tax implications. The former §3.50 was repealed by the Railroad Commission effective November 20, 1980, and the repeal was published in the November 7, 1980, issue of the *Texas Register* (5 TexReg 4419).

The new section is adopted on an emergency basis under the Texas Natural Resources Code, §§81.052, 85.046, 85.202, and the Texas Tax Code §202.052 and § which provides the Railroad Commission of Texas with the authority to adopt rules for the following purposes: to govern and regulate persons and their operation under the jurisdiction of the Railroad Commission; to prevent the waste of oil in producing operations; to approve EOR projects; to designate the area to be affected by EOR projects; to certify positive production response; and to terminate EOR projects.

§3.50. Enhanced Oil Recovery Projects—Approval and Certification for Tax Incentive.

(a) Purpose. The purpose of this section is to provide a procedure by which an operator can obtain Railroad Commission approval and certification of enhanced oil recovery projects pursuant to the Tax Code, Title 2, Chapter 202, Subchapter B, §202.052 and §202.054.

(b) Applicability.

(1) This section applies to:

(A) enhanced oil recovery ("EOR") projects; and

(B) the change from secondary EOR projects to tertiary projects which qualify as new projects, and which begin active operation on or after September 1, 1989.

(2) This section will not apply to the following types of EOR projects unless the operator is able to demonstrate by filings or in a hearing, that the project qualifies as a new and distinct EOR project:

(A) an expansion of a project in active operation prior to September 1, 1989;

(B) a change from one method of secondary recovery project to a

different method of secondary recovery project;

(C) a change from one method of tertiary recovery project to a different method of tertiary recovery project; or

(D) a pressure maintenance project.

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

(1) Active operation—Commencement of fluid injection for secondary or tertiary recovery projects to begin enhancement of the displacement process in the reservoir. Applying for permits and moving equipment into the field alone are not considered active operations.

(2) Commission—The Railroad Commission of Texas.

(3) Director—The director of the Oil and Gas Division or the director's delegate.

(4) Enhanced oil recovery project ("EOR")—The use of any process for the displacement of oil from the reservoir other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process.

(5) Expansion—The enlargement of an EOR project. Production from projects or areas in which active operation was started prior to September 1, 1989, will not qualify for the recovered oil tax rate unless approved pursuant to subsection (b)(2) of this section.

(6) Fluid injection—Injection under pressure through an injection well of a fluid (liquid or gaseous) into a producing formation as part of an EOR project.

(7) Oil recovery from an enhanced recovery project—The oil produced from the designated area the commission certifies to be affected by the project.

(8) Operator—The person recognized by the commission as being responsible for the actual physical operation of an EOR project and the wells associated with the EOR project.

(9) Positive production response—The rate of oil production from wells within the designated area affected by an enhanced recovery project is greater than the rate that would have occurred without the project.

(10) Pressure maintenance—The injection of fluid into the reservoir for the purpose of maintaining the reservoir pressure at or near the bubble point or other critical pressure.

(11) Primary recovery—The displacement of oil from the reservoir into the

well bores by means of the natural pressure of the oil reservoir, including artificial lift.

(12) Recovered oil tax rate—The tax rate provided by the Tax Code, §202.052(b).

(13) Secondary recovery project—An enhanced recovery project that is not a tertiary recovery project.

(14) Termination—Occurs when the approved fluid injection program associated with an EOR project stops or is discontinued.

(15) Tertiary recovery project—An enhanced recovery project using a tertiary recovery method (as defined in the federal June 1979 energy regulations referred to in the Internal Revenue Code of 1986, §4993, or approved by the United States Secretary of the Treasury for purposes of administering, the Internal Revenue Code of 1986, §4993, without regard to whether that section remains in effect) including those listed below.

(A) Alkaline (or "caustic") flooding—An augmented waterflooding technique in which the water is made chemically basic as a result of the addition of alkali metals.

(B) Carbon dioxide augmented waterflooding—Injection of carbonated water, or water and carbon dioxide, to increase waterflood efficiency.

(C) Cyclic steam injection—The alternating injection of steam and production of oil with condensed steam from the same well or wells.

(D) Immiscible carbon dioxide displacement—Injection of carbon dioxide into an oil reservoir to effect oil displacement under conditions in which miscibility with reservoir oil is not obtained.

(E) In situ combustion—Combustion of oil in the reservoir, sustained by continuous air injection, to displace unburned oil toward producing wells.

(F) Microemulsion, or micellar/emulsion, flooding—An augmented waterflooding technique in which a surfactant system is injected in order to enhance oil displacement toward producing wells. A surfactant system normally includes a surfactant, hydrocarbon, cosurfactant, an electrolyte and water, and polymers for mobility control.

(G) Miscible fluid displacement—An oil displacement process in which gas or alcohol is injected into an oil reservoir, at pressure levels such that the injected

gas or alcohol and reservoir oil are miscible. The process may include the concurrent, alternating, or subsequent injection of water. The injected gas may be natural gas, enriched natural gas, a liquefied petroleum gas slug driven by natural gas carbon dioxide, nitrogen, or flue gas. Gas cycling, i. e., gas injection into gas condensate reservoirs, is not a miscible fluid displacement technique nor a tertiary enhanced recovery technique within the meaning of this section.

(H) Polymer augmented waterflooding—Augmented waterflooding in which organic polymers are injected with the water to improve areal and vertical sweep efficiency.

(I) Steam drive injection—The continuous injection of steam into one set of wells (injection wells) or other injection source to effect oil displacement toward and production from a second set of wells (production wells).

(d) Application requirements. To qualify for the recovered oil tax rate the operator must:

(1) submit an application for approval on the appropriate form on or after September 1, 1989, and before January 1, 1994. An application may be filed on or after September 1, 1989, even if a separate application for approval of the project has already been filed prior to that date. All applications must be filed in Austin. One copy of the form and the plats shall also be filed with the appropriate district office. The form shall be executed and certified by a person having knowledge of the facts entered on the andorm. If an application is already on file under the Natural Resources Code, Chapter 101, Subchapter B, or for approval as a tertiary recovery project for purposes of the Internal Revenue Code of 1986, §4993, the operator may file a new application if the active operation of the project does not begin before the application under this section is approved by the commission;

(2) submit all necessary forms to the Oil and Gas Division and provide the commission with any relevant information required to administer this section, such as: area plats showing the proposed project area and all injection and producing wells within the area, production history, planned enhanced oil recovery procedures, and any other pertinent data;

(3) obtain a unitization agreement if required for purposes of carrying out the project under the Natural Resources Code, Chapter 101, Subchapter B. The commission may not approve the project unless the unitization is approved; and

(4) submit an application on the appropriate form and obtain permits to conduct fluid injection operations pursuant to §3.46 of this title (relating to Fluid Injection

into Productive Reservoirs) (Statewide Rule 46), if such permits have not already been obtained.

(e) Concurrent applications. The operator may apply concurrently or separately for:

(1) approval of a proposed enhanced oil recovery project under this section;

(2) approval of a unitization agreement for purposes of carrying out the enhanced oil recovery project under the Natural Resources Code, §101.001 et. seq.; and

(3) approval of an application for certification of the project as a tertiary recovery project.

(f) Opportunity for hearing. The director may administratively approve the application. If the director denies administrative approval, the applicant shall have the right to a hearing upon request. After hearing, the examiner shall recommend final action by the commission.

(g) Approval and certification.

(1) Project approval. In order to be eligible for the recovered oil tax rate as provided in the Tax Code, §202.052(b), the operator must apply for and be granted commission approval of an enhanced oil recovery project, prior to commencing operation of the project. For a project to be approved the operator must:

(A) prove that the project will begin active operation on or after September 1, 1989;

(B) prove that it qualifies as an EOR project; and

(C) designate the area to be affected by the project and obtain commission approval of the designation.

(2) Positive production response certificate.

(A) The operator of an EOR project that meets the requirements of this section must demonstrate to the commission a positive oil production response before the operator can receive commission certification of such a positive production response. The certification date may be any date desired by the operator following the date on which a positive oil production response first occurred. The operator must apply for a positive production response certificate within three years of project approval for secondary projects, and within five years of project approval for tertiary projects, to qualify for the recovered oil tax rate. The oil produced from the designated area after the date of certification of a positive production response, is eligible for the recovered oil tax rate. The operator must

apply to the comptroller pursuant to the Tax Code, §202.052 and §202.054 to qualify for the recovered oil tax rate.

(B) The application for positive response certification shall include:

(i) production graphs and data illustrating a positive production response and volumes of water or other substances that have been injected on the lease or unit since the initiation of the enhanced recovery project;

(ii) a plat of the affected area showing all in section and producing wells, with completion dates; and

(iii) any other data requested by the Oil and Gas Division.

(C) The application for the positive production response certificate will be processed administratively. If the director denies administrative approval, the applicant shall have the right to a hearing upon request. After hearing, the examiner shall recommend final action by the commission.

(h) Annual reporting. The operator must file a project report on the appropriate form, with the Oil and Gas Division each year within 30 days of the anniversary date of the commencement of active operations. The report must contain the following:

(1) date injection started;

(2) monthly volume(s) of injected fluid(s);

(3) number of well(s) used for injection;

(4) injection pressures;

(5) monthly production of oil, gas, and water;

(6) number of active producing wells; and

(7) any other relevant information requested by the Oil and Gas Division.

(i) Reduced or expanded areas. The operator may apply for reduced or expanded project area certification if:

(1) the original application for project approval is received no later than January 1, 1994; and

(2) the application for reduction or expansion is received no later than three years after the original approval of a secondary recovery project or five years after the original approval of a tertiary recovery project.

(j) Termination and penalty. Upon approval by the commission and the comptroller, the recovered oil tax rate continues for a maximum of 10 years, unless the project is sooner terminated. If the project is terminated prior to the 10-year period, the operator must notify the commission and

the comptroller in writing within 30 days after the last day of active operations. Failure to so notify may result in civil penalties, interest, and the tax due. If the commission determines a project has been terminated or there is action that affects the tax rate, it will notify the comptroller immediately in writing.

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Cri Payne
Assistant Director-Legal
Division
Railroad Commission of
Texas

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For further information, please call: (512)
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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter V. Bingo Regulation and Tax

• 34 TAC §3.558

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.558, concerning seal required on disposable bingo cards. The amendment amends subsections (b), (c), (d), (e), and (f) to provide for printing the seal of the Alcoholic Beverage Commission on disposable paper bingo cards, to replace references to the Comptroller of Public Accounts with references to the Alcoholic Beverage Commission, to delete references to sales of cards from manufacturers to licensed organizations, and to amend the implementation schedule for the requirement that the manufacturer's name, trade name, or trademark be printed on all cards.

The amendment is adopted on an emergency basis to give manufacturers additional time to modify their cards and to avoid the confusion and inefficiency of separately implementing these changes.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.558. Seal Required on Disposable Bingo Cards.

(a) (No change.)

(b) The face of every disposable bingo card used, sold, or otherwise furnished in this state shall bear an impression of the State of Texas and a star of five points encircled by olive and live oak branches and the words "Texas Alcoholic Beverage Commission" ["Office of the

Comptroller *Texas*"], in accordance with detailed specifications, available on request from the commission [Regulatory Taxes Division of the Comptroller's Office]. The face of each card shall also have printed on it the name of the manufacturer or a trade name or trademark which has been filed with the commission [comptroller].

(c) No disposable bingo card shall be sold or otherwise furnished to any person in this state without an example of such card having the prior written approval of the commission [comptroller].

(d) Manufacturers shall submit an example of all disposable cards to the Texas Alcoholic Beverage Commission [Regulatory Taxes Division of the Comptroller's Office] for written approval. Approval extends only to cards manufactured to the same specifications as examples submitted. Any modification of approved disposable bingo cards other than color, series numbers, serial numbers, and/or card numbers shall require submission of an example to the Texas Alcoholic Beverage Commission [Regulatory Taxes Division of the Comptroller's Office] for approval. Until January 1, 1990, manufacturers shall continue to submit cards to the Regulatory Taxes Division of the Comptroller's Office.

(e) The following restrictions apply to the sale or purchase of disposable cards.

(1) A manufacturer shall not sell or otherwise furnish unapproved disposable cards to distributors [or licensed organizations] for use in this state. This requirement shall also apply to any manufacturer who assembles and collates disposable cards for sale in Texas even though such cards have been previously submitted for approval by the original manufacturer. In addition, any licensed manufacturer who collates another manufacturer's disposable cards for sale in Texas must purchase all card sheets to be used in collating such cards from a licensed manufacturer.

(2) A distributor shall not purchase or otherwise obtain unapproved disposable cards for use in this state.

(3) A licensed organization shall not purchase or otherwise obtain [from a manufacturer] unapproved disposable cards for use in this state. A licensed organization shall not use in this state unapproved disposable cards.

(f) The requirements [requirement] that all cards have printed on the face of the card the seal of the Texas Alcoholic Beverage Commission and the name of the manufacturer, a trade name, or a trademark shall be implemented according to the following schedule.

(1) A manufacturer shall not sell or otherwise furnish disposable cards not bearing the seal of the Texas Alcoholic Beverage Commission and the manufacturer's name, trade name, or trademark to

distributors or licensed organizations for use in this state after December 31 [June 30], 1989. This requirement also applies to any manufacturer who assembles and collates disposable cards for sale in Texas, but only the name, trade name, or trademark of the original manufacturer who printed the card face shall be printed on the card face.

(2) A distributor shall not purchase disposable cards which do not bear the seal of the Texas Alcoholic Beverage Commission and the name, trade name, or trademark of the manufacturer after December 31 [June 30], 1989, for use in this state. A distributor may continue to sell cards which do not bear the manufacturer's name to licensed organizations in this state until March 31, 1990 [September 30, 1989].

(3) A licensed organization shall not purchase or otherwise obtain from a manufacturer disposable cards which do not bear the seal of the Texas Alcoholic Beverage Commission and the manufacturer's name for use in this state after March 31, 1990 [September 30, 1989]. A licensed organization shall not use in this state disposable cards which do not bear the manufacturer's name after June 30, 1990 [December 31, 1989].

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TRD-8907961

Bob Bullock
Comptroller of Public
Accounts

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 4. Medicaid Programs—Children and Pregnant Women

Eligibility

• 40 TAC §4.1004, §4.1010

The Texas Department of Human Services (DHS) adopts on an emergency basis amendments to §4.1004 and §4.1010, concerning eligible groups and determining income eligibility. The purpose for the amendments is to increase the Medicaid income limit for children and pregnant women. DHS is simultaneously proposing these sections for review and comment in this issue of the *Texas Register*.

The amendments raise the current income limits for: pregnant women to 130% of the federal poverty income limit for fiscal years 1990 and 1991; children less than age one to 130% of the federal poverty income limit for fiscal years 1990 and 1991; children from age

one through age three to 100% of the federal poverty income limit for fiscal year 1990; and children from age one through age five to 100% of the federal poverty income limit for fiscal year 1991.

The department adopts the amendments on an emergency basis effective September 1, 1989, to comply with state legislation passed by the 71st session of the Texas State Legislature.

The amendments are adopted on an emergency basis 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

§4.1004. Eligible Groups. The programs serve the following groups of people:

(1) pregnant women whose income is less than 130% [100%] of the federal poverty level and whose total resources are less than the food stamp resource limit for households with no members age 60 or over;

(2) children under one [two during fiscal year (FY) 1989 (September 1, 1988, through August 31, 1989), under three] during FY 1990 (September 1, 1989 through August 31, 1990), and [under four beginning] FY 1991 (September 1, 1990, through August 31, 1991) whose family income is less than 130% [100%] of the federal poverty level and whose total resources are less than the food stamp resource limit for households with no members 60 or over;

(3) children one through three during FY 1990 and children one through five during FY 1991 whose family income is less than 100% of the federal poverty level and whose total resources are less than the food stamp resource limit for households with no members 60 or over;

(4)[(3)] newborn children born on or after October 1, 1984, if their mothers are receiving Medicaid coverage at the time of birth. This coverage can continue through the month of the child's first birthday as long as he remains in the mother's household and the mother remains eligible for Medicaid;

(5)[(4)] children four [two or over during FY 1989, three] or over during FY 1990, and six [four] or over beginning FY 1991 in two-parent families who meet all AFDC eligibility requirements except that they are not deprived of parental support, or because they have been denied participation in the AFDC Program for failure to comply with employment services or child support requirements outlined in the AFDC Program rules;

(6)[(5)] children who meet all AFDC eligibility requirements except income. These deprived children live with their legal parent and stepparent of their legal minor parent and their minor parent's

parents. They are ineligible for AFDC because of the applied income of their stepparent or grandparents.

§4.1010. Determining Income Eligibility. Income eligibility is determined using the AFDC eligibility requirements outlined in the AFDC rules with the following exceptions.

(1) The income limits for pregnant women and children under one [two] during FY 1990 and 1991 [1989, under three during FY 1990, and under four beginning FY 1991] are 130% [100%] of the federal poverty level adjusted annually, according to federal requirements, or by DHS action in the absence of federal requirements. The income limits for children one through three during FY 1990 and children one through five during FY 1991 are 100% of the federal poverty level adjusted annually, according to federal requirements, or by DHS action in absence of federal requirements.

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

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Ron Lindsey
Commissioner
Texas Department of
Human Services

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

Chapter 15. Medicaid Eligibility

Subchapter E. Income

The Texas Department of Human Services adopts on an emergency basis amendments to §15.465 and §15.505, concerning special income limits, in its Medicaid eligibility chapter. The Texas Legislature approved an increase in the monthly special income limits for the Medical Assistance Only (MAO) program for individuals and couples. The legislature approved the maximum allowable increase in MAO income limit under federal regulations. Federal regulations mandate that when a state uses the federal maximum to determine eligibility, the state does not allow certain deductions from gross income. The department, therefore, proposes to delete the \$20-general exclusion and the earned income exclusion for clients whose eligibility is determined by using the institutional income limit. In this publication of the *Texas Register*, the department is simultaneously proposing these amendments for review and comment.

• 40 TAC §15.465

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. To comply with legislation passed by the 71st Texas Legislature, the department adopts this amendment on an

emergency basis to be effective September 1, 1989.

§15.465. Income Exclusions.

(a) General exclusion. For each month, the first \$20 of unearned or earned income is excluded. This exclusion is applied first to unearned income, then to earned income if the unearned income is less than \$20. If no unearned income exists, the entire \$20-exclusion is applied to the earned income. Exceptions are as follows.

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

(3) The \$20-general exclusion does not apply to Type Program 14 or Waiver Cases.

(b) Earned income exclusion. After applying the \$20 general exclusion, the department excludes \$65 of the remaining earned income plus one-half of the remaining earnings. In the case of an eligible couple, the department allows only one earned income exclusion for the couple's combined earned income. The earned income exclusion does not apply to Type Program 14 or Waiver V cases.

(c)-(h) (No change.)

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

Subchapter F. Budgets and Payment Plans

• 40 TAC §15.505

The amendment is adopted on an emergency basis, 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. To comply with legislation passed by the 71st Texas Legislature, the department adopts this amendment on an emergency basis to be effective September 1, 1989.

§15.505. Budget Eligibility Requirements.

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

(c) If the individual's or couple's income is equal to or [at least 1 cent] less than the federal maximum [department's limit], and all other eligibility criteria are met, the individual or couple is eligible for medical assistance only.

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Commissioner
Texas Department of
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Chapter 75. Investigations

Criminal Conviction Checks of Employees in Certain Facilities Serving the Elderly or Disabled

• 40 TAC §75.1001, §75.1002

The Texas Department of Human Services (DHS) adopts on an emergency basis, new §75.1001 and §75.1002, concerning criminal conviction checks of employees in certain facilities serving the elderly or disabled, in its investigations chapter. The purpose of the new sections is to establish a program of criminal conviction checks of prospective employees of certain facilities that provide care for the elderly and disabled. The DHS Office of the Inspector General will conduct record checks on behalf of the Texas Department of Health and on behalf of DHS contract managers. The new sections are simultaneously proposed in this issue of the *Texas Register* for review and comment.

The new sections are adopted on an emergency basis under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer its programs; and under the Human Resources Code, Title 6, Chapter 106, which provides the department with the authority to perform criminal background checks of employees in facilities for the elderly or disabled. The department adopts these rules on an emergency basis to be effective September 1, 1989, to comply with legislation passed by the 71st Texas Legislature.

§75.1001. Basis. In order to determine if employees have been convicted of certain offenses, facilities serving the elderly or disabled are required by the Human Resources Code, Chapter 106, to request criminal conviction records of prospective employees.

§75.1002. Facilities Requirements.

(a) The Department of Human Services (DHS) will obtain criminal conviction records for the following facilities that are required by law to request criminal conviction records on prospective employees:

(1) a nursing home, custodial care home, or other institution licensed by the Texas Department of Health under Texas Civil Statutes, Article 4442c;

(2) a personal care facility licensed by the Texas Department of Health under Texas Civil Statutes, Article 4442c or Article 4442c-4;

(3) a home health agency licensed by the Texas Department of Health under Texas Civil Statutes, Article 4447u;

(4) an adult day care facility or adult day health care facility licensed by the

Texas Department of Health under the Human Resources Code, Chapter 103;

(5) a facility for the mentally retarded, licensed by the Texas Department of Health; and

(6) an unlicensed attendant care agency that contracts with the Texas Department of Human Services.

(b) A facility may offer temporary employment pending the results of a criminal conviction check. The facility may offer permanent employment after 45 days if it has not received notification of a bar on employability. Facilities must provide to DHS the required information on a job applicant no later than 72 hours after the hour when the person accepts temporary employment.

(c) Facilities must provide to DHS the following information: complete name, maiden name, aliases, date of birth, race, sex, social security number, and date hired. The information must be submitted on designated DHS forms. DHS may require applicants to provide their fingerprints.

(d) The Texas Department of Health will implement the Nurse Aide Registry, which may be used to satisfy the requirements of a criminal conviction check for nurse aides only.

(1) DHS will provide the criminal conviction information for the Registry. Information contained in the Registry will be released to the requesting entity and, upon any subsequent request, to other authorized entities. Authorized entities include facilities listed in subsection (a) of this section, nurse aide training programs approved by the Texas Department of Health, and any organization that provides temporary nurse aides to a facility listed in subsection (a) of this section.

(2) Facilities listed in subsection (a) of this section must begin criminal conviction checks on prospective employees on September 1, 1989. Facilities that are licensed under Texas Civil Statutes, Article 4442c and are Medicare skilled nursing facilities or Medicaid nursing facilities under the Omnibus Budget Reconciliation Act of 1987 (OBRA) may begin use of the Registry for nurse aide checks when the Registry is implemented. The nurse aide training programs and organizations that provide temporary nurse aides must begin criminal history checks when the Registry is implemented, and may not conduct any such checks on employees or prospective employees other than nurse aides. Any organization that provides temporary nurse aides as previously described in paragraph (1) of this subsection is required to obtain only one criminal history check per employee, to take place upon the initial employment of the individual and prior to referring the individual for temporary employment at any facility.

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Ron Lindsey
Commissioner
Texas Department of
Human Services

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

Chapter 85. General Licensing Procedures

Subchapter U. Day Care Licensing Procedures

The Texas Department of Human Services adopts on an emergency basis amendments to §85.2012 and §85.3059, concerning the issuance of a provisional license and the discontinuance of biennial certification, in its general licensing procedures chapter. New legislation requires that the department issue provisional licenses when certain situations exist. The Texas Legislature also approved licensing legislation that eliminates the two-year limitation of the certificate of approval for state agencies that operate child care facilities. In this publication of the *Texas Register*, the department is simultaneously proposing these amendments for review and comment.

• 40 TAC §85.2012

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 42, which provides the department with the authority to administer public assistance and general licensing programs. To comply with legislation, the department adopts this amendment on an emergency basis to be effective September 1, 1989.

§85.2012. Issuance of Provisional License.

(a) The department must issue a provisional license when one of the following situations exists:

(1) the facility is not currently operating;

(2) the facility has relocated and has made changes in the type of child care services it provides; or

(3) a change in ownership of the facility exists that results in changes in policy and procedures or in the staff who have direct contact with the children. [A provisional license is appropriate if:

(1) a facility applies for a license and has not yet accepted children for care;

(2) an operating facility is not currently licensed;

(3) a licensed facility changes location;

(4) a licensed facility changes ownership;

(5) a licensed facility adds a different program subject to regulation;

[(6) a facility changes from one type of licensed child care to another;

[(7) a license has been denied or revoked, or the facility has ceased operation, and an application is submitted for the same facility;

[(8) a corrective denial has been imposed, the facility has immediately reapplied, and the facility has waived its right to appeal. A provisional license will not be issued more than two consecutive times.]

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

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Ron Lindsey
Commissioner
Texas Department of
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**Subchapter EE. Agency and
Institutional Licensing
Procedures**

◆ ◆ ◆
• 40 TAC §85.3059

The amendment is adopted on an emergency basis, under the Human Resources Code, Title 2, Chapters 22 and 42, which provides the department with the authority to administer public assistance and general licensing programs. To comply with legislation, the department adopts this amendment on an emergency basis to be effective September 1, 1989.

§85.3059. Renewal of Certificate. Certification of approval of state-operated child care facilities remains valid until revoked or surrendered. [For renewal, the facility must return all documentation required by the department no later than two months before the certificate expires.]

Issued in Austin, Texas, on August 29, 1989.

TRD-8907930
Ron Lindsey
Commissioner
Texas Department of
Human Services

Effective date: September 1, 1989.

Expiration date: December 30, 1989.

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

◆ ◆ ◆
**Part X. Texas
Employment
Commission**

Chapter 303. Child Labor

◆ ◆ ◆
• 40 TAC §303.1

The Texas Employment Commission adopts on an emergency basis §303.1, concerning child labor, by incorporating by reference the existing child labor rules previously adopted by the Texas Department of Labor and Standards, and found in 16 TAC, Chapter 71, §§71.1-71.6, concerning child labor.

The reasons for the adoption of this emergency section are as follows. House Bill 863, passed by the legislature and signed into law by the governor, effects a transfer of authority for administration of the state child labor law, Texas Civil Statutes, Article 5181.1, from the Texas Department of Labor and Standards (TDL&S) to the Texas Employment Commission,

effective September 1, 1989. Since 1981, the Texas Department of Labor and Standards has administered this law under the body of substantive rules referenced previously. The public health, safety, and welfare of Texas children depend upon a continuity of those substantive child labor rules upon the effective date of House Bill 863. The Texas Employment Commission finds that there is an imminent peril to the public health, safety, and welfare of Texas children if the existing TDL&S child labor rules are allowed to lapse on September 1, 1989, without substantive rules in effect.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 5181.1, which provide the Texas Employment Commission with the authority to adopt, amend, or rescind such rules as it deems necessary to promote the purpose of this Act. Emergency action is authorized under Texas Civil Statutes, Article 6252-13a.

§303.1. Adoption by Reference of Child Labor Rules. The Texas Employment Commission adopts by reference the child labor rules of the Texas Department of Labor and Standards, 16 TAC §§71.1-71.6. These rules, as adopted by the Texas Employment Commission, may be obtained by contacting the EEO/Monitor Advocate Department, Texas Employment Commission, TEC Building, EOB 502, Austin, Texas 78778.

Issued in Austin, Texas, on August 29, 1989.

TRD-08907920
J. Ferris Duhon
Legal Counsel
Texas Employment
Commission

Effective date: September 1, 1989

Expiration date: December 30, 1989

For further information, please call: (512) 463-2291



Name: Mike Wagon
School: Marshall High, Marshall

MIKE WAGON

Proposed Sections

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

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

TITLE 1.

ADMINISTRATION

Part I. Office of the Governor

Chapter 3. Criminal Justice Division

Subchapter A. Criminal Justice Administration of the Crime Victims Assistance

- 1 TAC §§3.602, 3.603, 3.604, 3.606, 3.607, 3.609, 3.637

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

The Criminal Justice Division (CJD) of the Office of the Governor proposes amendments to §§3.602, 3.603, 3.604, 3.606, 3.607, 3.609, and 3.637, concerning the criminal Justice Division's (CJD) administration of the Crime Victims Assistance Program. The amendments were proposed on an emergency basis to ensure that the applicants for funds under the Victims of Crime Act of 1984 (VOCA) have complete and accurate information concerning: applicability; compliance; adoption of reference; advisory council; project requirements; allocation of funds; review of grant applications; and audit requirements.

Rider Scott, executive director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Scott 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 fully informed concerning the administrative policies and procedures and the special requirements for funding under the Crime Victims Assistance Program. 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 Knox Fitzpatrick, Associate Director, Criminal Justice Division, Office of the Governor, P.O. Box 12428, Austin, Texas 78711, for a period of 30 days following publication in this issue of the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 4413(32a), §6(a)(11), which provide the Criminal Justice Division of the governor with the authority to adopt rules,

regulations, and procedures as may be necessary.

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 August 29, 1989.

TRD-8907942

Rider Scott
Executive Director
Criminal Justice Division,
Office of the Governor

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-1919

Part IV. Office of the Secretary of State

Chapter 91. Texas Register

The Office of the Secretary of State proposes amendments to §§91.26, 91.36, and 91.91, concerning filing of documents and submission forms. The amendment to §91.26 will conform with new legislation that requires an agency to determine the cost of compliance for small businesses affected by the rule. The amendment to §91.26 will also add a statement to the preamble regarding whether or not the rule(s) will have an effect on local employment. The amendment to §91.36 amends the effective date of adoptions filed under the Insurance Code, Article 5.96 and Article 5.97, to reflect that of the filed date. The amendment to §91.91 amends the revised date of the TR forms and changes the street address of the *Texas Register* office.

Dan Procter, director, Office of the Secretary of State, *Texas Register*, 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. Procter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as result of enforcing the section will be the clarity of updated filing requirements needed when state agencies propose rule action with the *Texas Register*. 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 Dan Procter, Office of the Secretary of State, *Texas Register*, 1019 Brazos, Room 245, Austin, Texas 78701.

Filing of Documents

- 1 TAC §91.26

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

The amendment is proposed under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §4A, which provides the secretary of state with the authority to promulgate rules consistent with the Act.

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

Issued in Austin, Texas, on August 28, 1989.

TRD-8907947

Brad N. Gahm
Assistant Secretary of
State
Office of the Secretary of
State

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-5561

- 1 TAC §91.36

The amendment is proposed under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §4A, which provides the secretary of state with the authority to promulgate rules consistent with the Act.

§91.36. Procedure for Filing Notice of Adoption under the Insurance Code, Article 5.96 and Article 5.97

(a)-(f) (No change.)

(g) The adoption shall take effect 15 full calendar days after publication [filing] of the notice of final action in [with] the *Texas Register* unless a later date is specified. In calculating the effective date, day one shall be the first calendar day after publication [filing]; therefore, the earliest date the section may become effective is the 16th calendar day after publication [filing].

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

Issued in Austin, Texas, on August 28, 1989.

TRD-8907950

Brad N. Gahm
Assistant Secretary of
State
Office of the Secretary of

State

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-5561

Submission Forms

• 1 TAC §91.91

The amendment is proposed under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §4A, which provide the secretary of state with the authority to promulgate rules consistent with the Act

§91.91. Use of Submission Forms.

(a) Each copy of each document submitted must be accompanied by the appropriate submission form, as revised September 1987 [December 1983] (Forms TR-2, TR-3, TR-4, and TR-5) and as adopted December 1986 (Form TR-6). These forms can be found in §91.93 of this title (relating to Form for Section Action); §91.94 of this title (relating to Form for Notice of Open Meeting); §91.95 of this title (relating to Form for Miscellaneous Document); and §91.96 of this title (relating to Form for Governor, Attorney General, and Secretary of State), [are adopted by reference], and blank sample copies of each may be obtained by each agency, as specified in §91.97 of this title (relating to Reproduction of Forms), in the Texas Register office, 1019 Brazos, Room 245, [Room 503 E Sam Houston Building, 201 East 14th Street] Austin, Texas 78701.

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

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

Issued in Austin, Texas on August 28, 1989.

TRD-8907952 Brad N. Gahm Assistant Secretary of State Office of Secretary of State

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-5561.

The Office of the Secretary of State proposes the repeal of §§91.51-91.53, 91.93-91.96, 91.98, and new §§91.50-91.53, 91.93-91.96, and 91.98, concerning document format and submission forms Sections 91.50-91.53 are being repealed in order to renumber existing sections so that new §91.53, concerning proposed amended action, can be inserted into the undesignated head concerning document format. Sections 91.93-91.96 are being repealed in order to contemporaneously propose new sections. The new sections will update and clarify the filing requirements for proposing and adopting rules and will amend

the Texas Register preamble forms to comply with Senate Bill 612, Chapter 845.

Dan Procter, director, Office of the Secretary of State, Texas Register Division, has determined that for the first five-year period the proposed repeals and new 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 repeals and new sections.

Mr. Procter 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 result of enforcing the repeals and new sections will be the deletion of obsolete filing requirements; and clarity in the new requirements for proposing and adopting rules in the Texas Register. 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 Dan Procter, Office of the Secretary of State, Texas Register Division, 1019 Brazos, Room 245, Austin, Texas 78701.

Document Format

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

• 1 TAC §§91.51-91.53

The repeals are proposed under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §4A, which provides the secretary of state with the authority to promulgate rules consistent with the Act.

§91.51. Paper Size and Form.

§91.52. Headings.

§91.53. Format for Emergency and Proposed Repeal Action.

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 August 28, 1989.

TRD-8907948 Brad N. Gahm Assistant Secretary of State Office of the Secretary of State

Earliest possible date of adoption: October 6, 1989.

For further information, please call: (512) 463-5561.

• 1 TAC §§91.50-91.53

The new sections are proposed under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §4A, which provides the secretary of state with the authority to promulgate rules consis-

tent with the Act.

§91.50. Paper Size and Form. Documents shall be submitted on white 8 1/2 inch by 11 inch paper. The margins shall be approximately 1 1/2 inches at the top, and one inch at the bottom. Submissions shall be typed on only one side of the paper. Standard pica type shall be used. Type smaller than standard elite shall not be used. Only the following typesets will be accepted for publication: Courier 10 (Xerox Titan 10); Courier 10 (Xerox Titan 12); elite; Letter Gothic; OCR-B; Pica; Prestige Elite (Xerox Vintage 12); or Prestige Pica. Dot matrix printer type will not be accepted. The text of all documents submitted for filing and publication to the Texas Register must be double-spaced and must be typed in black.

§91.51. Headings. Each page of each document submitted shall contain an identifying heading.

(1) The complete name of the issuing agency shall be typed in the upper left-hand corner of each page, above the top margin and flush with the left-hand margin.

(A) When submitting section action, the title of the chapter of sections shall be typed on the line below the name of the issuing agency, flush with the left-hand margin.

(B) When submitting a miscellaneous notice, the title of the document shall be typed on the line below the name of the issuing agency, and centered on the page.

(2) Each page of each document submitted shall be numbered in the upper right-hand corner of the page as follows: "Page ____ of ____."

§91.52. Format for Emergency and Proposed Repeal Action.

(a) Notice of emergency or proposed repeal action shall be formatted according to the following requirements. List only the TAC number and respective title of the section. The text must not be included.

(b) The requirements set forth in subsection (a) of this section shall not preclude other requirements for submission and filing of emergency or proposed section action.

§91.53. Format for Proposed Amended Action. An amendment is a change, deletion, or addition of wording to an existing section. The format to be followed when amending a section is set forth in paragraphs (1)-(5) of this section.

(1) Existing language. Existing language must be typed in conventional uppercase/lowercase style. According to para-

graph (5) of this section, any language not being amended must be accounted for.

(2) **New language.** The adding of any language to an existing section must be underlined. New numbers and punctuation marks must also be underlined, in order to show that they are new language. The procedure to follow when adding or replacing language to a section is set forth in subparagraphs (A) and (B) of this paragraph.

(A) New language must precede the old.

(B) When replacing existing language, the new language must precede the language being deleted. See example in paragraph (3) of this section.

(3) **Deleted language.** All language being deleted must be shown in brackets. Do not bracket out part of a word. For example, if a plural word becomes singular, bracket out the entire word, i.e., section [sections]. When deleting consecutive subdivisions of an existing section, an opening bracket (I) must be placed at the beginning of each subdivision, with a closing bracket at the end of the last subdivision being deleted.

(4) **Renumbering subdivisions.** When renumbering subdivisions within a section the language must be shown; even if the language contains no actual changes it is needed for clarification. If a subdivision, which is being re-numbered, contains several lower-level subdivisions, the language contained in the lower-level subdivisions must be shown, even if the lower-level subdivisions are not being renumbered.

(5) **"No change" policy.** When an agency amends only one subdivision within a section, those subdivisions not affected may be labeled "no change." However, the higher-level subdivision, which contains the lower-level subdivision being amended, must be printed for clarification. It is not incorrect to include the entire text of a section being amended. It shall be left

up to the agency whether or not it wishes to use the "no change" policy. However, if the agency decides to waive the "no change" policy, it will be left to the discretion of the *Texas Register* staff to determine which subdivisions can be designated as "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 August 28, 1989.

TRD-8907951 Brad N. Gahm
Assistant Secretary of
State
Office of Secretary of
State

Earliest possible date of adoption: October 6, 1989.

For further information, please call: (512) 463-5561

Submission Forms

• 1 TAC §§91.93-91.96, 91.98

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

The repeals are proposed under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §4A, which provide the secretary of state with the authority to promulgate rules consistent with the Act.

§91.93. *Form for Section Action.*

§91.94. *Form for Notice of Open Meeting.*

§91.95. *Form for Miscellaneous Documents*

§91.96. *Form for Governor, Attorney General, Secretary of State, State Ethics Advisory Commission.*

§91.98. *Form for Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L.*

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 August 28, 1989.

TRD-8907949 Brad N. Gahm
Assistant Secretary of
State
Office of Secretary of
State

Earliest possible date of adoption: October 6, 1989.

For further information, please call: (512) 463-5561.

• 1 TAC §91.93

The new section is proposed under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §4A, which provide the secretary of state with the authority to promulgate rules consistent with the Act.

§91.93. *Form for Section Action.*

(a) Form TR-2, Submission Form-Section Action, must be used for submitting emergency, proposed, final, or withdrawal action on sections. The following are examples of section actions.

SUBMISSION FORM
SECTION ACTION

TRD DOC. NO. _____
FOR ISSUE OF _____
P.L. WORKING

DO NOT WRITE ABOVE THIS LINE

(1) AGENCY CODE _____
(2) TITLE 1 Administration (3) PART IV Office of the Secretary of State
(4) CHAPTER 91 Texas Register
(5) SUBCHAPTER _____ Submission Forms
(6) UNDESIGNATED HEAD _____
(7) TAC SECTION NUMBER(S) \$91.91

(8) EMERGENCY ACTION
____ ORIGINAL FILING
____ RENEWAL OF EFFECTIVENESS
____ ORIGINAL TRD DOCKET NUMBER
____ TEXREG
____ ISSUE DATE
____ NEW
____ AMENDMENT
____ REPEAL
____ ADOPTION BY REFERENCE
TO BE IN EFFECT _____ DAYS
____ IMMEDIATELY ON FILING
____ OTHER (SPECIFY): _____

(9) PROPOSED ACTION
LAST ADOPTION:
____ TRD DOCKET NUMBER
____ NEW
____ AMENDMENT
____ REPEAL
____ ADOPTION BY REFERENCE
____ IDENTICAL EMERGENCY
ACTION FILED FOR
SIMULTANEOUS PUBLICATION
PROPOSED DATE OF ADOPTION:
____ 30 DAYS AFTER PUBLICATION
____ OTHER (SPECIFY): _____

(10) FINAL ACTION
8907501 TRD DOCKET NUMBER
FOR PROPOSED ACTION
5-30-89 PROPOSED ACTION
PUBLICATION DATE
____ NEW
 AMENDMENT
____ REPEAL
____ FEDERAL MANDATE
____ ADOPTED WITH CHANGES
 ADOPTED WITHOUT CHANGES
____ EMERGENCY AND/OR PROPOSED
ACTION WITHDRAWN _____ TEXREG _____
____ ISSUE DATE
EFFECTIVE DATE:
 20 DAYS AFTER FILING
____ OTHER (SPECIFY): _____

(11) VERIFICATION
I VERIFY THAT I HAVE REVIEWED THE ATTACHED DOCUMENT
AND THAT IT CONFORMS TO ALL APPLICABLE TEXAS
REGISTER FILING REQUIREMENTS.
ADDITIONAL INFORMATION MAY BE OBTAINED BY
CONTACTING ME AT _____
(TELEPHONE NUMBER)

TYPED NAME OF AGENCY LIAISON

TITLE OF AGENCY LIAISON

SIGNATURE OF AGENCY LIAISON

DATE OF VERIFICATION
(12) DO YOU REQUEST ACKNOWLEDGMENT OF RECEIPT?

FOR TEXAS REGISTER USE ONLY
OFFICIAL FILING STAMP

ACCEPTED FOR FILING:

INPUT _____
PROOFREADER _____

FORM TR-2

SUBMISSION FORM
SECTION ACTION

TRD DOC. NO. _____
FOR ISSUE OF _____
P.I. WORKING

DO NOT WRITE ABOVE THIS LINE

(1) AGENCY CODE _____

(2) TITLE 1 Administration (3) PART IV Office of the Secretary of State
(4) CHAPTER 91 Texas Register
(5) SUBCHAPTER _____
(6) UNDESIGNATED HEAD Submission Forms
(7) TAC SECTION NUMBER(S) \$91.91

(8) EMERGENCY ACTION
 ORIGINAL FILING
____ RENEWAL OF EFFECTIVENESS
____ ORIGINAL TRD DOCKET NUMBER
____ TEXREG _____
____ ISSUE DATE
____ NEW
 AMENDMENT
____ REPEAL
____ ADOPTION BY REFERENCE
TO BE IN EFFECT 120 DAYS
 IMMEDIATELY ON FILING
____ OTHER (SPECIFY): _____

(9) PROPOSED ACTION
LAST ADOPTION:
____ TRD DOCKET NUMBER
____ NEW
____ AMENDMENT
____ REPEAL
____ ADOPTION BY REFERENCE
____ IDENTICAL EMERGENCY
ACTION FILED FOR
SIMULTANEOUS PUBLICATION
PROPOSED DATE OF ADOPTION:
____ 30 DAYS AFTER PUBLICATION
____ OTHER (SPECIFY): _____

(10) FINAL ACTION
____ TRD DOCKET NUMBER
FOR PROPOSED ACTION
____ PROPOSED ACTION
PUBLICATION DATE
____ NEW
____ AMENDMENT
____ REPEAL
____ FEDERAL MANDATE
____ ADOPTED WITH CHANGES
____ ADOPTED WITHOUT CHANGES
____ EMERGENCY AND/OR PROPOSED
ACTION WITHDRAWN ____ TEXREG ____
____ ISSUE DATE
EFFECTIVE DATE:
____ 20 DAYS AFTER FILING
____ OTHER (SPECIFY): _____

(11) VERIFICATION
I VERIFY THAT I HAVE REVIEWED THE ATTACHED DOCUMENT
AND THAT IT CONFORMS TO ALL APPLICABLE TEXAS
REGISTER FILING REQUIREMENTS.
ADDITIONAL INFORMATION MAY BE OBTAINED BY
CONTACTING ME AT _____
(TELEPHONE NUMBER)

TYPED NAME OF AGENCY LIAISON

TITLE OF AGENCY LIAISON

SIGNATURE OF AGENCY LIAISON

DATE OF VERIFICATION _____

FOR TEXAS REGISTER USE ONLY
OFFICIAL FILING STAMP

ACCEPTED FOR FILING:

INPUT _____

SUBMISSION FORM SECTION ACTION

TRD DOC NO FOR ISSUE OF PL. WORKING DO NOT WRITE ABOVE THIS LINE

(1) AGENCY CODE (2) TITLE Administration (3) PART IV Office of the Secretary of State (4) CHAPTER 91 Texas Register (5) SUBCHAPTER (6) UNDESIGNATED HEAD Submission Form (7) TAC SECTION NUMBER(S) 91.91

(8) EMERGENCY ACTION ORIGINAL FILING RENEWAL OF EFFECTIVENESS ORIGINAL TRD DOCKET NUMBER TEXREG ISSUE DATE NEW AMENDMENT REPEAL ADOPTION BY REFERENCE IDENTICAL EMERGENCY ACTION FILED FOR SIMULTANEOUS PUBLICATION TO BE IN EFFECT IMMEDIATELY ON FILING OTHER (SPECIFY) DAYS (9) PROPOSED ACTION LAST ADOPTION: TRD DOCKET NUMBER PUBLICATION DATE NEW AMENDMENT REPEAL ADOPTION BY REFERENCE IDENTICAL EMERGENCY ACTION FILED FOR SIMULTANEOUS PUBLICATION PROPOSED DATE OF ADOPTION: 30 DAYS AFTER PUBLICATION OTHER (SPECIFY) UPON FILING EFFECTIVE DATE: 20 DAYS AFTER FILING (10) FINAL ACTION TRD DOCKET NUMBER PUBLICATION DATE PROPOSED ACTION FOR PROPOSED ACTION NEW AMENDMENT REPEAL ADOPTION BY REFERENCE IDENTICAL EMERGENCY ACTION FILED FOR SIMULTANEOUS PUBLICATION ACTION WITHDRAWN TEXREG

(11) VERIFICATION I VERIFY THAT I HAVE REVIEWED THE ATTACHED DOCUMENT AND THAT IT CONFORMS TO ALL APPLICABLE TEXAS REGISTER FILING REQUIREMENTS. ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING ME AT (TELEPHONE NUMBER) TYPED NAME OF AGENCY LIAISON TITLE OF AGENCY LIAISON SIGNATURE OF AGENCY LIAISON DATE OF VERIFICATION (12) DO YOU REQUEST ACKNOWLEDGMENT OF RECEIPT? ACCEPTED FOR FILING: INPUT PROOFREADER

FOR TEXAS REGISTER USE ONLY OFFICIAL FILING STAMP

TRD DOC NO FOR ISSUE OF PL. WORKING DO NOT WRITE ABOVE THIS LINE

SUBMISSION FORM SECTION ACTION

(1) AGENCY CODE (2) TITLE Administration (3) PART IV Office of the Secretary of State (4) CHAPTER 91 Texas Register (5) SUBCHAPTER (6) UNDESIGNATED HEAD Submission Form (7) TAC SECTION NUMBER(S) 91.91

(8) EMERGENCY ACTION ORIGINAL FILING RENEWAL OF EFFECTIVENESS ORIGINAL TRD DOCKET NUMBER TEXREG ISSUE DATE NEW AMENDMENT REPEAL ADOPTION BY REFERENCE IDENTICAL EMERGENCY ACTION FILED FOR SIMULTANEOUS PUBLICATION TO BE IN EFFECT IMMEDIATELY ON FILING OTHER (SPECIFY) DAYS (9) PROPOSED ACTION LAST ADOPTION: TRD DOCKET NUMBER PUBLICATION DATE NEW AMENDMENT REPEAL ADOPTION BY REFERENCE IDENTICAL EMERGENCY ACTION FILED FOR SIMULTANEOUS PUBLICATION PROPOSED DATE OF ADOPTION: 30 DAYS AFTER PUBLICATION OTHER (SPECIFY) EFFECTIVE DATE: 20 DAYS AFTER FILING (10) FINAL ACTION TRD DOCKET NUMBER PUBLICATION DATE PROPOSED ACTION FOR PROPOSED ACTION NEW AMENDMENT REPEAL ADOPTION BY REFERENCE IDENTICAL EMERGENCY ACTION FILED FOR SIMULTANEOUS PUBLICATION ACTION WITHDRAWN TEXREG

(11) VERIFICATION I VERIFY THAT I HAVE REVIEWED THE ATTACHED DOCUMENT AND THAT IT CONFORMS TO ALL APPLICABLE TEXAS REGISTER FILING REQUIREMENTS. ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING ME AT (TELEPHONE NUMBER) TYPED NAME OF AGENCY LIAISON TITLE OF AGENCY LIAISON SIGNATURE OF AGENCY LIAISON DATE OF VERIFICATION (12) DO YOU REQUEST ACKNOWLEDGMENT OF RECEIPT? ACCEPTED FOR FILING: INPUT PROOFREADER

FOR TEXAS REGISTER USE ONLY OFFICIAL FILING STAMP

(b) Form TR-2 must be completed by entering the following:

(1) transmittal date;

(2) Arabic numeral and complete title designation under which the agency has been assigned according to the Texas Administrative Code (Code) title system;

(3) Roman numeral which the agency has been assigned according to the Code part system and the complete agency name;

(4) the numerical designation for the chapter of sections and the complete name of the chapter;

(5) if applicable, the letter designation for the subchapter and complete name of the subchapter;

(6) if applicable, the complete name of the undesignated head;

(7) the TAC section number(s) affected by the action being taken; and

(8) verification information, which includes name, title, telephone number, and signature of the agency's liaison.

(c) Form TR-2 must be used when filing the following.

(1) Emergency action. An emergency action must be completed by entering the following information:

(A) original filing or a renewal of effectiveness. If the period of effectiveness is renewed, enter the Texas Register docket number assigned to the original filing and the volume and beginning page number of the Register where the original action was published;

(B) new, amendment, or repeal; and

(C) number of days the emergency action will be in effect with a maximum limit of 120 days, with the option

to file a renewal of effectiveness for an additional 60 days. An emergency adoption can be effective immediately on filing or on another date specified.

(2) Proposed action. A proposed action must be completed by entering the following information:

(A) the Texas Register docket number(s) assigned to the latest adoption of the particular section(s) being proposed;

(B) whether the section(s) is new, an amendment, or a repeal;

(C) whether an identical emergency action of the section is filed for simultaneous publication in the *Texas Register*; and

(D) whether the proposed date of adoption is 30 days after publication, or another date specified by the agency. The adoption of a proposed section cannot be before the 30 days after publication, unless required by federal mandate.

(3) Final action. A final action must be completed by entering the following information:

(A) the Texas Register docket number assigned to proposed action, and the date of the Register the proposed action appeared in;

(B) whether the final action is a new, amendment, or repeal;

(C) whether the final action taken is with or without changes. If a section is adopted with changes, the text to that section will be republished in the *Texas Register*;

(D) if applicable, whether the emergency or proposed action is being withdrawn; and

(E) whether the effective date is 20 days after filing, or on another date specified by the agency. The effective date of an adoption cannot be before the 20 days after filing, unless required by federal mandate.

(d) An acknowledgement of a section action may be obtained by submitting a third copy of the TR-2 Submission Form when filing section action with the *Texas Register*.

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 August 28, 1989.

TRD-8907953

Brad N. Gahm
Assistant Secretary of
State
Office of the Secretary of
State

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-5561.

◆ ◆ ◆
• 1 TAC §91.94

The new section is proposed under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §4A, which provides the secretary of state with the authority to promulgate rules consistent with the Act.

§91.94. *Form for Notice of Open Meeting.*

(a) Notice of an open meeting must be submitted on two copies of Form TR-3 Submission Form-Notice of Open Meeting, and on one three-inch by five-inch index card. The following is an example of an open meeting notice.

FORM TR-3

SUBMISSION FORM
NOTICE OF OPEN MEETING

TRD DOC. NO. 8900345
FOR ISSUE OF 9-1
P.I. WORKING

UNDER THE PROVISIONS OF TEXAS CIVIL STATUTES, ARTICLE 9252.17, THE
Secretary of State
(NAME OF AGENCY)

(BOARD, COMMITTEE, DIVISION, ETC., IF APPLICABLE)

WILL MEET ON

Monday September 4, 1989 9 a.m.
(DAY) (DATE) (TIME)

AT Room 245, James Earl Rudder Bldg.,
(LOCATION)
1019 Brazos Austin, Tx.

COMPLETE AGENDA SUMMARY OF AGENDA
(COMPLETE AGENDA ATTACHED)

DO NOT WRITE ABOVE THIS LINE

- AGENCY CODE
- EMERGENCY MEETING*
- REVISED AGENDA
- EMERGENCY REVISED AGENDA*
- RESCHEDULED FROM

(DATE OF ORIGINAL MEETING)

TEXREG

- 1) Discuss marketing strategy for reaching new subscribers
- 2) Adjourn

REASON FOR EMERGENCY

ADDITIONAL INFORMATION MAY BE OBTAINED FROM Dan Procter, 1019 Brazos, Room 245 Austin, Texas
78701 (512) 463-5561

CERTIFICATION

I CERTIFY THAT I HAVE REVIEWED THIS DOCUMENT AND THAT IT
CONFORMS TO ALL APPLICABLE TEXAS REGISTER FILING
REQUIREMENTS

Brad Gahn
TYPED NAME OF CERTIFYING OFFICIAL
Assistant Secretary of State
TITLE OF CERTIFYING OFFICIAL

SIGNATURE OF CERTIFYING OFFICIAL
8-23-89
DATE OF CERTIFICATION

SIGNATURE OF AGENCY LIAISON
(IF DIFFERENT FROM CERTIFYING OFFICIAL)

DO YOU REQUEST ACKNOWLEDGMENT OF RECEIPT?

FOR TEXAS REGISTER USE ONLY
OFFICIAL FILING STAMP

ACCEPTED FOR FILING

INPUT

PROOFREADER

(b) Form TR-3 must be completed by entering the following:

(1) the three-digit agency code number assigned by the *Texas Register* to the agency;

(2) whether the notice is for an emergency meeting, a revision of the original agenda on a nonemergency basis, an emergency revision of the original agenda, or a meeting rescheduled for a new day/date, time, and/or location. If rescheduled, enter scheduling of original meeting and Register citation. The reason for an emergency meeting or an emergency revision of the original agenda shall be entered in the space provided on the submission form. No indication is necessary if the meeting is a regular meeting of the agency and does not fall under any of the categories named in this paragraph;

(3) the complete name of the agency issuing the notice, including any other applicable unit of the agency;

(4) the day, date, and time of the meeting;

(5) the location of the meeting;

(6) whether the agenda typed on the submission form is complete or a summary. If the agenda typed on the submission form is a summary, three copies of the full agenda must be attached to the submission form. If a meeting is revised or rescheduled, the full agenda is not required;

(7) the name, address, and telephone number of the person in the agency responsible for providing information concerning the meeting; and

(8) the certification information. Certification must include the name, title, and signature of the certifying official, the date of the certification, and the signature of the agency liaison, if different from certifying official.

(c) The three-by-five index card must be completed by entering the following information:

(1) whether the notice is for a meeting, an emergency meeting, a revision, or an emergency revision of the original agenda, or a meeting rescheduled for a new day/date, time, and/or location. If rescheduled, enter scheduling of original meeting;

(2) the complete name of the agency issuing the notice, including any other applicable unit of the agency;

(3) the day, date, and time of the meeting;

(4) the location of the meeting;

(5) if desired by the agency the agenda summary of the meeting, it is not a requirement;

(6) if an emergency meeting, a reason for the emergency; and

(7) the certification information. Certification must include the name, title, and signature of the certifying official and date of certification.

(d) If an acknowledgement receipt(s) is desired, the agency must submit a third copy of the TR-3 submission form.

(e) Each TR-3 submission form and index card must be stapled to the front of attachments, if any.

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 August 28, 1989.

TRD-8907954

Brad N. Gahm
Assistant Secretary of
State
Office of Secretary of
State

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-5561.

◆ ◆ ◆
• 1 TAC §91.95

The new section is proposed under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §4A, which provides the Secretary of State with the authority to promulgate rules consistent with the Act.

§91.95. Form for Miscellaneous Document.

(a) Form TR-4 Submission Form-Miscellaneous Document, must be used to submit all documents other than rule actions; notices of open meetings; appointments, executive orders, and proclamations of the governor of Texas; summaries of requests for opinions, opinions, and open records decisions of the attorney general of Texas; summaries of election law opinions, requests for lobby law opinions, and lobby laws opinions of the Texas secretary of state. The following is an example of a TR-4 submission form.

FORM TR-4

TRD DOC. NO. 8900234
FOR ISSUE OF 9-1
P.I. WORKING

DO NOT WRITE ABOVE THIS LINE

SUBMISSION FORM
MISCELLANEOUS DOCUMENT

(1) AGENCY Secretary of State (2) AGENCY CODE 004

(3) TITLE OF DOCUMENT Public Hearing

(4) AUTHORIZING STATUTE _____

(5) VERIFICATION

I VERIFY THAT I HAVE REVIEWED THE
ATTACHED DOCUMENT AND THAT IT
CONFORMS TO ALL APPLICABLE TEXAS
REGISTER FILING REQUIREMENTS.

ADDITIONAL INFORMATION MAY BE OBTAINED
BY CONTACTING ME AT (512) 463-5561
(TELEPHONE NUMBER)

Brad Gahn
TYPED NAME OF AGENCY LIAISON

Assistant Secretary of State
TITLE OF AGENCY LIAISON

SIGNATURE OF AGENCY LIAISON

8-23-89
DATE OF VERIFICATION

(6) DO YOU REQUEST ACKNOWLEDGMENT OF
RECEIPT?

 YES NO

FOR TEXAS REGISTER USE ONLY
OFFICIAL FILING STAMP

ACCEPTED FOR FILING:

INPUT
PROOFREADER _____
PROOFREADER _____

(b) Form TR-4 must be completed by entering the following information:

- (1) the complete name of the agency submitting the document;
- (2) the three-digit agency code number assigned by the Texas Register to the agency;
- (3) the title of the document;
- (4) the transmittal date; and
- (5) the verification information.

Verification must include the name, title, telephone number, signature of agency liaison, and date of verification.

(c) If acknowledgement of receipt(s) is desired, the agency must submit a third copy of the TR-4 submission form.

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 August 28, 1989.

TRD-8907989

Brad N. Gahm
Assistant Secretary of
State
Office of Secretary of
State

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-5561.

• 1 TAC §91.96

The new section is proposed under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §4A, which provides the secretary of state with the authority to promulgate rules consistent with the Act.

§91.96. Form for Governor, Attorney General, and Secretary of State.

(a) Form TR-5, Submission Form-Governor, Attorney General, and Secretary of State, must be used to submit appointments, executive orders, and proclamations of the governor of Texas; summaries of requests for opinions, opinions, and open records decisions of the attorney general of Texas; summaries of election law opinions, requests for lobby law opinions, and lobby law opinions of the Texas secretary of state. The following is an example of a TR-5 Submission Form.

FORM TR-5

TRD DOC. NO. 8900345
FOR ISSUE OF 9-1
P.I. WORKING

DO NOT WRITE ABOVE THIS LINE

SUBMISSION FORM
GOVERNOR, ATTORNEY GENERAL, SECRETARY OF STATE

(1) AGENCY Office of the Governor (2) AGENCY CODE 001
(3) TITLE OF DOCUMENT Appointments (4) TRANSMITTAL DATE 8/23/89

(5) VERIFICATION

I VERIFY THAT I HAVE REVIEWED THE ATTACHED DOCUMENT AND THAT IT CONFORMS TO ALL APPLICABLE TEXAS REGISTER FILING REQUIREMENTS.

ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING ME AT _____
(TELEPHONE NUMBER)

TYPED NAME OF AGENCY LIAISON

TITLE OF AGENCY LIAISON

SIGNATURE OF AGENCY LIAISON

DATE OF VERIFICATION

(6) DO YOU REQUEST ACKNOWLEDGMENT OF RECEIPT?
_____ YES _____ NO

FOR TEXAS REGISTER USE ONLY
OFFICIAL FILING STAMP

ACCEPTED FOR FILING:

INPUT
PROOFREADER _____
PROOFREADER _____

(b) Form TR-5 must be completed by entering the following information:

(1) the complete name of the agency submitting the document;

(2) the three-digit agency code number assigned by the Texas Register to the agency;

(3) the title of the document submitted;

(4) the transmittal date; and

(5) the verification information. Verification must include the name, title, telephone number, and signature of the agency liaison, and date of verification.

(c) If acknowledgement of receipt(s) is desired, the agency must submit a third copy of the TR-5 Submission Form.

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 August 28, 1989.

TRD-8907955

Brad N. Gahm
Assistant Secretary of
State
Office of Secretary of
State

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-5561.

• 1 TAC §91.98

The new section is proposed under the Administrative Procedures and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §4A, which provides the Secretary of State with the authority to promulgate rules consistent with the Act.

§91.98. Form for Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L.

(a) Actions taken by the State Board of Insurance pursuant to the Insurance Code, Chapter 5, Subchapter L, must be submitted on two copies of Form TR-6, Submission Form-Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L. The following is an example of a TR-6 Submission Form.

FORM TR-6

TRD DOC. NO. _____
FOR ISSUE OF _____
P.I. _____ WORKING _____

SUBMISSION FORM

DO NOT WRITE ABOVE THIS LINE

NOTIFICATION PURSUANT TO THE INSURANCE CODE, CHAPTER 5, SUBCHAPTER L

(1) AGENCY _____ (2) AGENCY CODE _____

(3) TITLE OF DOCUMENT _____ (4) TRANSMITTAL DATE _____

(5) **EMERGENCY ACTION ON RULES**

_____ ORIGINAL FILING
_____ RENEWAL OF EFFECTIVENESS

_____ ORIGINAL TRD DOC. NO.

_____ TEXREG _____

TO BE IN EFFECT _____ DAYS

_____ DATE ON WHICH IT IS TO
BECOME EFFECTIVE

(6) **FINAL ACTION ON RULES**

_____ IDENTICAL EMERGENCY
ACTION FILED FOR
SIMULTANEOUS PUBLICATION

EFFECTIVE DATE:

_____ 15 DAYS AFTER PUBLICATION

_____ OTHER (SPECIFY):

(7) **VERIFICATION**

I VERIFY THAT I HAVE REVIEWED THE
ATTACHED DOCUMENT AND THAT IT
CONFORMS TO ALL APPLICABLE TEXAS
REGISTER FILING REQUIREMENTS.

ADDITIONAL INFORMATION MAY BE OBTAINED
BY CONTACTING ME AT _____
(TELEPHONE NUMBER)

_____ TYPED NAME OF AGENCY LIAISON

_____ TITLE OF AGENCY LIAISON

_____ SIGNATURE OF AGENCY LIAISON

_____ DATE OF VERIFICATION

(8) DO YOU REQUEST ACKNOWLEDGMENT OF
RECEIPT? _____ YES _____ NO

**FOR TEXAS REGISTER USE ONLY
OFFICIAL FILING STAMP**

ACCEPTED FOR FILING:

INPUT _____
PROOFREADER _____
PROOFREADER _____

(b) Form TR-6 must be completed by entering the following information:

(1) the complete name of the agency submitting the document;

(2) the three-digit agency code number assigned by the Texas Register to the agency;

(3) the title of the document;

(4) the transmittal date;

(5) whether it is an emergency or final action. An emergency action can be either an original filing or a renewal of effectiveness. If the action is a renewal, enter the *Texas Register* docket number assigned to the original filing and enter the volume and beginning page number of the Register where the original action was published. If the emergency action is an original filing, enter the number of days it is to be in effect and on what date it is to become effective. On a final action, enter whether the effective date is 15 days after publication in the Texas Register or on another specified date; and

(6) the verification information. Verification must include the name, title, telephone number, and signature of agency liaison, and the date of verification.

(c) If an acknowledgement of receipt(s) is desired, the agency must submit a third copy of the TR-6 Submission Form.

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 August 28, 1989.

TRD-8907956
Brad N. Gahn
Assistant Secretary of
State
Office of Secretary of
State

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-5561.

TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 109. Transactions Exempt from Registration

• 7 TAC §109.7

The State Securities Board proposes an amendment to §109.7, concerning secondary trading exemptions. The amendment sets forth an example of a situation which, depending upon all the facts and circumstances, could constitute part of a scheme to violate or evade the securities registration provisions of the Securities Act such that the exemption provided by the Act, §5.0, would not be available.

Richard D. Latham, securities commissioner, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Latham 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 greater guidance to the public concerning an instance in which the exemption provided by the Act, §5.0, may not be available. 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 Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1, which provide the board with the authority to adopt rules and regulations governing registration statements and applications; classify securities, persons, and matters within its jurisdiction; and prescribe different requirements for different classes.

§109.7. Secondary Trading Exemptions.

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

(f) The secondary trading exemption under the Act, §5.0, is not available for the securities of an issuer formed in a manner that constitutes part of a scheme to violate or evade the securities registration provisions of the Act. Depending upon all the facts and circumstances, such a scheme may include the merger of a private corporation with a public corporation which has no substantive operations or assets ("shell corporation") when as a result of the merger trading in the secondary market of the shares of the new entity may be at prices which bear no relationship to the underlying financial condition or operations of the new entity, and such trading may occur within two years of the date of such merger.

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 August 28, 1989.

TRD-8907881
Richard D. Latham
Securities Commissioner
State Securities Board

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 474-2233

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

• 16 TAC §3.50

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

The Railroad Commission of Texas proposes new §3.50, concerning requirements for approval and certification of enhanced oil recovery ("EOR") projects to receive a tax incentive pursuant to the Texas Tax Code, Title 2, Chapter 202, Subchapter B, §202.052 and §202.054. The proposed new section defines terms and sets the standard for qualification, approval, and certification. The former §3.50 was repealed by the Railroad Commission effective November 20, 1980, and the repeal was published in the November 7, 1980, issue of the *Texas Register* (5 TexReg 4419).

This section has been adopted simultaneously on an emergency basis, to be effective September 1, 1989.

Rita E. Percival, systems analyst for the Oil and Gas Division, has determined that for the first five-year period the section is in effect there will be fiscal implications for state or local government as a result of enforcing or administering the section. The effect on state government for the first five-year period the proposed §3.50 will be in effect is an estimated additional cost of \$19,312 for fiscal year 1990; an estimated additional cost of \$7,018 for fiscal year 1991, of \$16,378 for fiscal year 1992, of \$16,390 for fiscal year 1993, and of \$16,336 for fiscal year 1994 is anticipated. There is no effect anticipated for local government nor cost of compliance for small businesses.

Peggy S. Gray, hearings examiner, Legal Division, 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 an increase in secondary and tertiary oil recovery projects. 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 Ms. Gray, Oil and Gas Section, Legal Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967. The deadline for filing comments is 5 p.m. on October 5, 1989.

The new section is proposed under Texas Civil Statutes, the Natural Resources Code, §§81.052, 85.046, and 85.202, and the Tax Code §202.052 and §202.054, which provides the Railroad Commission of Texas with the authority to adopt rules for the following purposes: to govern and regulate persons and their operation under the jurisdiction of the Railroad Commission; to prevent the waste of oil in producing operations; to effectuate the provisions and purposes of the Natural Resources Code, Chapter 85, to approve EOR projects; to designate the area to be effective by EOR projects; to certify positive

production response; and to terminate EOR projects.

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 August 28, 1989.

TRD-8907919 Cril Payne
Assistant Director-Legal
Division
Railroad Commission of
Texas

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-7152



Chapter 5. Transportation Division

Subchapter X. Agricultural Permits

• 16 TAC §5.536

The Railroad Commission of Texas proposes an amendment to §5.536, concerning procedures for obtaining agricultural permits. The amendment is proposed to eliminate the requirement that agricultural permit holders file annual operating reports.

Jackye S. Greenlee, assistant director-central operations, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Jan Barton-Gerro, hearings examiner has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the relief of the mostly small agricultural permit holders from the filing requirement. 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 within 30 days to Raymond A. Bennett, Director of Transportation/Gas Utilities Division, and to Jan Barton-Gerro, Hearings Examiner, Legal Division, Railroad Commission of Texas, P. O. Drawer 12967, Austin, Texas 78711.

The amendment is proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorize the Commission to regulate motor carriers in all matters.

§5.536. Procedures for Obtaining Agricultural Permits.

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

(c) Regulation of operations under an agricultural permit.

(1) Applicability of Railroad

Commission of Texas motor transportation regulations generally. Operations under authority of an agricultural permit shall be subject to all commission motor carrier regulations concerning insurance, vehicle registration, safety, and otherwise, except that a certificate authorizing operations shall not be required and tariffs prescribed by the commission shall not be applicable to service under an agricultural permit. An agricultural permit holder shall not be required to file an annual operating report as required by §5.81 of this title (relating to Annual Report Required).

(2)-(3) (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 August 28, 1989.

TRD-8907896 Cril Payne
Assistant Director-Legal
Division
Railroad Commission of
Texas

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-7095



Part IV. Texas Department of Licensing and Regulation

Chapter 61. Labor/Licensing and Enforcement Division

Subchapter B. Wrestling

• 16 TAC §§61.201-61.207

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

The Texas Department of Licensing and Regulation proposes the repeal of §§61.201-61.207, concerning applications and licensing, tickets, ring and equipment, ring safety and conduct of bout, conduct of promotion, amateur contests, and license denial, revocation, or suspension; purse forfeiture; notice and hearing, as these subjects relate to the wrestling regulatory program under the Texas Boxing and Wrestling Act. The repeals are proposed in response to the passage of House Bill 863, which amended the Texas Boxing and Wrestling Act (Article 8501-1) to deregulate wrestling and to transfer licensing of wrestling promoters to the Secretary of State's Office effective September 1, 1989.

Joseph L. Huertas, program manager, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as

a result of enforcing or administering the repeals.

Mr. Huertas also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will not be applicable. There is no anticipated economic cost to individuals who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Joseph L. Huertas, Program Manager, P.O. Box 12157, Austin, Texas 78711.

The repeals are proposed under Texas Civil Statutes, Article 9100, which amend the Boxing and Wrestling Act (Article 8501-1) to deregulate wrestling and to transfer the licensing of wrestling promoters to the Secretary of State's Office as of September 1, 1989.

§61.201. Applications and Licensing.

§61.202. Tickets.

§61.203. Ring and Equipment.

§61.204. Ring Safety and Conduct of Bout.

§61.205. Conduct of Promotion.

§61.206. Amateur Contests.

§61.207. License Denial, Revocation, or Suspension; Purse Forfeiture; Notice and Hearing.

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 August 27, 1989.

TRC-8907902 Joseph L. Huertas
Program Manager
Texas Department of
Licensing and
Regulations

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-2906



Chapter 62. Career Counseling Services

• 16 TAC §§62.1-62.10

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

The Texas Department of Licensing and Regulation, proposes the repeal of §§62.1-62.10, concerning definitions, scope, certificate of authority, application process, fees, bond, change in certificate information, consumer complaints, investigation and hearing, and ef-

fect of revocation as these subjects relate to the regulation of career counseling services. These sections are being repealed to allow for the adoption of reorganized and amended administrative rules for the career counseling service industry.

Joseph L. Huertas, program manager, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Huertas also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will not be applicable. There is no anticipated economic cost to individuals who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Joseph L. Huertas, Program Manager, P.O. Box 12157, Austin, Texas 78711.

The repeals are proposed under Texas Civil Statutes, Article 5221a-8 and Article 9100, which provide the department with the authority to adopt rules as necessary to implement the career counseling service program.

§62.1. Definitions.

§62.2. Scope.

§62.3. Certificate of Authority.

§62.4. Application Process.

§62.5. Fees.

§62.6. Bond.

§62.7. Change in Certificate Information.

§62.8. Consumer Complaints.

§62.9. Investigation and Hearing.

§62.10. Effect of Revocation.

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 August 27, 1989.

TRD-8907875

Joseph L. Huertas
Program Manager
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-2906

- ◆ ◆ ◆
- 16 TAC §§62.1, 62.10, 62.20, 62.21, 62.30, 62.40, 62.60, 62.70, 62.80, 62.81, 62.82, 62.90, 62.91

The Texas Department of Licensing and Regulation proposes new §§62.1, 62.10, 62.20, 62.21, 62.30, 62.40, 62.60, 62.70, 62.80, 62.81, 62.82, 62.90, and 62.91, concerning authority for adopting rules, definitions, certificate of authority requirements and application process, exemptions, security requirements, responsibilities of the department and the certificate holder, license fees, and sanctions as these subjects relate to the regulation of career counseling services. This proposal involves reorganization of previous administrative rules, editorial changes to clarify the rules and changes necessary as a result of the passage of House Bill 863 which changes the department's name to Licensing and Regulation and amends Texas Civil Statutes, Article 5221a-8.

Joseph L. Huertas, program manager, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Huertas also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the section will not be applicable. 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 Joseph L. Huertas, Program Manager, P.O. Box 12157, Austin, Texas 78711.

The new sections are proposed under Texas Civil Statutes, Article 5221a-8 and Article 9100, which provide the department with the authority to adopt rules as necessary to administer the career counseling services program.

§62.1. Authority. These rules are promulgated under the authority of the Texas Career Counseling Services Act (Texas Civil Statutes, Article 5221a-8).

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

The Act—The Career Counseling Services Act, Texas Civil Statutes, Article 5221a-8.

Applicant—The owner of the career counseling service.

Application—Includes the written application form, financial statement, bond and any and all applicable fees.

Career counseling service—A person who, for compensation, provides a service designed to assist a client in the development or marketing of the client's career.

Certificate of authority—The document issued by the department authorizing the operation of a career counseling service.

Client—An individual who contracts to use the services of a career counseling service.

Commission—The Texas Commission of Licensing and Regulation.

Commissioner—The commissioner of the Texas Department of Licensing and

Regulation.

Department—The Texas Department of Licensing and Regulation.

Owner—A person who owns or operates a career counseling service.

Person—An individual, association, corporation, or any other legal entity.

Services—Include the identification of career options, the assessment of the marketability or income potential of a proposed career, recommendations relating to job search goals and interview techniques and strategy, career advancement and negotiation techniques and similar career development advice or assistance.

§62.20. Certificate Of Authority Requirements.

(a) Each career counseling service must have its own certificate of authority. A certificate of authority is not assignable or transferable.

(b) A certificate of authority is valid for one year from the date issued. The certificate of authority must be renewed annually.

(c) A certificate of authority allows a career counseling service to be operated for compensation in the State of Texas.

(d) The certificate of authority shall be displayed in a prominent place in the principal location of the career counseling service.

(e) A person may not own or operate a career counseling service in this state unless the person holds certificate of a authority issued under the Act.

§62.21. Certificate of Authority Application Process.

(a) A person desiring to operate a career counseling service shall file a sworn, written application with the department annually on a form provided by the department for that purpose.

(b) The written application must be signed by the applicant. If the applicant is a corporation, the application must be signed by each officer. If the applicant is an association or partnership, the application must be signed by each associate or partner.

(1) An initial application must contain:

(A) the name, address, and telephone number of each operator if different from the owner;

(B) the street address, county, mailing address, and telephone number of the principal location of the career counseling service;

(C) the name, address, and telephone number of each owner;

(D) the assumed name, if any, under which the career counseling service is to operate;

(E) a current financial statement prepared by a certified public accountant;

(F) the required bond or assignment of security; and

(G) the required fee.

(2) A renewal application must contain:

(A) any changes in information provided on the initial application or subsequent renewal applications;

(B) the current department certificate of authority number;

(C) a current financial statement prepared by a certified public accountant; and

(D) the appropriate renewal fee.

(c) Both initial and renewal applications shall include a statement indicating the owner has read and is familiar with the provisions of the Act.

(d) Before a certificate of authority can be issued or renewed for anyone using an assumed name they must have first complied with the Assumed Business or Professional Name Act, Chapter 36, Texas Business and Commerce Code. If the career counseling service is incorporated, compliance with the Texas Business Corporation Act, §2.05, is also required. Proof of the career counseling service's compliance with the statutes cited above will be required on the application.

(e) If the applicant is a corporation, both initial and renewal applications shall include a certification that the corporation is in good standing with the State Comptroller's Office.

(f) No initial or renewal certificate of authority application will be considered filed until the department has received the written application form, a current financial statement prepared by a certified public accountant, bond or assignment of security, and all applicable fees.

(g) If a career counseling service certificate of authority is not renewed before it expires, it may be renewed on payment of the renewal fee and a \$25 late fee. If a renewal application is not postmarked before midnight of the 30th-day after the current certificate of authority expires, the certificate of authority may not be renewed.

To reinstate the certificate of authority, the owner must comply with the requirements for an original certificate of authority.

§62.30. *Exemptions.* The Act and these sections do not apply to:

(1) a person or personnel service regulated by the Texas Personnel Employment Services Act (Texas Civil Statutes, Article 5221a-7).

(2) a personnel service operated by the United States, this state, any political subdivision of this state, or any organization receiving appropriated funds from or under contract with those governmental entities; ;

(3) a professional counselor licensed under the Licensed Professional Counselor Act (Texas Civil Statutes, Article 4512g); or

(4) a nonprofit organization qualifying under the Internal Revenue Code of 1986, §501(c)(3), providing a service described in the Act as part of its charitable purposes.

§62.40. *Security Requirements.*

(a) Before a certificate of authority is issued, the owner must obtain and file with the department a \$10,000 bond on a form provided by the department for that purpose. The bond must be executed by a surety company authorized to do business in this state, be payable to the state, and be conditioned on the faithful performance of the owner's obligations under the Act. Further, the bond must provide for 30 days written notice to the department by the surety company of cancellation of the bond.

(b) The owner must file a separate bond for each business location.

(c) The commissioner may not issue a certificate of authority until the bond is filed as required in subsection (a) of this section.

(d) An owner may deposit a cash performance alternative of \$10,000 for each business location in lieu of the bond. The cash performance alternative shall be an irrevocable assignment of security issued by a national or state bank, or savings and loan association, subject to the express approval of the commissioner. Each assignment or cash deposit shall remain in effect for a period of three years, beginning with the date of issuance of the certificate of authority. Forms for filing an assignment of security shall be provided by the department upon request.

(e) The surety bond or assignment of security shall be maintained in full during the entire time the certificate of authority is in effect. Failure to do so will be cause for the commissioner to call an administrative hearing to suspend or revoke the career counseling service's certificate of authority.

§62.60. *Responsibilities of the Department.*

(a) All career counseling services holding a certificate of authority should receive notice from the department regarding renewal no later than 30 days prior to the expiration of their current certificate of authority.

(b) The department shall issue certificate of authority to all applicants who comply with all provisions of the Act and department rules.

(c) Any person may file a complaint with the commissioner by sworn affidavit alleging a violation of the Act. The commissioner shall investigate the alleged violation upon receipt of the complaint.

(d) The commissioner shall enforce this Act and may investigate any career counseling service as necessary.

§62.70. *Responsibilities of the Certificate Holder.*

(a) Each career counseling service owner must notify the department of any changes in information regarding the location or ownership of the career counseling service. The notification must be received by the department no later than 30 days after the change occurs.

(b) If any of the information that appears on the face of the career counseling service's certificate of authority changes, the career counseling service must obtain a duplicate certificate of authority showing the correct information.

(c) Each career counseling service must display a notice in a prominent location in each of its offices stating the telephone number of the department and indicating that a complaint may be referred to the department. The notice must be at least 5" X 7" in size, must contain the word "NOTICE" printed in letters at least 1/4" in height, and must be easily accessible to the general public.

(d) The certificate holder must allow the department, as part of an inspection or investigation, to enter his or her business premises during reasonable business hours and examine and copy any records that relate directly or indirectly to the inspection or investigation being conducted.

(e) Before a consumer complaint can be forwarded to an arbitration organization, that organization must be recognized in writing by the department.

§62.80. *Fees—Original Certificate of Authority.*

(a) The fee for an initial certificate of authority registration is \$125.

(b) This fee is not refundable.

§62.81. Fees—Renewal Certificate of Authority.

(a) The annual fee for a renewal certificate of authority is \$50.

(b) A \$25 late fee will be charged if the completed renewal certificate of authority application is not postmarked by midnight on the 30th-day after the prior certificate expires.

(c) This fee is not refundable.

§62.82. Fees—Duplicate Certificate of Authority.

(a) A \$25 fee will be charged for issuing a duplicate certificate.

(b) This fee is not refundable.

§62.90. Sanctions.

(a) If, as a result of an investigation, the commissioner determines that a violation may have occurred, he shall hold a hearing in the manner provided for in a contested case under the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a).

(b) The hearing must be held not later than the 45th-day after the date on which the complaint is filed with the commissioner.

(c) The commissioner shall render a decision on the alleged violation not later than the eighth day after the date on which the hearing ends.

(d) If, after the hearing, the commissioner determines that the career counseling service has violated the Act, he may:

(1) issue a warning;

(2) suspend or revoke the service's certificate of authority;

(3) award a complainant damages in an amount equal to the fee charged by the service; or

(4) impose a penalty on the service equal to twice the amount of the fee charged by the service.

(e) If a career counseling service's certificate of authority is revoked by the department, neither the service nor its owner is eligible to apply for a new certificate until three years from the date of the revocation have expired.

§62.91. Sanctions—Injunctive Relief and Civil Penalties. If it appears that a person is in violation of, or attempting to violate, the Act or a rule or order of the commissioner related to the Act, the attorney general or the commissioner may institute an action for injunctive relief to restrain the person from continuing the violation and for civil penalties not exceeding \$1,000 for each violation and not exceeding \$250,000, in the aggregate.

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 August 27, 1989.

TRD-8907873

Joseph L. Huertas
Program Manager
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-2906

◆ ◆ ◆
**Chapter 63. Personnel
Employment Services**

- 16 TAC §§63.1, 63.10, 63.20, 63.21, 63.30, 63.40, 63.60, 63.70, 63.71, 63.80-63.82, 63.90, 63.91

The Texas Department of Licensing and Regulation proposes new §§63.1, 63.10, 63.20, 63.21, 63.30, 63.40, 63.60, 63.70, 63.71, 63.80-63.82, 63.90, 63.91, concerning authority to promulgate rules, definitions, certificate of authority, requirements and application process, exemptions, security requirements, responsibilities of the department and the certificate holders, licensing fees, and sanctions as these subjects relate to the regulation of the personnel employment service industry. This proposal involves adoption of updated administrative rules necessary to implement the personnel employment services program.

Joseph L. Huertas, program manager, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Huertas 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 not be applicable. 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 Joseph L. Huertas, Program Manager, P.O. Box 12157, Austin, Texas 78711

The new sections are proposed under Texas Civil Statutes, Articles 5221a-7 and 9100, which provide the department with the authority to adopt rules as necessary to implement the personnel employment services program.

§63.1. Authority. These rules are promulgated under the authority of the Texas Personnel Employment Services Act (Texas Civil Statutes, Article 5221a-7) and the Texas Department of Licensing and Regulation Act (Texas Civil Statutes, Article 9100).

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

Applicant—A person engaging the services of a personnel service for the purpose of securing employment or a person placed by a personnel service with an employer.

Commissioner—The commissioner of licensing and regulation.

Counselor—An individual who interviews and refers an applicant to a prospective employer or who solicits job orders from an employer.

Employer—A person employing or seeking to employ an employee.

Fee—Anything of value. The term includes money or other valuable consideration or services or the promise of money or other valuable consideration or services received directly or indirectly by a personnel service from a person seeking employment in payment for a service.

Job order—Means a verbal or written notification from an employer of a job opening.

Management search consultant—A personnel service that is retained by, acts solely on behalf of, and is compensated only by an employer and that does not collect directly or indirectly any fee from an applicant on account of any service performed by the personnel service.

Owner—A person possessing a proprietary interest in a personnel service.

Permanent employment—Any employment lasting more than 30 days.

Person—An individual, partnership, association, corporation, legal representative, trustee in bankruptcy, or receiver.

Personnel service—A person who, for a fee or without a fee, offers or attempts to procure, directly or indirectly, permanent employment for an employee or procures or attempts to procure a permanent employee for an employer. The term does not include a newspaper of general circulation or other publication that primarily communicates information other than information relating to employment positions and that does not purport to adapt the information provided to the needs or desires of an individual applicant. The term includes a person who offers the facilities of or advertises as:

(A) an executive search or consulting service;

(B) an out-placement service;

(C) an overseas placement service;

(D) a job listing service;

(E) a personnel consulting service; or

(F) a resume service that provides job market investigation, research, or evaluation.

Principal location—The place at which the day-to-day business of the personnel service is operated. An owner may have more than one principal location.

Service file—A job order, resume, application, workpaper, or other record containing an information relating to an applicant, employer, or position or the operations of a personnel service.

§63.20. Certificate of Authority Requirements.

(a) Each personnel employment service location must have its own certificate of authority. A certificate of authority is not assignable or transferable.

(b) A certificate of authority is valid for one year from the date issued. The certificate of authority must be renewed annually.

(c) A certificate of authority allows a personnel employment service to be operated on an applicant fee paid basis in the state of Texas.

(d) The certificate of authority shall be displayed in a prominent place in the principal location of the personnel employment service.

(e) A person may not own or operate a personnel employment service in this state unless the person holds a certificate of authority issued under the Act.

§63.21. Certificate of Authority Application Process.

(a) A person desiring to operate a personnel employment service shall file a sworn, written application with the department annually on a form provided by the department for that purpose.

(b) The written application must be signed by the applicant. If the applicant is a corporation, the application must be signed by each officer. If the applicant is an association or partnership, the application must be signed by each associate or partner.

(1) An initial application must contain:

(A) the name, address, and telephone number of each operator if different from the owner;

(B) the street address, county, mailing address, and telephone number of the principal location of the personnel employment service;

(c) the name, address, and telephone number of each owner;

(D) the assumed name under which the personnel employment service is to operate;

(E) the required bond or assignment of security;

(F) the required fee.

(2) A renewal application must contain:

(A) any changes in information provided on the initial application or subsequent renewal applications;

(B) the current department certificate of authority number;

(C) the appropriate renewal fee.

(c) Both initial and renewal applications shall include a statement indicating the owner has read and is familiar with the provisions of the Act.

(d) Before a certificate of authority can be issued or renewed for anyone using an assumed name, they must have first complied with the Assumed Business or Professional Name Act, Chapter 36, Texas Business and Commerce Code. If the personnel employment service is incorporated, compliance with the Texas Business Corporation Act, §2.05 is also required. Proof of the personnel employment service's compliance with the statutes cited in this subsection will be required on the application.

(e) If the applicant is a corporation, both initial and renewal applications shall include a certification that the corporation is in good standing With the State Comptroller's Office.

(f) No initial or renewal certificate of authority application will be considered filed until the department has received the written application form, a bond or assignment of security, and all applicable fees.

(g) If a personnel employment service certificate of authority is not renewed before it expires, it may be renewed on payment of the renewal fee and a \$25 late fee. If a renewal application is not post-marked before 12 a.m. of the 30th day after the current certificate of authority expires, the certificate of authority may not be renewed. To reinstate the certificate of authority, the owner must comply with the requirements for an original certificate of authority.

§63.30. Exemptions.

(a) The Act and these sections do not apply to:

(1) a personnel service operated by this state, the United States government, or any municipal government of this state;

(2) a personnel service operated without assessment of a fee by a person in conjunction with the person's own business for the exclusive purpose of employing help

for use in that business;

(3) a labor union; or

(4) a professional counselor licensed under the Licensed Professional Counselor Act (Texas Civil Statutes, Article 4512g).

(b) the Act, §7, does not apply to a management search consultant. A management search consultant must, however, comply with all other provisions of the Act.

§63.40. Security Requirements.

(a) Before a certificate of authority is issued, the owner must obtain and file with the department a \$5,000 bond on a form provided by the department for that purpose. The bond must be executed by a surety company authorized to do business in this state, be payable to the state, and be conditioned on the faithful performance of the owner's obligations under the Act. Further, the bond must provide for 30 days written notice to the department by the surety company of cancellation of the bond.

(b) One bond will be sufficient for multiple locations if the bond indicates each location covered.

(c) The commissioner may not issue a certificate of authority until the bond is filed as required in subsection (a) of this section.

(d) An owner may deposit a cash performance alternative of \$5,000 in lieu of the bond. The cash performance alternative shall be an irrevocable assignment of security issued by a national or state bank, or savings and loan association, subject to the express approval of the commissioner. Each assignment or cash deposit shall remain in effect for a period of three years, beginning with the date of issuance of the certificate of authority. Forms for filing an assignment of security shall be provided by the department upon request.

(e) The surety bond or assignment of security shall be maintained in full during the entire time the certificate of authority is in effect. Failure to do so will be cause for the commissioner to call an administrative hearing to suspend or revoke the personnel employment service's certificate of authority.

§63.60. Responsibilities of the Department.

(a) All personnel employment services holding a certificate of authority should receive notice from the department regarding renewal no later than 30 days prior to the expiration of their current certificate of authority.

(b) The department shall issue a certificate of authority to all applicants who comply with all provisions of the Act and department rules.

(c) Any person may file a complaint with the commissioner by sworn affidavit alleging a violation of the Act. The commissioner shall investigate the alleged violation upon receipt of the complaint.

(d) The commissioner shall enforce this Act and may investigate any personnel employment service as necessary.

§63.70. Responsibilities of the Certificate Holder-General.

(a) Each personnel employment service owner must notify the department of any changes in information regarding the location or ownership of the personnel employment service. The notification must be received by the department no later than 30 days after the change occurs.

(b) If any of the information that appears on the face of the personnel employment services certificate of authority changes, the personnel employment service must obtain a duplicate certificate of authority showing the correct information.

(c) Each personnel employment service must display a notice in a prominent location in each of its offices stating the telephone number of the department and indicating that a complaint may be referred to the department. The notice must be at least five by seven inches in size, must contain the word "NOTICE" printed in letters at least 1/4 inch in height, and must be easily accessible to the general public.

(d) The certificate holder must allow the department, as part of an inspection or investigation, to enter his or her business premises during reasonable business hours and examine and copy any records that relate directly or indirectly to the inspection or investigation being conducted.

§63.71. Responsibilities of the Certificate Holder-Prohibited Acts. A person who acts as a personnel service in the capacity of an owner, operator of the service, counselor, or agent or employee of the service may not:

(1) notwithstanding any refund policy, impose any fee on an applicant for employment until the applicant has accepted an offer of employment resulting from an employment referral made by the personnel service;

(2) engage or attempt to engage in splitting or sharing with an employer, an agent, or other employee of an employer, or other person to whom the personnel service has furnished services a payment received by a personnel service from a person seeking employment or from an employer;

(3) make, give, or cause to be made or given to any applicant for employment, and false promise, misrepresentation, or misleading statement or information;

(4) refer any applicant for employment except on a valid job order for the referral;

(5) advertise a position without there first being a valid job order verifiable by the employer;

(6) procure or attempt to procure the discharge of a person from his or her current employment;

(7) induce, solicit, or attempt to induce or solicit, an employee to terminate his or her employment in order to obtain new employment if the employee's present employment was obtained by the efforts of the inducing or soliciting personnel service or any other personnel service having a common ownership with the inducing or soliciting personnel service unless the employee initiates the new contact;

(8) deliver, disclose, distribute, receive, or otherwise communicate any service file or any information contained in a service file to or from person except as authorized by the personnel service owning the file;

(9) advertise in any medium, including a newspaper, trade publication, billboard, radio, television, card, printed notice, circular, contract, letterhead, and any other material made for public distribution, except an envelope, without clearly stating that the advertisement is by a firm providing a private personnel service;

(10) refer an applicant to a place where a strike or lockout exists without first furnishing the applicant a written statement of the existence of the strike or lockout if the personnel service has knowledge of the fact of the strike or lockout;

(11) refer an applicant to employment deleterious to his or her health or morals if the personnel service has knowledge of the deleterious condition of the employment; or

(12) charge a fee to an applicant of more than 20% of the applicant's gross wages if the position that the applicant accepted as a result of a referral by a personnel service lasts less than 30 calendar days and if the applicant leaves the position with good cause.

§63.80. Fees-Original Certificate of Authority.

(a) The fee for an initial certificate of authority registration is \$100.

(b) This fee is not refundable.

§63.81. Fees - Renewal Certificate of Authority.

(a) The annual fee for a renewal certificate of authority is \$50.

(b) A \$25 late fee will be charged if the completed renewal certificate of authority application is not postmarked by 12 a.m.

on the 30th day after the prior certificate expires.

(c) This fee is not refundable.

§63.82. Fees-Duplicate Certificate of Authority.

(a) A \$25 fee will be charged for issuing a duplicate certificate.

(b) This fee is not refundable.

§63.90. Sanctions-Administrative.

(a) If a person violates the Act or these rules, the commissioner may:

(1) issue a written reprimand to the person that specifies the violation;

(2) revoke or suspend the person's license;

(3) place on probation a person whose license has been suspended.

(b) In addition to, or in lieu of, a sanction imposed under subsection (a) of this section, the commission may assess administrative penalty in an amount not to exceed \$1,000 for each violation.

(c) If suspension is probated, the commissioner may require the person to:

(1) report regularly to the commissioner on matters that are the basis of the probation; or

(2) limit practice to the areas prescribed by the commissioner.

(d) If the commissioner proposes to suspend or revoke a license or the commissioner proposes to assess an administrative penalty against a person regulated by the department, the person is entitled to a hearing before the commissioner or a hearing officer appointed by the commissioner. Proceedings conducted under this section are subject to the hearings requirements and contested case provisions of the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a).

(e) In determining the amount of an administrative penalty assessed under this section, the commission shall consider:

(1) the seriousness of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts made to correct the violation; and

(5) any other matters that justice may require.

(f) If, after investigation of a possible violation and the facts surrounding that possible violation the commissioner determines that a violation has occurred, the commissioner shall issue a preliminary re-

port stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative penalty be imposed on the person charged, and recommending the amount of that proposed penalty. The commissioner shall base the recommended amount of the proposed penalty on the seriousness of the violation determined by consideration of the factors set forth in subsection (e) of this section.

(g) Not later than the 14th day after the date on which the preliminary report is issued, the commissioner shall give written notice of the violation to the person charged. The notice shall include:

(1) a brief summary of the charges;

(2) a statement of the amount of the penalty recommended; and

(3) a statement of the right of the person charged to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(h) Not later than the 20th day after the date on which the notice is received, the person charged may accept the determination of the commissioner made under subsection (f) of this section, including the recommended penalty, or made a written request for hearing on that determination.

(i) If the person charged with the violation accepts the determination of the commissioner, the commission shall issue an order approving the determination and ordering that the person pay the recommended penalty.

(j) If the person charged fails to respond in a timely manner to the notice, or if the person requests a hearing, the commissioner shall set a hearing, give written notice of the hearing to the person, and designate a hearings examiner to conduct the hearing. The hearings examiner shall make findings of fact and conclusions of law and shall promptly issue to the commission a proposal of decision as to the occurrence of the violation and a recommendation as to the amount of the proposed penalty if a penalty is determined to be warranted. Based on the findings of fact and conclusions of law, and the recommendations of the hearings examiner, the commission by order may find that a violation has occurred and may assess a penalty, or may find that no violation has occurred. All proceedings under this subsection are subject to the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a).

(k) The commissioner shall give notice of the commission's order to the person charged. The notice must include:

(1) separate statements of the findings of fact and conclusions of the law;

(2) the amount of any penalty assessed;

(3) a statement of the right of the person charged to judicial review of the commissioner's order; and

(4) any other information required by law.

(1) Not later than the 30th day after the date on which the decision is final as provided by the Administrative Procedure and Texas Register Act, §16(c) (Texas Civil Statutes, Article 6252-13a), the person charged shall:

(1) pay the penalty in full; or

(2) if the person files a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both the fact of the violation and the amount of the Penalty:

(A) forward the amount assessed to the department for deposit in an escrow account; or

(B) in lieu of payment into escrow, post with the department a supersedeas bond for the amount of the penalty, in a form approved by the commissioner and effective until judicial review of the decision is final.

(m) A person charged with a penalty who is financially unable to comply with subsection (1)(2) of this section is entitled to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(n) Except as provided by subsection (m) of this section, failure to forward the amount assessed or post the bond with the department in the manner and within the period prescribed by subsection (1) of this section results in a waiver of legal rights to judicial review. If the person charged fails to forward the amount assessed or post the bond as required by subsection (1) of this section, the department or the attorney general may bring an action for the collection of the penalty.

(o) Judicial review of the order of the commission assessing the penalty is subject to the substantial evidence rule and shall be instituted by filing a petition with a Travis County district court, as provided by Administrative Procedure and Texas Register Act, §19 (Texas Civil Statutes, Article 6252-13a).

(p) If, after judicial review, the penalty is reduced or not assessed, the commissioner shall remit to the person charged the appropriate amount plus accrued interest if the penalty has been paid, or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the commissioner under this subsection shall be paid at a rate equal to the rate charged on loans to depository institutions by the Dallas Federal Re-

serve Bank, and shall be paid for the period beginning on the date that the assessed penalty is paid to the commissioner and ending on the date the penalty is remitted.

(q) A penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

§63.91. Sanctions-Injunctive Relief and Civil Penalties. If it appears that a person is in violation of, or attempting to violate, the Act or a rule or order of the commissioner related to the Act, the attorney general or the commissioner may institute an action for injunctive relief to restrain the person from continuing the violation and for civil penalties not exceeding \$1,000 for each violation and not exceeding \$250,000 in the aggregate.

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 August 27, 1989.

TRD-8907905

Joseph L. Huertas
Program Manager
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-2906

Chapter 67. Auctioneers

• 16 TAC §§67.1-67.28

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

The Texas Department of Licensing and Regulation proposes the repeal of §§67.1-67.28, concerning license requirements, bonding requirements, conduct of auctions, student auctioneers, complaints and investigations, hearings, administrative procedures, and the operations of auction companies as these subjects relate to the regulation of auctioneers. These sections are being repealed to allow for the adoption of reorganized and amended administrative rules for the auctioneer industry.

Joseph L. Huertas, program manager, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Huertas also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will not be applicable. There is no anticipated economic cost to individuals who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Joseph L. Huertas, Program Manager, P.O. Box 12157, Austin, Texas 78711.

The repeals are proposed under Texas Civil Statutes, Articles 8700 and 9100, which provide the department with the authority to adopt rules as necessary to implement the auctioneer program.

§67.1. Notice List for Public Hearings.

§67.2. Mailing Address.

§67.3. Licenses.

§67.4. License Requirements.

§67.5. Reciprocity.

§67.6. Bond Required.

§67.7. Cancelling Surety Bond.

§67.8. Cash Performance Alternative.

§67.9. Maintaining Bond.

§67.10. Individual Conducting an Auction.

§67.11. Limited Sales Tax Permit Number Provisions.

§67.12. Advertising Requirements.

§67.13. Charitable or Nonprofit.

§67.14. Student Auctioneers.

§67.15. Presentation of Pocket Card.

§67.16. Complaints and Investigations.

§67.17. Investigation of Records.

§67.18. Consent to Service.

§67.19. Request for a Hearing.

§67.20. Administrative Procedures.

§67.21. Motion for Rehearing.

§67.22. Enforcement of Administrative Decision.

§67.23. Prerequisite to Judicial Appeal.

§67.24. The Record.

§67.25. Transcripts.

§67.26. Waiver.

§67.27. Denial, Suspension, or Revocation of License.

§67.28. Auction Houses/Companies.

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

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TRD-8907872 Joseph L. Huertas
Program Manager
Texas Department of
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Regulation

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- 16 TAC §§67.1, 67.10, 67.20-67.23, 67.30, 67.40, 67.60, 67.61, 67.70, 67.80-67.83, 67.90, 67.91, 67.100-67.104

The Texas Department of Licensing and Regulation proposes new §§67.1, 67.10, 67.20-67.23, 67.30, 67.40, 67.60, 67.61, 67.70, 67.80-67.83, 67.90, 67.91 and 67.100-67.104, concerning authority, definitions, license requirements, exemptions, bond requirements, responsibilities of the department, examinations, recordkeeping, license fees, sanctions, and technical requirements as they pertain to the auctioneer industry. This proposal involves reorganization of previous administrative rules, editorial changes to clarify the rules, and changes necessary as a result of the passage of House Bill 863, which changes the Texas Department of Labor and Standards' name to the Texas Department of Licensing and Regulation and amends the Auctioneer Law.

Joseph L. Huertas, program manager, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Huertas 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 not be applicable. 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 Joseph L. Huertas, Program Manager, P.O. Box 12157, Austin, Texas 78711.

The new sections are proposed under Texas Civil Statutes, Articles 8700 and 9100, which provide the department with the authority to adopt rules as necessary to implement the auctioneer program.

§67.1. Authority. These rules are promulgated under the authority of Texas Civil Statutes, Article 8700, Auctions and Auctioneering—Licensing and Regulation.

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

Act—Texas Civil Statutes, Article 8700, Auctions and Auctioneering—Licensing and Regulation.

Applicant—Any person applying for an auctioneer or associate auctioneer license.

Associate auctioneer—A person who, for compensation, is employed by and under the direct supervision of a licensed auctioneer to sell or offer to sell property at an auction.

Auction—The sale of any property by competitive bid.

Auction company—A person, partnership, corporation, association, or other legal entity that engages in the business of arranging, managing, sponsoring, advertising, or conducting auctions.

Auctioneer—Any person who, as a bid caller, with or without receiving or collecting a fee, commission, or other valuable consideration, sells or offers to sell property at an auction.

Commission—The Texas Commission of Licensing and Regulation.

Commissioner—The commissioner of licensing and regulation.

Department—The Texas Department of Licensing and Regulation.

Licensee—Any person holding a license issued under the Act.

Person—An individual.

Property—Any property, tangible and intangible, real, personal, or mixed.

Secured party—A person holding a security interest.

§67.20. License Requirements—General.

(a) Any person who acts as an auction company or as a bid caller, with or without receiving or collecting a fee, commission, or other valuable consideration, and sells or offers to sell property at an auction must first obtain an auctioneer or associate auctioneer license from the Texas Department of Licensing and Regulation.

(b) All applicants for an auctioneer or associate auctioneer license are to obtain all necessary forms from the Texas Department of Licensing and Regulation.

(c) All licenses expire one year from date of issuance.

(d) Each license must be renewed within 30 days after expiration. A license not renewed within 30 days of the expiration date will not be issued without the applicant first taking and passing the written examination administered by the department. Any person who acts as an auctioneer within that 30-day period after expiration of the license is subject to the penalties under the Act, §11(a).

(e) All licensees must report any change of address to the Texas Department

of Licensing and Regulation, Auctioneer Program, Austin.

(f) A limited sales tax permit number obtained from the comptroller of Public Accounts of Texas must be furnished on each license application form. If no limited sales tax permit is required of an applicant by the Comptroller of Public Accounts, then the applicant must furnish the department a waiver from the Austin office of the comptroller stating the reasons no sales tax permit number is needed.

§67.21. License Requirements—Auctioneers.

(a) A person applying for a license must complete an application for an auctioneer's license, furnish a \$5,000 surety bond, successfully complete an examination, pay the required license and examination fees, and furnish a limited sales tax number or proof of exemption. All fees are payable to the state of Texas. A nonresident's application must be accompanied by a written irrevocable consent to service of process.

(b) Examination dates and times will be set by the department.

(c) Oral examinations will be given only to persons who are incapable of reading or writing.

(d) Examination for an auctioneer license will not be required if the applicant shows proof on a form furnished by the department that he or she has held an associate auctioneer license and has bid-called in at least five auctions, under the supervision of licensed auctioneers, during a 12 consecutive month period since May 30, 1977.

§67.22. License Requirements—Associate Auctioneers.

(a) A person applying for an associate auctioneer license must complete an application for an associate auctioneer license, furnish a \$5,000 surety bond, and pay the required license fee. All fees are payable to the State of Texas. A nonresident's application must be accompanied by a written irrevocable consent to service of process.

(b) Associate auctioneer applicants and licensees will be required to provide either a limited sales tax permit number or proof of exemption therefrom issued by the Comptroller of Public Accounts upon submission on an original or renewal application.

(c) Associate auctioneers must be employed by, and under the direct on-premises supervision of a licensed Texas auctioneer while selling or offering to sell at an auction. An associate auctioneer shall offer his or her services only to a Texas licensed auctioneer. There must be a legitimate employee-employer relationship between the associate and the licensed auctioneer.

(d) Any change of employment by a licensed associate auctioneer must be submitted to the department's Austin office prior to such action and a letter must be submitted by the former employer stating number of auction sales at which the associate participated as bid-caller.

§67.23. License Requirements—Reciprocity.

(a) Competency standards of another state must include, but need not be limited to, a qualifying auctioneer examination or a period of time the auctioneer has been in the auction business.

(b) The license must be issued by the state of the applicant's residence and must pertain to auctioneers only.

(c) It is the applicant's responsibility to obtain certification of the license issued by the state where he resides.

(d) Associate or apprentice licenses are not reciprocal.

§67.30. Exemptions. The provisions of the Act and these rules shall not apply to:

(1) a sale conducted by order of any United States court pursuant to Title 11 of the United States Code, relating to bankruptcy;

(2) a sale conducted by an employee of the United States, or the State of Texas, or a political subdivision thereof, in the course and scope of his employment;

(3) a sale conducted by a charitable or nonprofit organization, if the auctioneer received no compensation. Such sale must be of assets or donated property, and be conducted for the charitable or nonprofit organization's sole benefit;

(4) a sale conducted by an individual of his own property on a one time basis. An individual selling his own property must bid call the auction himself and be selling only property he personally owns. He may not sell inventory or property purchased for resale. The property must be auctioned on one day or consecutive days and be advertised as one sale only;

(5) a foreclosure sale of realty conducted personally by a trustee under a deed of trust;

(6) a foreclosure sale of personal property conducted personally by the mortgagee, or other secured party, or an employee or agent of such mortgagee or other secured party acting in the course and scope of his employment, if the employee or agent is not engaged otherwise in the auction business, and if all property for sale in the auction is subject to a security agreement;

(7) a sale conducted by sealed bid;

(8) an auction conducted in a course of study for auctioneers and con-

ducted only for student training purposes;

(9) an auction conducted by a posted stockyard or market agency as defined by the Federal Packers and Stockyard Act, 1921, as amended (7 United States Code, §181 et seq.);

(10) an auction of livestock conducted by a nonprofit livestock trade association chartered in this state, if the auction involves only the sale of the trade association's members' livestock;

(11) an auction conducted by a charitable or nonprofit organization chartered in this state, if the auction involves only the property of the organization's members and the auction is part of a fair that is organized under state, county, or municipal authority.

§67.40. Bond Requirements.

(a) Licensees must post a \$5,000 surety bond issued company licensed to, transact business in the State of Texas. The bond must be on a form provided by the department.

(b) A cash performance alternative filed in lieu of a surety bond, pursuant to the provisions of the Act, may be an irrevocable assignment of security issued by a national or state bank, or savings and loan association, subject to the express approval of the department. Each assignment shall remain in effect for a period of two years after the expiration of the license or replacement of the bond in order to be approved by the commissioner. The assignment of security must be on a form provided by the department.

(c) The surety bond or assignment of security maintained in full during the entire time the license is in effect. Failure to do so will be cause for the commissioner to call an administrative hearing to suspend or revoke the auctioneer's license.

§67.60. Responsibilities of the Department—Investigations.

(a) All written complaints concerning auctioneers filed with the department will be investigated.

(b) The department will perform other investigations as it deems necessary for the effective enforcement of the Act.

§67.61. Responsibilities of the Department—Examinations.

(a) Except as set forth in subsection (b) of this section, not later than the 30th day after the date on which an examination is administered under the Act, the department shall notify each examinee of the examination results.

(b) If an examination is graded or reviewed by a national testing service, the department shall notify examinees of the

examination results not later than the 14th day after the date on which the department receives the results from the testing service. If the notice of examination results for examinations graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the department shall notify the examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails the examination, the department shall furnish the person with an analysis of the person's performance on the examination.

§67.70. Responsibilities of the Licensee—Records of An Auction or An Auction Company. The license must allow the department, as part of an inspection or investigation, to enter his or her business premises during an auction during reasonable business hours and examine and copy any records that relate directly or indirectly to an inspection or investigation being conducted, including, but not limited to, the conduct of any sale in which the auctioneer being inspected or investigated has participated or is participating.

§67.80. Fees—Original License.

(a) The fee for an auctioneer license is \$100.

(b) The fee for an associate auctioneer license is \$50.

(c) These fees are not refundable.

§67.81. Fees—Renewal.

(a) The annual fee for renewing an auctioneer license is \$100.

(b) The annual fee for renewing an associate auctioneer license is \$50.

(c) A late fee of \$25 will be charged for renewal applications post-marked between 12 a.m. of the day a current license expires and 12 a.m. of the 30th day after the expiration.

(d) These fees are not refundable.

§67.82. Fees—Duplicate License.

(a) A \$25 fee will be charged for issuing a duplicate license.

(b) This fee is not refundable.

§67.83. Fees—Examination.

(a) A \$25 fee will be charged for each examination.

(b) This fee is not refundable.

§67.90. Sanctions—Administrative.

(a) If a person violates a law establishing a regulatory program administered

by the department, or a rule or order adopted or issued by the commissioner relating to the program, the commissioner may:

(1) issue a written reprimand to the person that specifies the violation;

(2) revoke or suspend the person's license;

(3) place on probation a person whose license has been suspended.

(b) In addition to, or in lieu of, a sanction imposed under subsection (a) of this section, the commission may assess an administrative penalty in an amount not to exceed \$1,000 for each violation.

(c) If a suspension is probated, the commissioner may require the person to:

(1) report regularly to the commissioner on matters that are the basis of the probation; or

(2) limit practice to the areas prescribed by the commissioner.

(d) If the commissioner proposes to suspend or revoke a license or the commission proposes to assess an administrative penalty against a person regulated by the department, the person is entitled to a hearing before the commissioner or a hearings officer appointed by the commissioner. Proceedings conducted under this section are subject to the hearing requirements and contested case provisions of the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a).

(e) In determining the amount of an administrative penalty assessed under this section, the commission shall consider:

(1) the seriousness of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts made to correct the violation; and

(5) any other matters that justice may require.

(f) If, after investigation of a possible violation and the facts surrounding that possible violation, the commissioner determines that a violation has occurred, the commissioner shall issue a preliminary report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative penalty be imposed on the person charged, and recommending the amount of that proposed penalty. The commissioner shall base the recommended amount of the proposed penalty on the seriousness of the violation determined by consideration of the factors set forth in subsection (e) of this section.

(g) Not later than the 14th day after the date on which the preliminary report is

issued, the commissioner shall give written notice of the violation to the person charged. The notice shall include:

(1) a brief summary of the charges;

(2) a statement of the amount of the penalty recommended; and

(3) a statement of the right of the person charged to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(h) Not later than the 20th day after the date on which the notice is received, the person charged may accept the determination of the commissioner made under subsection (f) of this section, including the recommended penalty, or make a written request for a hearing on that determination.

(i) If the person charged with the violation accepts the determination of the commissioner, the commission shall issue an order approving the determination and ordering that the person pay the recommended penalty.

(j) If the person charged fails to respond in a timely manner to the notice, or if the person requests a hearing, the commissioner shall set a hearing, give written notice of the hearing to the person, and designate a hearings examiner to, conduct the hearing. The hearings examiner shall make findings of fact and conclusions of law and shall promptly issue to the commission a proposal of decision as to the occurrence of the violation and a recommendation as to the amount of the proposed penalty if a penalty is determined to be warranted. Based on the findings of fact and conclusions of law, and the recommendations of the hearings examiner, the commission by order may find that a violation has occurred and may assess a penalty, or may find that no violation has occurred. All proceedings under this subsection are subject to the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a).

(k) The commissioner shall give notice of the commission's order to the person charged. The notice must include:

(1) separate statements of the findings of fact and conclusions of law;

(2) the amount of any penalty assessed;

(3) a statement of the right of the person charged to judicial review of the commission's order; and

(4) any other information required by law.

(l) Not later than the 30th day after the date on which the decision is final as provided by the Administrative Procedure and Texas Register Act, §16(c) (Texas Civil Statutes, Article 6252-13a), the person charged shall:

- (1) pay the penalty in full; or
- (2) if the person files a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both the fact of the violation and the amount of the penalty:

(A) forward the amount assessed to the department for deposit in an escrow account; or

(B) in lieu of payment into escrow, post with the department a supersedeas bond for the amount of the penalty, in a form approved by the commissioner and effective until judicial review of the decision is final.

(m) A person charged with a penalty who is financially unable to comply with subsection (1)(2) of this section is entitled to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(n) Except as provided by subsection (m) of this section, failure to forward the amount assessed or post the bond with the department in the manner and within the period prescribed by subsection (1) of this section results in waiver of legal rights to judicial review. If the person charged fails to forward the amount assessed or post the bond as required by subsection (1) of this section, the department or the attorney general may bring an action for the collection of the penalty.

(o) Judicial review of the order of the commission assessing the penalty is subject to the substantial evidence rule and shall be instituted by filing a petition with a Travis County district court, as provided by the Administrative Procedure and Texas Register Act, §19 (Texas Civil Statutes, Article 6252-13a).

(p) If, after judicial review, the penalty is reduced or not assessed, the commissioner shall remit to the person charged the appropriate amount plus accrued interest if the penalty has been paid, or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the commissioner under this subsection shall be paid at a rate equal to the rate charged on loans to depository institutions by the Dallas Federal Reserve Bank, and shall be paid for the period beginning on the date that the assessed penalty is paid to the commissioner and ending on the date the penalty is remitted.

(q) A penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

§67.91. Sanctions—Injunctive Relief and Civil Penalties. If it appears that a person

is in violation of, or is threatening to violate, a law establishing a regulatory program administered by the department or a rule or order of the commissioner related to such a program, the attorney general or the commissioner may institute an action for injunctive relief to restrain the person from continuing the violation and for civil penalties not exceeding \$1,000 for each violation and not exceeding \$250,000 in the aggregate.

§67.100. Technical Requirements—General.

(a) With regard to bid calling, a licensee may not:

(1) allow an unlicensed auctioneer to cry bids at a sale; or

(2) call bids for an auction company unless the owner or operator has a valid Texas auctioneer license.

(b) A licensed auctioneer may not use, or permit the use of, false bidders, cappers, or shills at any auction.

(c) Before beginning an auction, the auctioneer must announce, give notice, display notice, and/or disclose:

(1) that the auctioneer(s) conducting the sale is (are) licensed by the department and is (are) bonded in favor of the State of Texas;

(2) the terms and conditions of the sale; and

(3) if the owner, consignee, or agent thereof has reserved the right to bid.

§67.101. Technical Requirements—Advertising.

(a) Any person advertising an auction conducted in Texas, except as exempted by the Act, §2, shall include in the advertisement the name and license number of the licensee who shall bear responsibility of the auction to the seller, general public, and the department.

(b) In advertising an auction conducted by an auction company, the advertisement shall contain the name and license number of the owner and operator of the auction company.

(c) An auction advertised in this state, but conducted out of state, does not need to comply with the advertising requirements set forth in this section.

(d) The licensee's name and Texas auctioneer license number are not required on stationery, business cards, or on auction advertisements without a date, time, and/or location.

(e) Misleading and untruthful advertising by a licensee is prohibited.

§67.102. Technical Requirements—Handling Funds.

(a) Every licensed auctioneer must maintain a separate trust or escrow account in a federally insured bank or savings and loan association in this state, in which shall be deposited all funds belonging to others which shall come into the auctioneer's possession.

(b) All proceeds from an auction must be deposited into his or her trust or escrow account within 72 hours of the auction unless the owner or consignor of the property auctioned is paid immediately after the sale or the contract stipulates other terms.

(c) Any public monies, including, but not limited to state sales tax, received by a licensed auctioneer must be paid into the state treasury at the times and as per the regulations prescribed by law

§67.103. Technical Requirements—Recordkeeping.

(a) Each licensed auctioneer shall keep records relative to all auctions for at least two years from the date of the sale.

(b) The records for each auction must state the name(s) and address(es) of the owners of the property auctioned the date of the sale, the name of the auctioneer and clerk for the sale, the gross proceeds, the location and account number of the auctioneer's trust or escrow account, an itemized list of all expenses, a list of all purchasers at the auction, and a description and selling price for each item sold.

(c) In addition, the auctioneer shall keep, as part of the records for each auction, all documents relating to the auction. These documents shall include, but not be limited to, settlement sheets, written contracts, copies of advertising, and clerk sheets.

§67.104. Technical Requirements—Auction Companies.

(a) When complying with the license requirement for auction companies, the word "operator" shall mean the person who has control of all aspects of the auction company's business, including, but not limited to, arranging auctions, managing the sale, sponsoring auctions, advertising auctions, and handling the proceeds of the auctions.

(b) The department reserves the right to determine who is acting as the operator of an auction company.

(c) The use of operator's agreements, as that term is generally understood in the auction industry, is prohibited.

(d) It is the department's interpretation, where an auction company is concerned, that in the following situations, the persons indicated shall obtain the required auctioneer license.

(1) In a corporation, the individual responsible for the control and operation of the auction shall obtain the license.

(2) In a general partnership, one of the partners shall obtain the license.

(3) In a limited partnership, one of the general partners shall obtain the license.

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 August 27, 1989.

TRD-8907874 Joseph L. Huertas
Program Manager
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-2906

Chapter 71. Child Labor

• 16 TAC §§71.1-71.6

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

The Texas Department of Licensing and Regulation proposes the repeal of §§71.1-71.6, concerning definitions, application for certificates of age, hardship exemptions, classification of occupations for 14-, 15-, 16-, and 17-year-olds, and provisions for child actors as these subjects relate to the administration of the child labor program. These sections are being repealed in response to the passage of House Bill 863, which transfers the administration of the child labor program to the Texas Employment Commission as of September 1, 1989.

Joseph L. Huertas, program manager, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Huertas also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will not be applicable. There is no anticipated economic cost to individuals who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Joseph L. Huertas, Program Manager, P.O. Box 12157, Austin, Texas 78711.

The repeals are proposed under Texas Civil Statutes, Article 9100, which transfer the administration of the child labor program to the Texas Employment Commission effective September 1, 1989.

§71.1. Definitions.

§71.2. Application for Age Certificate.

§71.3. Hardship.

§71.4. Classification of Occupations for 14- and 15-year-Olds.

§71.5. Classification of Occupations for 16- and 17-Year Olds.

§71.6. Actors.

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 August 27, 1989.

TRD-8907903 Joseph L. Huertas
Program Manager
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-2906

Chapter 77. Health Spa Act/Labor, Licensing, and Enforcement

• 16 TAC §§77.1, 77.5, 77.9, 77.13, 77.17-77.21

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

The Texas Department of Licensing and Regulation proposes the repeal of §§77.1, 77.5, 77.9, 77.13, 77.17, and 77.21, concerning definitions, registration statements, escrow agents, disclosures to members and the department, rules for hearings, and forms as these subjects apply to the administration of the health spa regulatory program. These sections are being repealed in response to the passage of House Bill 863, which transfers administration of the health spa program to the Secretary of State's Office as of September 1, 1989.

Joseph L. Huertas, program manager, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Huertas also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will not be applicable. There is no anticipated economic cost to individuals who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Joseph L. Huertas, Program Manager,

P.O. Box 12157, Austin, Texas 78711.

The repeals are proposed under Texas Civil Statutes, Article 9100, which transfers administration of the health spa program to the Secretary of State's Office effective September 1, 1989.

§77.1. Definitions.

§77.5. Registration Statement.

§77.9. Escrow Agent.

§77.13. Disclosures to Members and Department.

§77.17. Rules for Hearings.

§77.21. Forms.

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 August 27, 1989.

TRD-8907901 Joseph L. Huertas
Program Manager
Texas Department of
Licensing and
Regulations

Earliest possible date of adoption: October 6, 1989

For further information, please call: (512) 463-2906

TITLE 28. INSURANCE Part I. State Board of Insurance

Chapter 21. Trade Practices

Subchapter B. Insurance Advertising, and Certain Trade Practices, and Solicitation

• 28 TAC §21.122

The State Board of Insurance proposes new §21.122, concerning the required filing and circumstances of approval respecting advertising and solicitation material for life, accident, or health insurance, or any combination of such policies and products for insurers and other entities offering such insurance products or benefits in Texas. The new section is necessary to facilitate the regulation of the marketing of such products and to contribute to the promotion of an environment in which there will be fewer improper advertisements and solicitations and, thereby, a reduction in the number of consumer complaints. The new section provides for agents and other persons preparing advertisements or other marketing representations to file with and receive prior written approval from insurers and other entities for any advertisement or marketing representation, using whatever medium, naming the insurer and intended for use in Texas.

Kay Simonton, deputy insurance commissioner for the life group, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section. There will be a fiscal implication to small businesses required to comply with the proposed section. A small business or large business will be required to bear the expense of establishing a means for reviewing agents' advertising at an approximate minimum of \$100. For large and small businesses the cost per hour of labor is the same.

Ms. Simonton 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 effective regulation of advertising and of marketing representations made in conjunction with life, accident, health, and combination policies and products. The section also will assist in the promotion of an environment where fewer improper advertisement and related complaints will result. Except for the cost of review to make sure agents' advertising does not violate applicable statutes and regulations, 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 Diane Moellenberg, Director of Advertising Division, State Board of Insurance, Mail Code 0431, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new section is proposed under the Insurance Code, Article 1.04, which authorizes the State Board of Insurance to determine rules in accordance with the laws of this state, and under the Insurance Code, Article 21.21, §13(a), which authorizes the board to promulgate and enforce reasonable rules and regulations as are necessary in the accomplishment of the purposes of Article 21.21, concerning unfair competition and unfair or deceptive acts or trade practices.

§21.122. Required Home Office Filing and Approval Respecting Advertising and Solicitation Material.

(a) Purpose. The purpose of this section is to require agents, as defined in §21.102(5) of this title (relating to Scope), or any other persons preparing advertisements, as defined in §21.102(1) of this title (relating to Scope), to be utilized in Texas, naming an insurer, as defined in §21.102(4) of this title (relating to Scope), or making reference to any policy, as defined in §21.102(3) of this title (relating to Scope), to file, with the home office of such insurer, for prior approval, advertising and solicitation material to be used in connection with such policies or products naming the insurer or its products. The section does not require prior board approval of the material before it is used, but such circumstance may not be construed as relieving any person from otherwise complying with all applicable laws or from any sanction imposed by law.

(b) System of control required. Every insurer, in coordination with any agent or agency, marketing such policies or bene-

fits in this state, shall establish and at all times maintain a system of control over the content, form, and method of all advertisements and all representations concerning its policies. All advertisements and representations, whether written or oral, designed for dissemination through any medium, be it written, radio, or television, and regardless of by whom it is written, created, designed, or presented, shall be the responsibility of the insurer whose policies are so advertised or represented.

(c) Prior approval by insurer. Every insurer shall require its agents or agencies and any other person or agency preparing advertisements naming the insurer or its policies or products to submit the proposed advertisements to it for written approval, and the same shall receive written approval by the insurer prior to any use.

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 August 30, 1989.

TRD-8907962 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: October 6, 1989

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

◆ ◆ ◆
TITLE 40 SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 4. Medicaid Programs—Children and Pregnant Women

Eligibility Requirements

• 40 TAC §4.1004, §4.1010

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

The Texas Department of Human Services (DHS) proposes amendments to §4.1004 and §4.1010, concerning eligible groups and determining income eligibility. The purpose for the amendments is to increase the Medicaid income limit for children and pregnant women. In this issue of the *Texas Register*, DHS is simultaneously adopting these sections on an emergency basis effective September 1, 1989, to be in effect for 120 days.

Burton F. Raiford, deputy commissioner for support operations, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on

state government for the first five-year period the sections will be in effect is an estimate: additional cost of \$18,275,341 in fiscal year 1990; \$34,328,714 in fiscal year 1991; \$32,234,575 in fiscal year 1992; \$31,689,527 in fiscal year 1993; and \$31,762,742 in fiscal year 1994. There will be no fiscal implications for local government or small businesses as a result of enforcing or administering the sections.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that medical care will be available to more needy people. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Services Division-381, 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 amendments 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.

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 August 29, 1989.

TRD-8907937 Ron Lindsey
Commissioner
Texas Department of
Human Services

Proposed date of adoption: November 1, 1989.

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

◆ ◆ ◆
Chapter 15. Medicaid Eligibility

Subchapter E. Income

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

The Texas Department of Human Services proposes amendments to §15.465 and §15.505, concerning special income limits, in its Medicaid Eligibility chapter. The Texas Legislature approved an increase in the monthly special income limits for the Medical Assistance Only (MAO) Program for individuals and couples. The legislature approved the maximum allowable increase in MAO income limit under federal regulations. Federal regulations mandate that when a state uses the federal maximum to determine eligibility, the state does not allow certain deductions from gross income. The department, therefore, proposes to delete the \$20-general exclusion and the earned income exclusion for clients whose eligibility is determined by using the institutional income limit. In this publication of the *Texas Register*, the department is simul-

taneously adopting these amendments on an emergency basis, to be in effect for 120 days.

Burton F. Raiford, deputy commissioner for support operations, has determined that for the first five-year period the proposed section 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 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 that the State of Texas will avoid federal fiscal sanctions. 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-386, 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 §15.465

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.

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 August 29, 1989.

TRD-8907925
Ron Lindsey
Commissioner
Texas Department of
Human Services

Proposed date of adoption: October 25, 1989.

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

Subchapter F. Budgets and Payment Plans

• 40 TAC §15.505

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

The 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.

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 August 29, 1989.

TRD-8907926
Ron Lindsey
Commissioner
Texas Department of
Human Services

Proposed date of adoption: October 25, 1989.

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

Chapter 75. Investigations

Criminal Conviction Checks of Employees in Certain Facilities Serving the Elderly or Disabled

• 40 TAC §75.1001, §75.1002

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

The Texas Department of Human Services (DHS) proposes new §75.1001 and §75.1002, concerning criminal conviction checks of employees in certain facilities serving the elderly or disabled, in its investigations chapter. The purpose of the new sections is to establish a program for obtaining criminal conviction records of prospective employees of certain facilities that provide care for the elderly and disabled. The DHS Office of the Inspector General will conduct record checks on behalf of the Texas Department of Health and on behalf of DHS contract managers. The department is simultaneously adopting these new sections on an emergency basis in this issue of the *Texas Register*.

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

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that elderly and disabled citizens will not be cared for by individuals who have been convicted of certain criminal offenses. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Services Division-447, 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 new sections are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer its programs, and under the Human Resources Code, Title 6, Chapter 106, which provides the department with the authority to perform criminal background checks of employees in facilities for the elderly or disabled.

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 August 29, 1989.

TRD-8907928
Ron Lindsey
Commissioner
Texas Department of
Human Services

Proposed date of adoption: November 6, 1989.

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

Chapter 85. General Licensing Procedures

Subchapter U. Day Care Licensing Procedures

The Texas Department of Human Services proposes amendments to §85.2012 and §85.3059, concerning the issuance of a provisional license and the discontinuance of biennial certification, in its general licensing procedures chapter. New legislation requires that the department issue provisional licenses when certain situations exist. The Texas Legislature also approved licensing legislation that eliminates the two-year limitation of the certificate of approval for state agencies that operate child care facilities. In this publication of the *Texas Register*, the department is simultaneously proposing these amendments for review and comment.

Burton F. Raiford, deputy commissioner for support operations, has determined that for the first five-year period the proposed section 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 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 sections will be fewer child care facilities will be required to apply for provisional licenses. Also as a result of enforcing the sections, state-operated child care facilities will not have to reapply for a certificate of approval every two years. 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-509, 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 §85.2012

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

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 42, which provides the department with the authority to administer

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 August 29, 1989.

TRD-8907931
Ron Lindsey
Commissioner
Texas Department of
Human Services

Proposed date of adoption: November 1, 1989.

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

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**Subchapter EE. Agency and
Institutional Licensing
Procedures**

• **40 TAC §85.3059**

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

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 42, which provides the department with the authority to administer public assistance and general licensing programs.

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 August 29, 1989.

TRD-8907932 Ron Lindsey
 Commissioner
 Texas Department of
 Human Services

Proposed date of adoption: November 25,
1989.

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

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Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn 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*.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 16. Intermediate Care Facilities/Skilled Nursing Facilities (ICF/SNF)

Special Programs

• 40 TAC §16.1601

The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed new §16.1601 which appeared in the August 11, 1989, issue of the *Texas Register* (14 TexReg 3980). The effective date of this withdrawal is August 30, 1989.

Issued in Austin, Texas, on August 30, 1989

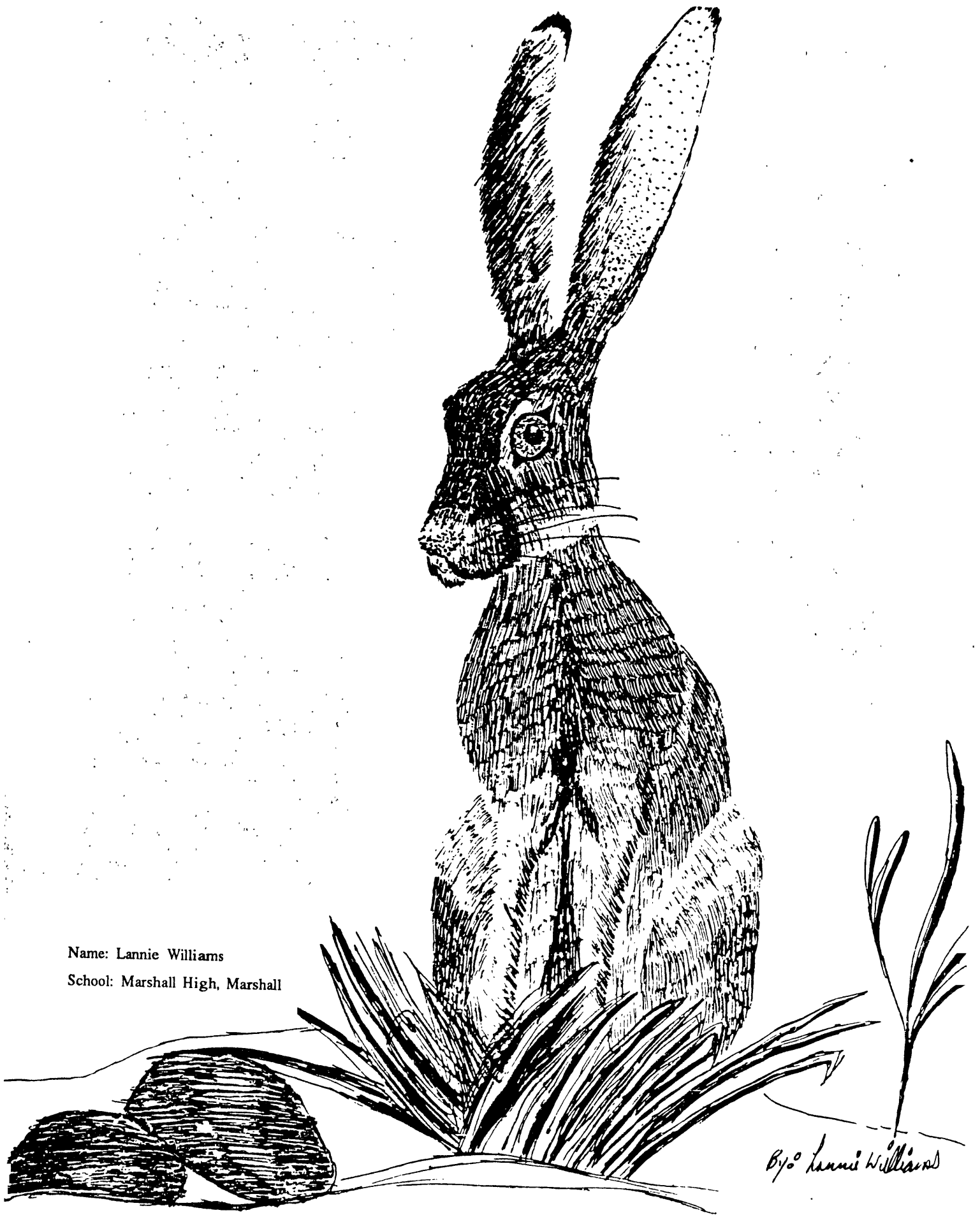
TRD-897965

Ron Lindsey
Commissioner
Texas Department of
Human Services

Effective date: August 30, 1989

For further information, please call: (512)
450-3865





Name: Lannie Williams

School: Marshall High, Marshall

By Lannie Williams

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 22. EXAMINING BOARDS

Part XXV. Structural Pest Control Board

Chapter 593. Licenses

- 22 TAC §§593.1, 593.3, 593.5, 593.7

The Structural Pest Control Board adopts amendments to §§593.1, 593.3, 593.5, and 593.7. Sections 593.3 and 593.7 are adopted with changes to the proposed text as published in the July 21, 1989, issue of the *Texas Register* (14 TexReg 3505). Sections 593.1 and 593.5 are adopted without changes and will not be republished.

The sections are being adopted in order to implement the amendments to the Structural Pest Control Act, Article 135b-6, by passage of House Bill 3167 and to comply with the contingency rider to the general appropriation bill of the 1989 regular session. Section 593.3(c) was changed from the original proposed subsection to limit acceptable insurance from Texas admitted carriers, but to continue to accept policies from registered surplus lines carriers. Section 593.7(2) raised the certified applicator fee from \$30 to \$48 in order to fulfill additional revenue shortfalls.

The function of these sections is to provide increased protection for the public by amending the insurance requirements, and by raising the fees, it will enable the agency to comply with the amendments to the Structural Pest Control Act.

There were two commenters, and they were opposed to §593.3(c), whereby the board would only accept Texas admitted carriers. They felt it was too restrictive and would provide a hardship on small businesses.

The commenters that opposed adoption of the amendments were Parthenon Insurance Agency and Litchfield Special Risks, Inc.

The amendments are adopted under Texas Civil Statutes, Article 135b-6, which provides the Structural Pest Control Board with the authority to test, license, regulate, and develop standards for the structural pest control industry.

§593.3. Insurance Requirements.

(a) Each business license applicant must submit with the application an insurance policy or certificate of coverage in the amount of not less than \$100,000 for bodily injury and property damage coverage with a minimum total annual aggregate of

\$300,000 for all occurrences insuring him against liability for damage to persons or property occurring as a result of operations performed in the course of the business of structural pest control to premises or any other property under his care, custody, or control. No new business license will be issued until insurance requirements are met. Policies shall contain a cancellation provision whereby notification of cancellation is received by the board not less than 30 days prior to cancellation.

(b) If payment of claims results in reducing the total annual aggregate of coverage below \$300,000, the insurance carrier shall notify the board and the licensee within 30 days. The licensee shall obtain additional coverage to meet the minimum requirements.

(c) The board will consider as sufficient only those policies issued by insurers authorized by or registered with the State Board of Insurance.

§593.7. Fees. Applicants and licensees will be charged the following fees for board services:

- (1) \$108 for an original or renewal of a business license;
- (2) \$48 for an original or renewal of a certified applicators license;
- (3) \$18 for an original, renewal, or duplicate technician license;
- (4)-(8) (No change.)

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

Issued in Austin, Texas, on August 25, 1989.

TRD-8907878

David A. Iwe
Executive Director
Structural Pest Control
Board

Effective date: September 18, 1989

Proposal publication date: July 21, 1989

For further information, please call: (512) 835-4066



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Chapter 367. Agricultural Water Conservation Program

Introductory Provisions

The Texas Water Development Board adopts amendments to 31 TAC §§367.1, 367.2, 367.21, 367.23-367.27, 367.29. Section 367.25 and §367.29, are adopted with changes to the proposed text as published in the July 14, 1989, issue of the *Texas Register* (14 TexReg 3390). Sections 367.1, 367.2, 367.21, 367.23, 367.24, 367.26, and 367.27, are adopted without changes and will not be republished.

Section 367.25 (1),(3),(7), and §367.29, are adopted with changes which reflect the comments received regarding the proposed amendments. The amendments reflect the additional types of equipment that may be purchased with the grant funds under legislation which was passed by the 71st Texas Legislature. The uses of grant funds have been expanded to include testing equipment used to evaluate water quality and the suitability of water from groundwater or surface water sources for irrigation, rural domestic, livestock, or agricultural industry; and equipment used to evaluate or demonstrate systems which will prevent contamination of ground water and surface water due to agricultural chemicals.

The comment received from the High Plains Underground Water Conservation District Number 1 stated that the data collected by using the equipment purchased under the proposed rules is not qualified to be placed in the state's water quality data base on water quality for the State of Texas; and the proposed rules contained reporting requirements which were too numerous and would result in unnecessary personnel time assigned to reporting.

The Texas Water Development Board believes that the data collected with the equipment purchased under the proposed rules is valuable and may be included in the state's water quality data base. The board has modified the proposed rules to ease the reporting requirements in the proposed rules.

- 31 TAC §367.1, §367.2

The amendments are adopted under the authority of the Texas Water Code, §§6.101, 15.435, and 15.472, which state that the board shall adopt rules necessary to carry out

the powers and duties of the board provided by this code and other laws of the state.

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 July 7, 1989

TRD-8907897 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Effective date: September 18, 1989

Proposal publication date: July 14, 1989

For further information, please call: (512) 463-7981

Grants for Equipment Purchases

• 31 TAC §§367.21, 367.23-367.27, 367.29

The amendments are adopted under the authority of the Texas Water Code, §§6.101, 15.435, and 15.472, which state that the board shall adopt rules necessary to carry out the powers and duties of the board provided by this code and other laws of the state.

§367.25. *Applications.* An application shall include the following.

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

(6) *Quality assurance.* An application for equipment to be purchased under authorization of §367.21(3) of this title (relating to Purpose) for testing and evaluating water quality shall also include a quality assurance plan. The plan will describe how samples are to be collected, transported, stored, and analyzed in order to assure that analyses will be valid. The plan shall also include a description of training or certification for all personnel involved and for calibration of equipment.

(7) *Water quality data accessibility.* If the grant is for the purpose of §367.21(3) of this title (relating to Purpose), the application shall also include an agreement to provide, if requested by the board the sampling results and analyses for inclusion in the state's water quality data bases. The application shall include an assurance by the applicant that such data shall be provided the applicant, in a form and upon a to be established in the grant agreement, no less frequently than every six months from the date that the sampling is initiated.

(8) *Amount of grant.* The application shall specify the amount of grant funds requested and a description or listing of all equipment to be purchased.

§367.29. *Reports by Recipients.* For a period of no less than three years following receipt of grant funds, each recipient of a grant shall to the executive administrator

reports on the number of agricultural system efficiency evaluations made (including, but not limited to, the types of systems or equipment evaluated and the affected acres and crops), uses of the equipment to demonstrate efficient irrigation systems and agricultural water conservation practices, or numbers and results of water quality evaluations and uses for demonstration of efficiency or sound agricultural chemical systems. Individual field evaluation forms and reporting forms in a format specified by the executive administrator or in the grant agreement shall be completed and submitted. The executive administrator may approve combining reports from recipients that have received multiple grants under this program.

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

Issued in Austin, Texas on July 7, 1989.

TRD-8907898 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Effective date: September 18, 1989

Proposal publication date: July 14, 1989

For further information, please call: (512) 463-7981

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 73. Civil Rights

Subchapter PP. Hearing Procedure

The Texas Department of Human Services (DHS) adopts an amendment to §73.4109 and adopts new §73.4114 and §73.4115, without changes to the proposed text as published in the June 13, 1989, issue of the *Texas Register* (14 TexReg 2947).

The amendment to §73.4109 clarifies the hearing officer's duties and responsibilities. New §73.4114 describes the hearing officer's procedure if he finds no intentional program violation, and new §73.4115 describes the conditions under which the hearing officer may combine two hearings

The amendment and new sections will function by enabling the hearing process to operate more efficiently

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

• 40 TAC §73.4109

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on August 29, 1989.

TRD-8907935 Ron Lindsey
Commissioner
Texas Department of
Human Services

Effective date: October 16, 1989.

Proposal publication date: June 13, 1989.

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

• 40 TAC §73.4114, §73.4115

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

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

Issued in Austin, Texas, on August 29, 1989

TRD-8907936 Ron Lindsey
Commissioner
Texas Department of
Human Services

Effective date: October 16, 1989.

Proposal publication date: June 13, 1989.

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

Chapter 79. Legal Services

Subchapter M. Appeals Process

The Texas Department of Human Services (DHS) adopts amendments to §§79.1203, 79.1207, and 79.1208 and adopts new §79.1210, without changes to the proposed text as published in the June 13, 1989, issue of the *Texas Register* (14 TexReg 2948)

The purpose of the amendments is to clarify the designation of an alternate hearing officer, when an individual may appeal, and appeals involving a level-of-care recommendation. New §79.1210 specifies that the hearing officer coordinates appeals involving a preadmission screening and annual resident review with the Texas Department of Mental Health and Mental Retardation.

The amendments and new section will function by making the fair hearings process more efficient

No comments were received regarding adoption of the amendments and new section

• 40 TAC §§79.1203, 79.1207, 79.1208

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

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

Issued in Austin, Texas, on August 29, 1989.

RD-8907933

Ron Lindsey
Commissioner
Texas Department of
Human Services

Effective date: October 16, 1989.

Proposal publication date: June 13, 1989.

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

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• 40 TAC §79.1210

The new section is adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on August 29, 1989.

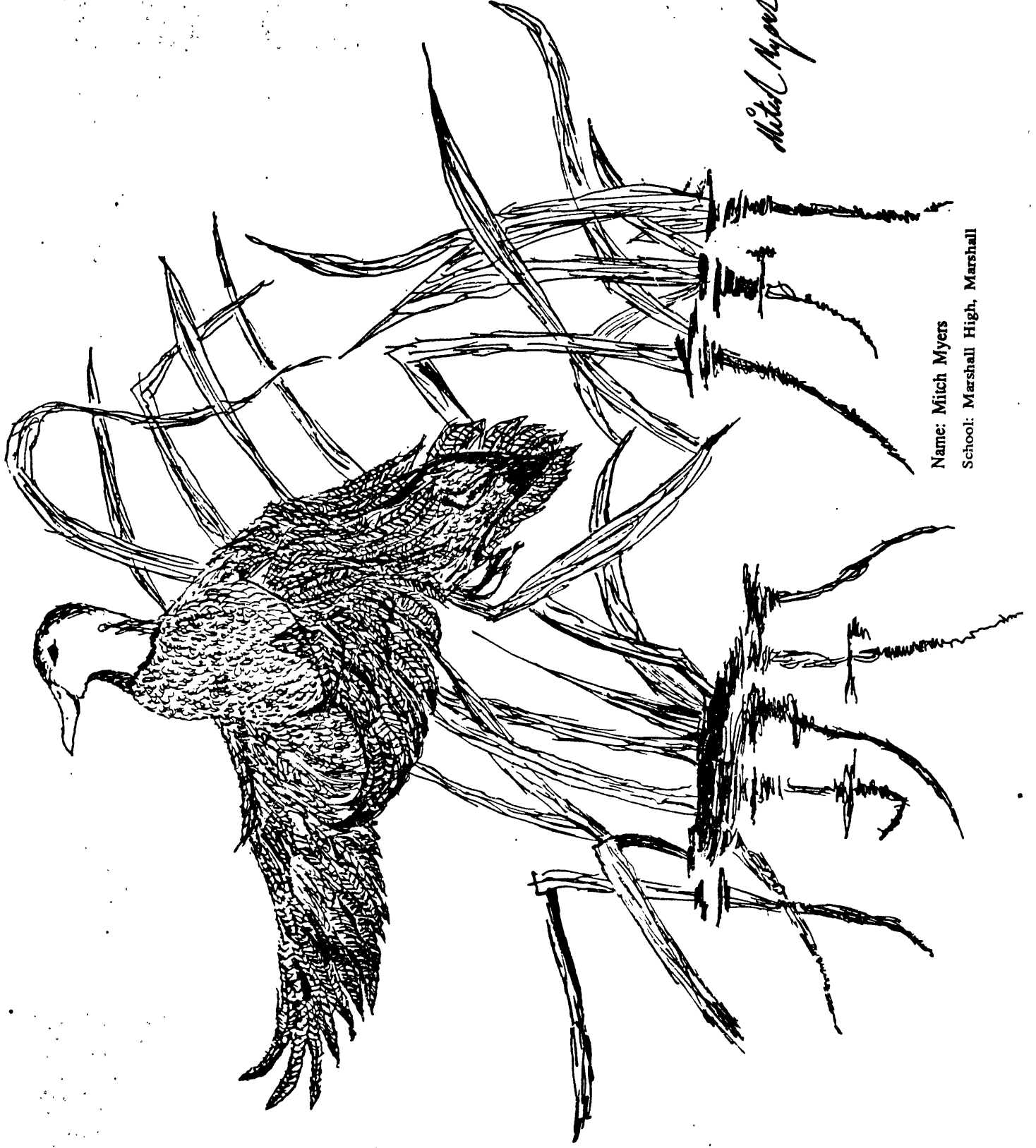
TRD-8907934

Ron Lindsey
Commissioner
Texas Department of
Human Services

Effective date: October 16, 1989.

Proposal publication date: June 13, 1989.

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



Mitch Myers

Name: Mitch Myers
School: Marshall High, Marshall

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 Adult Probation Commission

Thursday, September 7, 1989, 10 a.m.
The Texas Adult Probation Commission Program Services Committee will meet in the Hilton Hotel, 6000 Middle Fiskville Road, Austin. According to the agenda summary the committee will consider fiscal year 1989 grant adjustments-various counties, 1990 grant adjustments-various counties; 1990 grant applications for residential fuspell ding for various counties, discretionary grant funding applications for various programs for various counties, DG legislative programs, DG feasibility studies-general for various counties, DG feasibility studies-residential for various counties; waivers, proposed standards; and status report-electronic monitoring.

Contact: Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

Filed: August 30, 1989, 10:28 a.m.

TRD-8907974

Thursday, September 7, 1989, 1:30 p.m.
The Texas Adult Probation Commission Planning and Development Committee will meet in Suite 600, Building B, 8100 Cameron Road, Austin. According to the agenda, the committee will review the final report.

Contact: Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

Filed: August 30, 1989, 10:28 a.m.

TRD-8907972

Thursday, September 7, 1989, 1:30 p.m.
The Texas Adult Probation Commission Audit Review Committee will meet in Suite 600, Building B, 8100 Cameron Road, Austin. According to the agenda, the committee will consider fiscal audit reports; initial review on following counties: Bastrop, Bell, Coryell, Dawson, Duval, Eastland, Galveston, Harris, Jack, Jefferson, Lamar, Nueces, Palo Pinto, Red River, Smith, Taylor, Terry, Uvalde, Victoria; no final reviews.

Contact: Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

Filed: August 30, 1989, 10:28 a.m.

TRD-8907973

Friday, September 8, 1989, 9 a.m. The Texas Adult Probation Commission will meet in the Hilton Hotel, 6000 Middle Fiskville Road, Austin. According to the agenda summary, the commission will introduce guests, approve minutes, hear financial report, program services report; fiscal year 1989 grant adjustments-various counties; fiscal year 1990 grant adjustments various counties; fiscal year 1990 grant applications for residential funding for various counties; DG funding applications for various programs for various counties; DG legislative programs; DG feasibility studies-general for various counties; DG feasibility studies-residential for various counties, waivers; proposed standards; status report-electronic monitoring; fiscal services report audit review committee report; requests for approval to purchase facilities, utilities and equipment from the judicial district adult probation fund; executive division report; standards; adoption of discretionary grants; other administrative business; set date and place for next meeting.

Contact: Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

Filed: August 30, 1989, 10:28 a.m.

TRD-8907971

Texas Aquaculture Liaison Office

September 18, 1989, 9 a.m. The Texas Aquaculture Liaison Office Aquaculture Executive Committee will meet in the Lieutenant Governor's Committee Room, Capitol, Austin. According to the agenda, the committee will hold a organizational meeting.

Contact: Chuck Rice, Jr., Room 129-B, State Capitol, Austin, Texas, (512) 463-0111.

Filed: August 30, 1989, 11:54 a.m.

TRD-8907978

Texas Board of Architectural Examiners

Saturday, September 9, 1989, 8:30 a.m.
The Texas Board of Architectural Examiners Rules Committee will meet in Suite 107, 8213 Shoal Creek Boulevard, Austin. According to the agenda, the committee will review landscape architect and architect statutes, rules, and regulations.

Filed:

Contact: Robert H. Norris, 8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78758, (512) 458-1363.

Filed: August 29, 1989, 2:04 p.m.

TRD-8907938

Texas Commission on the Arts

Thursday, September 21, 1989, 8 a.m.
The Texas Commission on the Arts Assistance Review Committee will meet in the Dogwood Room, Hyatt Regency Hotel, 1200 Louisiana Street, Houston. According to the agenda, the committee will introduce guests; conduct public hearing; approve minutes for June 7, 1989 meeting; make panel selection and other business.

Contact: Betty J. Brown, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: August 31, 1989, 9:59 a.m.

TRD-8908035

Thursday, September 21, 1989, 10 a.m.
The Texas Commission on the Arts will meet in the Dogwood Room, Hyatt Regency Hotel, 1200 Louisiana Street, Houston. According to the agenda summary, the introduce public; hold public hearing; items for commission consent; items for individual consideration; item for information only; and executive session.

Contact: Betty J. Brown, P.O. Box 13406,

Austin, Texas 78711, (512) 463-5535.

Filed: August 31, 1989, 9:59 a.m.

TRD-8908036

State Bar of Texas.

Thursday, September 7, 1989, 10 a.m.
The State Bar of Texas Executive Committee will meet in Room 206-207, Texas Law Center, Austin. According to the agenda summary, the committee will receive reports from the chairman, president, president elect, executive director, general counsel immediate past chairman TYLA president, board committees and supreme court liaison; and consider establishment of judicial scholarship fund; a report from committee of history and traditions of the bar.

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

Filed: August 30, 1989, 3:07 p.m.

TRD-8908004

Child Care Development Board

Tuesday, September 5, 1989, 1:30 p.m.
The Child Care Development Board will meet for an emergency meeting in Room 831, General Land Office, Stephen F. Austin Building, 1700 North Congress, Austin. According to the revised agenda, the board will elect officers; approve by-laws; appoint advisory committee; consider initial parameters for the center, and take public testimony. The emergency status was necessary because of public interest in testifying before the board on child care issues.

Contact: Lynn Leverty, P.O. Box 12608, Austin, Texas 78711, (512) 463-6000.

Filed: August 30, 1989, 12:53 p.m.

TRD-8907976

Texas Education Agency

Thursday, September 7, 1989, 8:30 a.m.
The Texas Education Agency Investment Advisory Committee will meet in Room 1-104, William B. Travis Building, 1701 North Congress, Austin. According to the agenda, the committee will elect a chairperson; briefing by investment advisor regarding investment performance measurement; discuss topics included in Chapter 33, Title 19, Part II, of the Texas Administrative Code concerning the permanent school fund.

Contact: Walter Arellano, 1701 North Congress, Austin, Texas 78701, (512) 463-9169.

Filed: August 31, 1989, 8:57 a.m.

TRD-8908023

Thursday, September 7, 1989, 10:30 a.m.
The Texas Education Agency State Board of Education Committee on the Permanent School Fund will meet in Room 1-104, William B. Travis Building, 1701 North Congress, Austin. According to the agenda summary, the committee will receive a report of the investment advisory committee concerning the conversion to the master trust custodial service; review permanent school fund securities transactions and the investment portfolio; recommend permanent school fund investment program for September and the funds available for the program.

Contact: W. N. Kirby, 1701 North Congress, Austin, Texas 78701, (512) 463-8985.

Filed: August 31, 1989, 8:57 a.m.

TRD-8908024

Thursday, September 7, 1989, 1:30 p.m.
The Texas Education Agency State Board of Education Committee of the Whole will meet in Room 1-104, William B. Travis Building, 1701 North Congress, Austin. According to the agenda, the committee will adopt the 1989-1990 program budget for public education; fiscal year 1989-1990 operating budget for TEA; discuss state board of education participation in the National Association of State Boards of Education; advisory committee nomination and appointment process; proposed amendment to 19 TAC Chapter 75, Subchapter I, special provisions for vocational; education and 19 TAC §78.23, allotment to reinstate funding for coordinated vocational/academic education at grades 7 and 8; discussion of pending litigation and personnel matters, executive session in accordance with Texas Civil Statutes, Article 6252-17, §2(e) and §2(g), and concerns annual performance evaluation of the commissioner of education and reconsider proposed TEA organization beginning in 1989-1990.

Contact: W. N. Kirby 1710 North Congress, Austin, Texas 78701, (512) 463-8985.

Filed: August 31, 1989, 8:57 a.m.

TRD-8908022

Friday, September 8, 1989, 8:30 a.m.
The Texas Education Agency State Board of Education Committee on Long-Range Planning will meet in Room 1-104, William B. Travis Building, 1701 North Congress, Austin. According to the agenda summary, the committee will discuss issues raised by the advisory committee; implementation of Senate Bill 650; proposed plan for the conduct of pilot programs established by the 71st Texas Legislature.

Contact: W. N. Kirby, 1701 North Congress, Austin, Texas 78701, (512) 463-8985.

Filed: August 31, 1989, 8:57 a.m.

TRD-8908026

Friday, September 8, 1989, 10:30 a.m.
The Texas Education Agency State Board of Education Committee on School Finance will meet in Room 1-104, William B. Travis Building, 1701 North Congress, Austin. According to the agenda summary, the committee will discuss the 1989-1990 proposed schedule of activities for the annual update of the master plan for vocational education; proposed 1990 state textbook subject area committee; proprietary schools and veterans education; state textbook program; distribution of foundation school fund; bilingual education allotment; tax collections; proprietary school fees; special education; application for funds for gifted education; 1989-1990 program budget for public education; 1989-1990 operating budget for TEA; direct shipment of textbooks; issues related to school finance studies; court reporting schools in Texas and a status report.

Contact: W. N. Kirby, 1701 North Congress, Austin, Texas 78701, (512) 463-8985.

Filed: August 31, 1989, 8:57 a.m.

TRD-8908025

Friday, September 8, 1989, 10:30 a.m.
The Texas Education Agency State Board of Education Committee on students will meet in Room 1-100, William B. Travis Building, 1701 North Congress, Austin. According to the agenda summary, the committee will consider the 1989-1990 proposed schedule of activities for the annual update of the master plan for vocational education; 1990 state textbook subject area committees; new rule on student absences; proposed amendments to science, admission review and dismissal committee, content of individual educational plan; notice requirements and complaint procedures, surrogate parents; general program requirements; advisory committees early childhood intervention program for developmentally delayed children; graduation requirements; curriculum, assessment and description of well-balance elementary curriculum; pilot programs established by 71st Texas Legislature; results for college admissions testing in Texas for 1987-1988; release of assessment of minimum skills data to schools.

Contact: W. N. Kirby, 1701 North Congress, Austin, Texas 78701, (512) 463-8985.

Filed: August 31, 1989, 8:49 a.m.

TRD-8908027

Friday, September 8, 1989, 10:30 a.m.
The Texas Education Agency State Board of Education Committee on Personnel will meet in Room 1-111, William B. Travis Building, 1701 North Congress, Austin. According to the agenda summary, the committee will consider specific requirements for provisions vocation certificates; master teacher exam; certification for special ser-

vice positions, special assignment permits (special requirements); exchange teachers; preparation of school personnel for initial certificates endorsements, special subject all-level certificates and assignment requirements; career ladder, application form for level three; petition for rule concerning career ladder; trustee for Fort Sam Houston ISD; proposal for development of a master teacher exam; teacher appraisal procedures; instrument, scoring procedures and forms; commission of standards for teaching profession; ethnic/gender of education service center employees and board members, distribution of agency personnel; paperwork reduction committee and accreditation of school districts.

Contact: W. N. Kirby, 1701 North Congress, Austin, Texas 78701, (512) 463-8985.

Filed: August 31, 1989, 8:49 a.m.

TRD-8908028

Tuesday, September 12, 1989, 1 p.m. and Wednesday, September 13, 1989, 8:30 a.m. The Texas Education Agency Continuing Advisory Committee for Special Education will meet in the Big Bend Room, Hyatt Regency Hotel, 208 Barton Springs Road, Austin. According to the agenda, the committee will consider transition planning law; concerns and unmet needs; proposed education rules; hearing officer decision; report on classroom size; parent training at local level; report on development of flyer for special education; correspondence developed by committee at last meeting; new member orientation plans, subcommittee reports; early childhood evaluation project; new funding rules and approval of minutes.

Contact: Joye A. Scheffler, 1701 North Congress, Austin, Texas 78701, (512) 463-9414.

Filed: August 31, 1989, 8:50 a.m.

TRD-8908033

Thursday, September 14, 1989, 2 p.m. The Texas Education Agency Commission on Standards for the Teaching Profession Committee on Standards and Procedures for Institutional Approval will meet in Room 1-110, William B. Travis Building, 1701 North Congress, Austin. According to the agenda, the committee will discuss a letter from Rebecca Palacios: assignment requirements for pre-kindergarten teachers and the proposed amendments to 19 TAC, Chapter 141, Subchapter A, Certification of Teachers in General.

Contact: Edward M. Vodicka, 1701 North Congress, Austin, Texas 78701, (512) 463-9337.

Filed: August 31, 1989, 8:49 a.m.

TRD-8908031

Thursday, September 14, 1989 9 a.m. and 1 p.m. The Texas Education Agency Commission on Standards for the Teaching Profession Committee on Certification Pro-

grams and Requirements will meet in Room 1-110, William B. Travis Building, 1701 North Congress, Austin. According to the agenda summary, the committee will consider individual programs (1987 standards); institution programs (1987 standards); update on certification testing; discussion of assignment requirements for vocational adjustment coordinator and House Bill 2185.

Contact: Edward M. Vodicka, 1701 North Congress, Austin, Texas 78701, (512) 463-9337.

Filed: August 31, 1989, 8:49 a.m.

TRD-8908029

Thursday, September 14, 1989, 3:15 p.m. The Texas Education Agency Commission on Standards for the Teaching Profession Committee on Teacher Education Conference will meet in Room 1-110, William B. Travis Building, 1701 North Congress, Austin. According to the agenda, the committee will discuss program assignments and arrangements for 42nd Annual Texas Conference on Teacher Education at the Austin Airport Hilton and Towers, October 19-21, 1989; and discuss the site for 1992 conference.

Contact: Edward M. Vodicka, 1701 North Congress, Austin, Texas 78701, (512) 463-9337.

Filed: August 31, 1989, 8:48 a.m.

TRD-8908032

Friday, September 15, 1989, 8:10 a.m. The Texas Education Agency Commission on Standards for the Teaching Profession Executive Committee will meet in Room 1-110, William B. Travis Building, 1701 North Congress, Austin. According to the agenda, the committee will review agenda items with the committee chairmen.

Contact: Edward M. Vodicka, 1701 North Congress, Austin, Texas 78701, (512) 463-9337.

Filed: August 31, 1989, 8:50 a.m.

TRD-8908034

Friday, September 15, 1989, 9 a.m. The Texas Education Agency Commission on Standards for the Teaching Profession will meet in Room 1-104, William B. Travis Building, 1701 North Congress, Austin. According to the agenda summary, the commission will adopt the agenda, approve minutes of July 21, 1989 meeting; receive information items; reports from the following committees: certification programs and requirements, standards and procedures for institutional approval, teacher education conference planning and the executive committee

Contact: Edward M. Vodicka, 1701 North Congress, Austin, Texas 78701, (512) 463-9337.

Filed: August 31, 1989, 8:49 a.m.

TRD-8908030

Texas State Board for Registered Professional Engineers

Thursday, September 7, 1989, 1:30 p.m. The Texas State Board for Registered Professional Engineers Ad Hoc Committee will meet in the Board Room, 1917 IH 35 South, Austin. According to the agenda, the committee will recognize and welcome visitors; discuss proposed revisions to board rules concerning applications for registration as a professional engineer.

Contact: Charles E. Nemir, 1917 IH 35 South, Austin, Texas 78741, (512) 440-7723.

Filed: August 30, 1989, 3:09 p.m.

TRD-8908005

Texas Housing Agency

Wednesday, September 6, 1989, 9 a.m. The Texas Housing Agency Audit Committee will meet in the THA Conference Room, Suite 300, 811 Barton Springs, Austin. According to the agenda summary, the committee will review, consider, and possibly act on: request for proposals from real estate owned contractors and staff's recommendations, internal auditor for purpose of making recommendations to the board; executive session to consider and possibly act on pending or contemplated litigation; act on items discussed in executive session as necessary or required in open session.

Contact: Timothy R. Kenny, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: August 29, 1989, 4:44 p.m.

TRD-8907943

Wednesday, September 6, 1989, 10 p.m. The Texas Housing Agency Board of Directors will meet in the THA Conference Room, Suite 300, 811 Barton Springs, Austin. According to the agenda summary, the board will consider and possible act on the following: candidates for executive administrator, proposed budget commencing September 1, 1989; extension of current 1988-1989 budget; real estate owned contractors; internal auditor report; engagement of Arthur Anderson; 1989 bond volume allocation; local initiative focused rate mortgage program; bonds series 1988C and 1988D; South Texas rental project bonds; agency policy manual, Sunset Advisory Commission; financial advisers concerning bond series 1984A and 1984B; financial advisers to the agency San Jacinto Gardens; insurer acquisitions of real estate owned property; 1989 low income tax credit program; Association for Retarded Citizens of Texas; management information system quarterly information and financial reports; and while in executive session consider

pending litigation and personnel issues.

Contact: Timothy R. Kenny, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: August 29, 1989, 4:44 p.m.

TRD-8907944

Texas Department of Human Services

Friday, September 8, 1989, 9 a.m. The Texas Department of Human Services Medical Care Advisory Committee will meet in the Public Hearing Room, First Floor, 701 West 51st Street, Austin. According to the agenda summary, the committee will consider amendments to the ICF/SNF standards for participation related to implementation of case mix reimbursement methodology; ICF/SNF standards for residents' rights rules; medicaid qualifying trusts; clarification to contracting or participating policies in the vendor drug program; vendor drug program coverage limitations and additions; amendment to community-based care facility for the ICF-MR rates for small facilities; inpatient hospital reimbursement hospitals with 100 or fewer licensed beds; clarification of definition of gross patient revenue in the disproportionate share hospital reimbursement rules, inhome respiratory therapy services; medicaid coverage of service to psychologists; medicaid coverage of physical therapist's service and medicaid reimbursement.

Contact: Carolyn Howell, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3053.

Filed: August 31, 1989, 7:42 a.m.

TRD-8908009

Texas Department of Licensing and Regulation

Friday, September 8, 1989, 8:30 a.m. The Texas Department of Licensing and Regulation Board of Boiler Rules will meet in the 10th Floor Conference Room, E. O. Thompson State Office Building, 920 Colorado, Austin. According to the agenda summary, the board will adopt the agenda, approve minutes of March 10 and March 30, 1989, receive membership report and task force reports; old and new business; and set date for next meeting.

Contact: George Bynog, 920 Colorado, Austin, Texas, (512) 463-2904.

Filed: August 30, 1989, 10:06 a.m.

TRD-8907966

Texas Department of Mental Health and Mental Retardation

Friday, September 15, 1989, 9 a.m. The Texas Department of Mental Health and Mental Retardation Interagency Council on ICF/MR Facilities will meet at the Marriott Hotel, 6121 IH 35 North, Austin. According to the agenda, the council will discuss Senate Bill 1426, §3, to consider approval of the annual plan for the development of new beds in the ICF/MR program for fiscal year 1990 as developed by TDMHMR; they will additionally address the need to elect one member to serve as chairperson of the council and to develop policies and procedures governing the council's actions; if deaf interpreters are required, notify TDMHMR 72 hours prior to the meeting (512) 465-4639, Carole Smith.

Contact: Carole Smith, P.O. Box 12668, Austin, Texas 78711, (512) 465-4639.

Filed: August 30, 1989, 3:56 p.m.

TRD-8908007

Friday, September 8, 1989, 9:15 a.m. The Texas Department of Mental Health and Mental Retardation Board will meet in the Central Office Auditorium, 909 West 45th Street, Austin. According to the revised agenda summary, the board will receive citizens' comments; approve minutes of July 28, 1989 meeting; consider emergency adoption of new rule governing the lease of TDMHMR surplus property; consider litigation--Petty vs. TDMHMR and Lelsz vs. Kavanagh. If deaf interpreters are required, notify TDMHMR, (512) 465-4585, Ernest Fuentes at least 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 465-4585.

Filed: August 30, 1989, 3:55 p.m.

TRD-8908006

Texas Motor Vehicle Commission

Wednesday, September 6, 1989, 9:30 a.m. The Texas Motor Vehicle Commission will meet in Suite 302, Brazos Building, 815 Brazos Street, Austin. According to the agenda summary, the commission will adopt minutes of July 26, 1989, meeting; propose and decide on license and other cases; motion for rehearing, Lemon law cases; proposals for decisions: Lemon law cases set for oral argument, Lemon law cases set exceptions filed, Lemon law case-no argument or exceptions; agreed orders for approval and entry by the commission; settlement orders; orders of dismissal-licensing and consumer complaint; elect officers; review agency budget, financial status, review Lemon law consumer complaint

recap report, pending litigation status report and review of proposed Lemon law rules.

Contact: Russell Harding, 815 Brazos Suite 300, Austin, Texas 78701, (512) 476-3587.

Filed: August 29, 1989, 1:31 p.m.

TRD-8907916

Texas Parks and Wildlife Department

Thursday, August 31, 1989, 9 a.m. The Texas Parks and Wildlife Department Commission met for an emergency meeting at Parks and Wildlife Headquarters, Building Complex B, 4200 Smith School Road, Austin. According to the revised agenda summary, the commission will discuss the land acquisition in Nacogdoches County. The emergency status was necessary because it is of urgent public necessity to consider the acquisition of certain property in Nacogdoches County in order to take advantage of an unexpected limited purchase opportunity.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: August 30, 1989, 1:53 p.m.

TRD-8907982

Thursday, August 31, 1989, 12 noon. The Texas Parks and Wildlife Department Commission met for an emergency meeting in the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the revised agenda summary, the commission will have a closed meeting on the land acquisition in Nacogdoches County. The emergency status was necessary because it is of urgent public necessity to consider acquisition of certain property in Nacogdoches County in order to take advantage of an unexpected limited purchase opportunity.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: August 30, 1989, 1:53 p.m.

TRD-8907981

State Board of Plumbing Examiners

Monday, September 11, 1989, 9 a.m. The State Board of Plumbing Examiners will meet at 929 East 41st Street, Austin. According to the agenda, the board will recognize visitors; approve minutes of last meeting; review financial report, examination data; evaluation and revision of examinations; discuss hardship cases; fees, alternative methods of computer service; elect officers; and any other topics for discussion that may come before the board.

Contact: Lynn Brown, 929 East 41st Street, P.O. Box 4200, Austin, Texas 78765, (512) 458-2145.

Filed: August 29, 1989, 10:33 a.m.

TRD-8907913

Texas State Board of Public Accountancy

Thursday, September 14, 1989, 9 a.m. The Texas State Board of Public Accountancy Informal Conferences will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the conferences will consider complaint numbers 88-11-08L; 86-03-03L and 88-11-07L.

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

Filed: August 30, 1989, 10:26 a.m.

TRD-8907975

Public Utility Commission of Texas

Monday, November 13, 1989, 8:30 a.m. The Public Utility Commission of Texas Hearings Division will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the commission will conduct a hearing on the merits in Docket No. 9011--application of GTE Southwest Incorporated to set Centranet Service Rates for the University of North Texas.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 30, 199, 2:24 p.m.

TRD-8908002

Railroad Commission of Texas

Thursday, September 7, 1989, 8:30 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress, Austin. According to the agenda, the commission will hear oral argument concerning Docket No. 7269--Lone Star Gas Company; and special meeting for decision making.

Contact: Meridith Kawaguchi, P.O. Box 12967, Austin, Texas 78711, (512) 463-7009.

Filed: August 29, 1989, 11:13 a.m.

TRD-8907914

Texas National Research Laboratory Commission

Friday, September 8, 1989, 10 a.m. The Texas National Research Laboratory Commission will meet in Conference Room A, Administrative Offices, Dallas Love Field Airport, Dallas. According to the agenda, the commission will hear minutes of May 25, 1989 meeting; chairman's report, executive director's report, committee reports, old business and new business.

Contact: Karen L. Chrestay, 1801 North Hampton, Road, Suite 252, DeSoto, Texas, (214) 709-6481.

Filed: August 29, 1989, 10:39 a.m.

TRD-8907911

Task Force on Public Utility Regulation

Friday, September 8, 1989, 1:30 p.m. The Task Force on Public Utility Regulation will meet in Room 309, House Appropriations Committee Room, Capitol Building, Austin. According to the agenda, the committee will select a vice-chair; introduce staff, discuss and review materials concerning the committee's purpose; discussions of proposed calendar for meetings, and approach to be used to solicit witnesses and take testimony; and any other business.

Contact: Karl Spock, 105 West 15th Street, Room 305, Austin, Texas, (512) 463-1300.

Filed: August 30, 1989, 1:43 p.m.

TRD-8907980

Teacher Retirement System of Texas

Tuesday, September 12, 1989, 12 noon. The Teacher Retirement System of Texas Medical Board will meet in the Investment Library, 1001 Trinity, Austin. According to the agenda, the board will discuss files of members who are currently applying for disability retirement and files of disability retirees who are due a re-examination.

Contact: Don Cadenhead, 1001 Trinity, Austin, Texas 78701, (512) 397-6400.

Filed: August 30, 1989, 2:11 p.m.

TRD-8908003

Texas Water Commission

Tuesday, September 12, 1989, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items

previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: August 30, 1989, 11:36 a.m.

TRD-8907979

Regional Meetings Meetings Filed August 29, 1989

The Panhandle Regional Planning Commission, Board of Directors met in an emergency meeting in the PRPC Board Room, 2736 West 10th, Amarillo, August 31, 1989, at 1:30 p.m. Information may be obtained from Pamela Nielsen, P.O. Box 9257, Amarillo, Texas 79105,-9257, (806) 372-3381.

The Tax Appraisal District of Bell County, Board of Directors will meet in the District Office, 411 East Central, Belton, September 20, 1989, at 7 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, ext. 29.

TRD-8907912

Meetings Filed August 30, 1989

The Dawson County Central Appraisal District, Board of Directors will meet at 920 North Dallas Avenue, Lamesa, September 6, 1989 at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The Erath County Appraisal District, Appraisal Review Board will meet in the Board Room 1390 Harbin Drive, Stephenville, September 14, 1989, at 9 a.m.

Information may be obtained from Trecia A. Perales, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

The Hays County Appraisal District, Board of Directors will meet in the Municipal Building, 632 "A". E. Hopkins, San Marcos, September 7, 1989, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 632 "A" E. Hopkins, Municipal Building, San Marcos, Texas 78666, (512) 754-7400.

The High Plains Underground Water Conservation District No. 1, Board of Directors will meet in the Conference Room, 2930 Avenue Q, Lubbock, September 12, 1989, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

The Jack County Appraisal District, Board of Directors will meet in the Los Creek Office Building, 216-D South Main Street, Jacksboro, September 5, 1989, at 7 p.m. Information may be obtained from Gary L. Zeitler or Donna Hartzell, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Lavaca County Central Appraisal District, Board of Directors will meet in the District Office, 113 North Main, Hallettsville, September 11, 1989, at 4 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Lee County Appraisal District, Appraisal Review Board will meet at 218 East Richmond Street, Giddings, September 7, 1989 at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Scurry County Appraisal District, Board of Directors will meet at 2612 College Avenue, Snyder, September 5, 1989, at 8 p.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

The Tarrant Appraisal District, Appraisal Review Board will meet at 2309 Gravel Road, Fort Worth, September 5, 1989, at 8:30 a.m. Information may be obtained from Vernon Evans, 2309 Gravel Road, Fort Worth, Texas 76118, (817) 284-8884.

The Tarrant Appraisal District, Appraisal Review Board will meet at 2309 Gravel Road, Fort Worth, September 6, 7, 12-14, 19-21, 26-28, 1989, at 8:30 a.m. Information may be obtained from Vernon Evans, 2309 Gravel Road, Fort Worth, Texas 76118, (817) 284-8884.

TRD-8907945

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Meetings Filed August 31, 1989

The Gregg Appraisal District, Appraisal Review Board will meet at 2010 Gilmer Road, Longview, September 12, 1989, at 9 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

TRD-8908021
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In Addition

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

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

Texas Department of Banking Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a trust company to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular trust company. A hearing may be held if the application is denied by the commissioner.

On August 2, 1989, the banking commissioner received an application to acquire control of Fiduciary Trust Company of the Southwest, Dallas, by FTC Holding Corporation, Dallas.

On August 25, 1989, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on August 25, 1989.

TRD-8907869 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: August 28, 1989

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



Texas Department of Human Services Demonstration Project

Texas Department of Human Services (TDHS) is requesting proposals for a demonstration project to provide services to street youth and chronic runaways.

Description. The goal of the demonstration project for street youth and chronic runaways is to establish services for youth not effectively served by current models or methodologies such as street youth and chronic runaways. Services must be easily accessible and designed in a way that will encourage the targeted population to seek and utilize the services. Emphasis should be placed on assisting the youth to arrange suitable long-term living arrangements once they leave the program.

Limitations. Eligible applicants include cities, counties, private non-profit and profit agencies with preference given to private non-profit organizations. Offerers must be able to provide 10% certified local resources. Funds provided through the program may not be used to replace existing federal, state, or local funding. Demonstration project funds may not be utilized to fund juvenile probation officer positions. Applications from juvenile probation departments must propose the provision of services by personnel other than juvenile probation officers. Services to be provided must be separate from existing juvenile probation services and provided at a site separate from juvenile probation offices and detention centers. The contract awarded under this request for proposal (RFP) will be

for a 21-month period subject to evaluation. These funds are not intended to expand current runaway programs, they are intended to develop a new model of service.

Term and Total Value. The contract period will be January 1, 1990 through August 31, 1991, and funding will not exceed \$400,000. Funding is not to exceed \$200,000 in the first nine months (1/1/90-8/31/90) or \$200,000 in the last twelve months (9/1/90-8/31/91). Contractor must provide a 10% certified cash match. In-kind match is not allowable.

Contact Person. To obtain a complete copy of the request for proposal, please contact: Thomas Chammond, Program Specialist; Texas Department of Human Services; P. O. Box 149030 (MC 537-W); Austin, Texas 78714-9030; 512/450-3289. Request for proposal packets will be available on or after September 1, 1989.

Evaluation and Selection. A panel of TDHS program/administrative staff will rank and score each proposal. Procedures to be used to evaluate offers will include evaluation of the following criteria: needs assessment, approach, staff and agency experience, community coordination, legal implications; evaluation methodology, and cost.

Closing Date. The last day to receive offers is November 14, 1989.

Issued in Austin, Texas on August 30, 1989.

TRD-8907960 Ron Lindsey
Commissioner
Texas Department of Human Services

Filed: August 30, 1989.

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



Notice of Correction

The Texas Department of Human Services files this notice of correction to correct the public comment period and contact person for 40 TAC §§81.101-81.107 that appeared in the July 25, 1989, issue of the *Texas Register* (14 TexReg 3565). The comment period should have been for 60 days instead of 30 days. The contact person is Cris Ros-Dukler, Texas Department of Human Services, P. O. Box 149030 (MC 550-W), Austin, Texas 78714-9030.

Issued in Austin, Texas, on August 30, 1989.

TRD-8907957 Ron Lindsey
Commissioner
Texas Department of Human Services

Filed: August 30, 1989.

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



Public Notice

The Texas Department of Human Services published adopted rules in the January 30, 1987, issue of the *Texas*

Register (12 TexReg 348) that provide the basis of distribution of funds to hospitals delivering a disproportionate share of indigent health care. The following list identifies facilities that qualify as disproportionate share hospitals. A disproportionate share payment will be made to each of these facilities in state fiscal year 1989.

| Facility | City |
|---|-----------------|
| Alice Physicians & Surgeons Hospital | Alice |
| Angleton Danbury General Hospital | Angleton |
| Atlanta Memorial Hospital | Atlanta |
| Baptist Medical Center | San Antonio |
| Baylor Medical Center | Gilmer |
| Bee County Regional Medical Center | Beeville |
| Bexar County Hospital District | San Antonio |
| Brackenridge Hospital | Austin |
| Brewster Memorial Hospital | Alpine |
| Brooks County Hospital | Falfurrias |
| Brownsville Medical Center | Brownsville |
| C.L.C. Rollins Brooks Hospital | Lampasas |
| Central Texas Medical Center | San Marcos |
| Cherokee Medical Center | Rusk |
| Children's Medical Center | Dallas |
| Chillicothe Hospital District | Chillicothe |
| Citizens Hospital of Commerce | Commerce |
| Community Hospital of Tyler | Tyler |
| Comanche Community Hospital | Comanche |
| Concho County Hospital | Eden |
| Cook-Fort Worth Children's Medical Center | Fort Worth |
| Cuero Community Hospital | Cuero |
| Dallas Family Hospital | Dallas |
| Dallas Memorial Hospital | Dallas |
| Dimmitt County Memorial Hospital | Carrizo Springs |
| Doctor's Hospital | Laredo |
| Driscoll Children's Hospital | Corpus Christi |
| E. L. Graham Memorial Hospital | Cisco |
| Edgar B. Davis Memorial Hospital | Luling |
| Edinburg General Hospital | Edinburg |
| Edna Hospital | Edna |
| Electra Memorial Hospital | Electra |
| Family Hospital Center | Amarillo |
| Frio Hospital | Pearsall |
| Goliad County Hospital | Goliad |
| Guadalupe Valley Hospital | Seguin |
| Hall County Hospital | Memphis |
| Harris County Hospital District | Houston |
| Hemphill County Hospital | Canadian |
| Hill Regional Hospital | Hillsboro |
| Hopkins County Hospital | Sulphur Springs |
| Houston County Hospital | Crockett |
| Jack County Hospital | Jacksboro |
| John P. Smith Hospital | Fort Worth |
| Kimble Hospital | Junction |
| Knapp Medical Center | Weslaco |
| Lavaca Medical Center | Hallettsville |
| Lillian M. Hudspeth Memorial Hospital | Sonora |
| Lockhart Hospital | Lockhart |
| Lockney General Hospital | Lockney |
| Lubbock General Hospital | Lubbock |

Lutheran General Hospital
Lynn County Hospital
M.D. Anderson Hospital
Madison County Hospital
Martin County Hospital District
Matagorda General Hospital
Maverick County Hospital District
McCallen Medical Center
Medical Center Hospital
Medical Arts Hospital
Medina Community Hospital
Memorial Hospital District
Memorial Medical Center
Memorial Medical Center
Memorial Hospital
Memorial Hospital
Mercy Regional Medical Center
Mission Hospital
Nocona Hospital
North Runnels Hospital
North Texas Medical Center
Northwest Texas Hospital
Ochiltree General Hospital
Otto Kaiser Memorial Hospital
Parkland Memorial Hospital
Parkway Memorial Hospital
Pecos County Memorial Hospital
Permian General Hospital
Pittsburg Medical Center
Plains Memorial Hospital
R.E. Thomason Hospital
Riverside General Hospital
Riverside Hospital, Inc.
Santa Rosa Medical Center
Schleicher County Medical Center
Shackelford County Hospital District
Shamrock General Hospital
Spohn Kleberg Memorial Hospital
St. Edward Memorial Hospital
Stamford Memorial Hospital
Starr County Memorial Hospital
Sterling County Hospital
Texas Children's Hospital
Titus County Memorial Hospital
Tri-City Community Hospital
U.T. Medical Branch
U.T. Medical Center
Uvalde Memorial Hospital
Val Verde Memorial Hospital
Valley Baptist Medical Center
Valley Community Hospital
Valley Regional Medical Center
Ward Memorial Hospital
Yoakum Community Hospital
Yoakum County Hospital

San Antonio
Tahoka
Houston
Madisonville
Stanton
Bay City
Eagle Pass
McCallen
Conroe
Lamesa
Hondo
Refugio
Port Lavaca
Corpus Christi
Center
Marshall
Laredo
Mission
Nocona
Winters
McKinney
Amarillo
Perryton
Kenedy
Dallas
Houston
Fort Stockton
Andrews
Pittsburg
Dimmitt
El Paso
Houston
Corpus Christi
San Antonio
Eldorado
Albany
Shamrock
Kingsville
San Benito
Stamford
Rio Grande City
Sterling City
Houston
Mt. Pleasant
Jourdanton
Galveston
Tyler
Uvalde
Del Rio
Harlingen
El Paso
Brownsville
Monahans
Yoakum
Denver City

Issued in Austin, Texas on August 28, 1989.

TRD-8907841 Ron Lindsey
Commissioner
Texas Department of Human Services

Filed: August 28, 1989.

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



Public Notice Open Solicitation

Pursuant to 40 TAC §16.1513 of the Human Resources Code, Title 2, Chapters 22 and 32, the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days, effective the date of this public notice, for counties where Medicaid-contracted nursing facility occupancy rates exceed the threshold (90% occu-

pancy) in each of five months in the continuous January-June 1989, six-month period. Potential contractors seeking to contract for existing beds which are currently licensed as nursing home beds or hospital beds in any of the counties identified in this public notice must submit a written application (as described in 40 TAC §16.1513) to TDHS, Services to Aged and Disabled, Provider Services Division, Mail Code 350-E, P.O. Box 149030, Austin, Texas 78714-9030. The written application must be received by TDHS by 5 p.m., October 5, 1989, the last day of the open solicitation period. A random selection drawing will be held October 16, 1989. If the number of existing beds offered by contractors during the first random selection drawing is insufficient to reduce occupancy rates to less than 80% in the threshold counties, TDHS will place a public notice in the *Texas Register* announcing an additional open solicitation period for those individuals wishing to construct a facility.

Occupancy rates for identified threshold counties are listed below:

| County Number | County Name | Number of Months Over | Number of Months | | | | | |
|---------------|-------------|-----------------------|------------------|------|------|------|------|------|
| | | | Jan | Feb | Mar | Apr | May | June |
| 099 | Hardeman | 5 | 90.4 | 91.4 | 88.6 | 90.7 | 90.6 | 91.2 |
| 075 | Fayette | 5 | 88.2 | 91.1 | 90.2 | 92.0 | 91.4 | 92.0 |
| 231 | Upton | 5 | 88.5 | 92.0 | 94.7 | 96.7 | 96.5 | 95.7 |

Issued in Austin, Texas, on August 30, 1989.

TRD-8907958 Ron Lindsey
Commissioner
Texas Department of Human Services

Filed: August 30, 1989.

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



Pursuant to the Human Resources Code, 40 TAC §16.1513, the Texas Department of Human Services (TDHS) is announcing an additional open solicitation period of 30 days (starting the date of this public notice) for all counties identified in the July 18, 1989, issue of the

Texas Register (14 TexReg 3490). Potential contractors desiring to construct a 90-bed nursing facility in any of the counties identified in this public notice must submit a written application (as described in 40 TAC §16.1513) to TDHS, Services to Aged and Disabled, Provider Services Division, Mail Code 350-E, P. O. Box 149030, Austin, Texas 78714-9030. This written application must be received by TDHS by 5 p.m. on October 5, 1989, the last day of this open solicitation period. The secondary random selection drawing will be held on December 14, 1989. If no potential contractors submit replies during the open solicitation period, TDHS will place another public notice in the *Texas Register* announcing the reopening of the open solicitation period until a potential contractor replies to the public notice.

Occupancy rates for identified threshold counties are listed below:

| County Number | County Name | Number of Months Over | Number of Months | | | | | |
|---------------|-------------|-----------------------|------------------|------|------|------|------|------|
| | | | Dec | Jan | Feb | Mar | Apr | May |
| 098 | Hansford | 6 | 90.4 | 95.9 | 99.1 | 95.9 | 96.2 | 94.5 |
| 125 | Jim Wells | 5 | 90.8 | 89.8 | 90.1 | 90.7 | 92.2 | 91.4 |
| 183 | Panola | 5 | 87.6 | 90.9 | 90.4 | 91.4 | 94.0 | 94.0 |
| 195 | Reeves | 5 | 88.8 | 98.1 | 92.7 | 94.9 | 94.4 | 93.0 |
| 199 | Rockwall | 6 | 92.7 | 93.9 | 94.1 | 94.7 | 97.9 | 95.1 |

Issued in Austin, Texas on August 30, 1989.

TRD-8907959 Ron Lindsey
Commissioner
Texas Department of Human Services

Filed: August 30, 1989.

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



Requests for Proposals

Texas Department of Human Services (TDHS) is requesting proposals for a demonstration project to provide services to street youth and chronic runaways.

Description. The goal of the demonstration project for street youth and chronic runaways is to establish services for youth not effectively served by current models or methodologies such as street youth and chronic runaways. Services must be easily accessible and designed in a way that will encourage the targeted population to seek and utilize the services. Emphasis should be placed on assisting the youth to arrange suitable long-term living arrangements once they leave the program.

Limitations. Eligible applicants include cities, counties, private nonprofit and profit agencies with preference given to private nonprofit organizations. Offerers must be able to provide 10% certified local resources. Funds provided through the program may not be used to replace existing federal, state, or local funding. Demonstration project funds may not be utilized to fund juvenile probation officer positions. Applications from juvenile probation departments must propose the provision of services by personnel other than juvenile probation officers. Services to be provided must be separate from existing juvenile probation services and provided at a site separate from juvenile probation offices and detention centers. The contract awarded under this request for proposal (RFP) will be for a 21-month period subject to evaluation. These funds are not intended to expand current runaway programs, they are intended to develop a new model of service.

Term and total value. The contract period will be January 1, 1990-August 31, 1991, and funding will not exceed \$400,000. Funding is not to exceed \$200,000 in the first nine months (January 1, 1990-August 31, 1990) or \$200,000 in the last twelve months (September 1, 1990-August 31, 1991). Contractor must provide a 10% certified cash match. In-kind match is not allowable.

Contact person. To obtain a complete copy of the request for proposal, please contact: Thomas Chapmond, Program Specialist, Texas Department of Human Services, P. O. Box 149030 (MC 537-W), Austin, Texas 78714-9030, (512) 450-3289. Request for proposal packets will be available on or after September 1, 1989.

Evaluation and selection. A panel of TDHS program/administrative staff will rank and score each proposal. Procedures to be used to evaluate offers will include evaluation of the following criteria: needs assessment, approach, staff and agency experience, community coordination, legal implications, evaluation methodology, and cost.

Closing date. The last day to receive offers is November 14, 1989.

Issued in Austin, Texas on August 30, 1989.

TRD-8907960 Ron Lindsey
Commissioner
Texas Department of Human Services

Filed: August 30, 1989.

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

State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

1. Application for admission to do business in Texas of The First Liberty Insurance Corporation, a foreign casualty insurance company. The home office is in West Des Moines, Iowa.

2. Application for admission to do business in Texas of LM Insurance Corporation, a foreign casualty insurance company. The home office is in West Des Moines, Iowa.

Issued in Austin, Texas on August 24, 1989.

TRD-8907867 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: August 28, 1989

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

The following applications have been filed with the State Board of Insurance and are under consideration.

1. Application for admission to do business in Texas of National Credit Union Insurance Corporation, a foreign casualty insurance company. The home office is in Dublin, Ohio.

2. Application for incorporation in Texas of PW National Insurance Company, a domestic casualty insurance company. The home office is in Austin.

3. Application for name change by Iowa ALLIED Life Insurance Company, a foreign life insurance company. The home office is in Des Moines, Iowa. The proposed new name is ALLIED Life Insurance Company.

4. Application for admission to do business in Texas of Medical Group Insurance Services, Inc., a foreign third party administrator. The home office is in San Jose, California.

Issued in Austin, Texas on August 28, 1989.

TRD-8907868 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: August 28, 1989

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

The following applications have been filed with the State board of Insurance and are under consideration.

1. Application for incorporation in Texas of Primerica Life Insurance Company, a domestic life insurance company. The home office is in Fort Worth.

2. Application for admission to do business in Texas of Coverdell & Company, Inc., a foreign third party administrator. The home office is in Atlanta, Georgia.

3. Application for incorporation in Texas of American Physicians Service Group, Inc., a domestic third party administrator. The home office is in Austin.

Issued in Austin, Texas on August 30, 1989.

TRD-8907964 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: August 30, 1989

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

Notice of Public Hearing

Notice is hereby given that a hearing under Docket Number 1673 will be held before the State Board of Insurance beginning at 9:30 a.m. on Wednesday, September 27, 1989, and continuing each day thereafter at times and places designated by the Chairman until conclusion. The purpose of the hearing is consideration of the revision of the Commercial Automobile Insurance rates and rating plans, and such other matters as may properly be brought before the board. The location of the beginning of the hearing will be in the hearing room on the first floor of the DeWitt C. Greer State Office Building at the corner of 11th and Brazos Streets in Austin.

The State Board of Insurance has jurisdiction and legal authority over the subject matters of this hearing pursuant to the Insurance Code, Articles 1.04, 5.01, 5.03, 5.06, 5.10, and 5.96, and the Rules of Practice and Procedure before the State Board of Insurance (28 TAC Chapter 1, Subchapter A).

The order and procedures of presentation at the hearing on adoption of rates under Docket Number 1673 will be governed by the contested case provisions of the Rules of Practice and Procedure before the State Board of Insurance, by the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a), and by the Insurance Code, Article 5.96.

Reference is hereby made to the above cited statutes and rules, and to the Insurance Code, Article 5.01 through 5.12-1, 5.77-5.79, 8.24, and 21.77, the manual entitled *Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements*, commonly called the *Texas Automobile Manual*, and the manual entitled *Automobile Liability Experience Rating Plan*, as particular sections of the statutes and rules which may be involved.

The State Board of Insurance will consider automobile insurance experience and rate adjustment proposals by the board's staff, the Office of Consumer Protection, the Texas Automobile Insurance Service Office, and others relating to Commercial Automobile Insurance rates and rating plans.

It is asserted by the staff of the State Board of Insurance, the Office of Consumer Protection, and the Texas Automobile Insurance Service Office that the State Board of Insurance has the statutory authority and duty pursuant to Texas Insurance Code, Chapter 5, Subchapter A, as amended, to determine, fix, prescribe, and promulgate rates of premiums to be charged and collected by insurers writing Commercial Automobile Insurance in Texas; and in so doing, it is the duty, right and privilege of the State Board of Insurance to consider the peculiar hazards and experience of individual risks, past and prospective, within and outside the state and of other relevant factors within and outside the state to insure that the rates determined therefrom are just, reasonable, and adequate to the public and the insurers writing such insurance and to determine that such rates are not confiscatory as to any class of

insurance carriers authorized by law to write such insurance after taking into consideration the deviation provisions of said Subchapter A.

Additional statements, briefs, arguments, and statistical information may be submitted at the hearing. Please direct inquiries regarding this hearing to Gaylon Daniel, Chief Property and Casualty Actuary, Statistical and Rate Development Division, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, (512) 475-3017.

Issued in Austin, Texas on August 30, 1989.

TRD-8907963 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: August 30, 1989

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

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Texas Commission on Law Enforcement Officer Standards and Education Law Enforcement Management Institute

Correction of Error

The Texas Commission on Law Enforcement Officer Standards and Education submitted an Open Meeting which contained an error as published in the August 29, 1989, issue of the *Texas Register* (14 TexReg 4415).

The open meeting should read: "Texas Commission on Law Enforcement Officer Standards and Education Law Enforcement Management Institute, Friday, September 8, 1989, 10 a.m. The board will meet in Suite 100, 1606 Headway Circle, Austin. According to the agenda the board will recognize visitors; approve minutes of May 19, 1989 meeting; discuss TASP test; certification of class for October 21st session of Module I; and receive staff reports."

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Legislative Budget Board Budget Execution Proposals

As authorized by the Texas Government Code, §317.002, relating to budget execution authority and in accordance with Article V, §128, Page V-102, and Article II, Rider 21 to the appropriations to the Texas Youth Commission, Page II-79, of Senate Bill Number 222, 71st Legislature, I make the following budget execution proposal.

From the 1 million in unexpended balances remaining in various items of appropriation and unearned contingency appropriations to the Texas Youth Commission for fiscal year 1989 carried forward to fiscal year 1990 under Rider 21 to the appropriations to the Texas Youth Commission, I propose to make available and distribute to the Texas

Youth Commission \$741,078 for the fiscal year beginning September 1, 1989, and ending August 31, 1990, for

salary increases necessary to reallocate Youth Activities Supervisor positions to higher pay groups. The salary increases are as follows:

| <u>Classification Number</u> | <u>Position</u> | <u>Current Pay Group</u> | <u>New Pay Group</u> |
|------------------------------|---------------------------------|--------------------------|----------------------|
| 5191 | Youth Activities Supervisor II | 08 | 09 |
| 5192 | Youth Activities Supervisor III | 09 | 11 |
| 5193 | Youth Activities Supervisor IV | 10 | 12 |

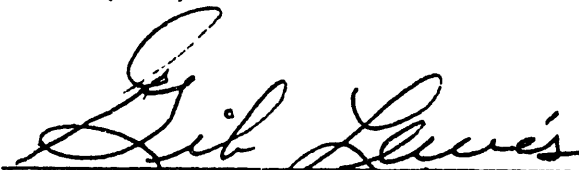
The expenditure of the remainder of the 1 million which will be carried forward to fiscal year 1991 for the sole purpose of facilitating the continued funding of these

salary increases is contingent upon a similar budget execution proposal and Legislative Budget Board approval next year.

For further information, please call (512) 463-1778.



Lieutenant Governor
Chairman, Legislative Budget Board

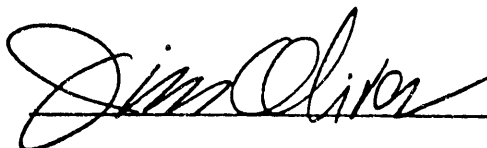


Speaker of the House
Vice-chairman, Legislative Budget Board

I certify that this Budget Execution Proposal was adopted by the Legislative Budget Board on August 24, 1989 by the following vote:

On the part of the Senate Yeas: 4 , Nays: 0

On the part of the House Yeas: 4 , Nays: 0



Director, Legislative Budget Board

Issued in Austin, Texas, on August 28, 1989.

TRD-8907876 Jim Oliver
Director
Legislative Budget Board

Filed: August 28, 1989

For further information, please call: (512) 463-1778

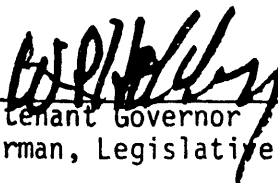
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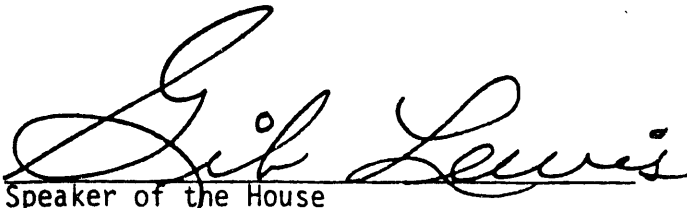
As authorized by the Texas Government Code, §317.002(b)(1) relating to budget execution authority, I make the following budget execution proposal.

Funds were appropriated to the State Purchasing and General Services Commission for the fiscal year ending August 31, 1989, by the Texas Legislature pursuant to Senate Bill Number 1, 70th Legislature, Second Called Session, for the purpose of funding utility payments for state office buildings. I propose to transfer to the Office of the Governor, and specifically to Disaster Contingency Fund Num-

ber 453, during the fiscal year ending August 31, 1989, certain of those funds that have not been encumbered by the State Purchasing and General Services Commission and to give the Office of the Governor the authority to spend or obligate the expenditure of such transferred funds for purposes of implementing the provisions of the Texas Disaster Act of 1975, Chapter 418, Government Code (House Bill Number 2032, 64th Legislature, Regular Session). I find an emergency exists in that expenditures associated with Tropical Storm Allison have depleted the balance of Disaster Contingency Fund Number 453, preventing the State of Texas from having adequate resources on hand for emergency grants-in-aid and other necessary state expenditures in the event of a natural disaster.

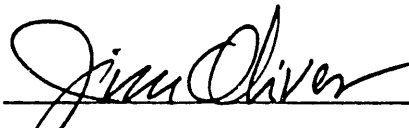
Accordingly, I propose that unencumbered balances remaining as of August 31, 1989, out of the appropriations to the State Purchasing and General Services Commission for the fiscal year ending August 31, 1989, in Item 5, Utilities Distribution, at Page I-209 of Senate Bill Number 1, 70th Legislature, Second Called Session, in an amount not to exceed \$5,200,000, shall be transferred effective as of August 31, 1989, to the Office of the Governor, Disaster Contingency Fund Number 453, the unexpected balance of which is reappropriated to the Office of the Governor for the biennium beginning September 1, 1989, pursuant to Article I, Rider 15 to the appropriations to the Office of the Governor at Page I-141 of Senate Bill Number 222, 71st Legislature, Regular Session.


Lieutenant Governor
Chairman, Legislative Budget Board


Speaker of the House
Vice-chairman, Legislative Budget Board

I certify that this Budget Execution Proposal was adopted by the Legislative Budget Board on August 24, 1989 by the following vote:

| | | |
|---------------------------|---------|---------|
| On the part of the Senate | Yeas: 4 | Nays: 0 |
| On the part of the House | Yeas: 4 | Nays: 0 |


Director, Legislative Budget Board

Issued in Austin, Texas, on August 28, 1989.
TRD-8907877 Jim Oliver
Director
Legislative Budget Board

Filed: August 28, 1989
For further information, please call: (512) 463-1778

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**Texas State Board of Public
Accountancy**
Computer System Feasibility Study

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas State Board of Public Accountancy (the board) announces that it has increased a consulting contract engaging August Schneiderheinz, CPA, 8807 Rustling Meadows, San Antonio, Texas 78223.

The consultant proposal award was originally published in the September 27, 1988, issue of the *Texas Register* (13 TexReg 4821), and Mr. Schneiderheinz was engaged as a result of that request.

The consultant will be required to abridge a feasibility study of the current computer system and recommend future computer requirements, in addition to abridging a five-year plan in accordance with the substantive rules of the Automated Information and Telecommunications Council, §201.1 The study will include an updated analysis of the current and projected needs of the board and will identify additional/replacement computer equipment required to meet these needs, maximizing utilization of current computer resources.

The effective date of this increase to the contract is August 28, 1989, and the ending date is August 31, 1989. The total cost of the original consultant contract ending August 31, 1989, was \$20,000, at the same terms and conditions

as the prior contract, and the increased contract will not exceed a total of \$23, 500, at the same terms and conditions as the prior contract.

Issued in Austin, Texas, on August 28, 1989.

TRD-8907917 Bob E. Bradley
Executive Director
Texas State Board of Public Accountancy

Filed: August 29, 1989

For further information, please call: (512) 451-0241

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Texas Water Commission

Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of August 21-25, 1989.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Texas Utilities Electric Company; Dallas; Comanche Peak Steam Electric Station; on the west side of Squaw Creek Reservoir along FM Road 56 and approximately four miles north of the City of Glen Rose, Somervell County; 01854; renewal.

Acton Municipal Utility District; Granbury; wastewater treatment facility; on the north bank of the Brazos River, approximately 13.5 miles downstream of the De Cordova Bend Reservoir Dam and approximately one-half mile due east of the Pecan Plantation Airport in Hood County; 11415-01; amendment.

E. E. Norwood; Goldthwaite; dairy operation; approximately 14 miles east of Goldthwaite and 3.5 miles south-east of Center City in Mills County; 03092; new.

University of Texas System, Cancer Center, Buesher Research Division; Bastrop; wastewater treatment facility; approximately two miles north-northeast of the intersection of State Highway 71 and State Highway 153 in Bastrop County; 11740-01; amendment.

Sherman Williamson; Stephenville; dairy operation; approximately four miles north of Stephenville on State Highway 108 in Erath County; 03113; new.

City of Mount Pleasant; wastewater treatment facility; approximately 5,000 feet east of U.S. Highway 271 and approximately 11,000 feet north of the intersection of U.S. Highway 271 and Big Cypress Creek in Titus County; 10575-04; new.

Issued in Austin, Texas, on August 28, 1989.

TRD-8907921 Brenda W. Foster
Chief Clerk
Texas Water Commission

Filed: August 29, 1989

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

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